

Absence Management Policy and Procedure

Nov 2021

Version 3

1. Scope

This policy and the related procedures apply to all Expanse Learning employees.

2. Policy Statement

The Board of Directors recognises that Expanse Learning needs to manage sickness absence proactively to help us to deliver our services – as indeed do all successful organisations. Expanse Learning is committed to encouraging maximum attendance at work by promoting a culture of employee engagement, commitment and motivation; maintaining a healthy workforce; providing support to employees who are absent to facilitate an early return to work where possible and reduce absence rates. This policy is not contractual (Except e.g., the contractual obligations regarding sick pay) and Expanse Learning reserves the right to amend/make additions or alterations to the policy.

3. Introduction

Expanse Learning recognises that employees will have periods of genuine absence during the course of their employment that may result in some absences from work. However, absences can cause operational difficulties and service delivery issues in terms of quality, efficiency and costs. It can also impact on the workload of other employees. Reducing levels of absences will improve our capacity and make the most effective use of our financial and human resources. The policy does not apply to absence resulting from accidents at work and entitlement of sick pay remains as set out in the terms and conditions of employment.

4. Aims and Objectives

This policy has three main aims: -

- Is to set out the steps involved for managing absences
- to encourage a healthy attendance culture to minimise absence levels
- to provide appropriate and reasonable support to employees who are genuinely absent and help an early return to work where this is possible.
- to reduce absences through proactive and effective management and by using Expanse Learning's Disciplinary Procedure where appropriate

Expanse Learning will work to achieve these aims by: -

- managing absences in a sensitive, supportive and positive manner, based on early intervention and in accordance with best practice, relevant legislation and ACAS's Code of Practice (<https://www.acas.org.uk/article/1878/Codes-of-practice>)
- providing robust, fair and transparent procedures that will be applied consistently to all employees who are absent from work
- communicating this policy to all employees
- Line Managers or other employees with staff management responsibilities understanding this policy and how to apply the related procedures appropriately
- taking account of individual circumstances and adopting a flexible approach where relevant
- working with employees and in line with medical advice to avoid the need for the absence in the first instance, or to facilitate a return to work as soon as possible where appropriate (which may include a return to temporary alternative employment or reduced duties, for which employees will not receive less pay than they would have if they had remained absent from work and/or other reasonable adjustments)
- not discriminating against an employee due to disability
- treating sensitive personal information relating to an employee's absence in line with the Data Protection Act (2018)
- To accurately record, analyse and report on information relating to all areas of absence to facilitate effective management and inform future policy development

5. Responsibility

Line Managers are responsible for:

- Communicating the required standards of attendance to their staff
- Closely monitoring and managing the absences for whom they are responsible keeping accurate records
- Liaise with Shared Services on appropriate management of sickness absences as/when required e.g. persistent short or long-term absences obtaining medical evidence where required.
- Ensuring that this policy and the related procedures are implemented effectively and accessible to all employees.
- Ensure that employees with staff management responsibilities have had relevant training so they can implement this policy effectively.

Employees with staff management responsibilities have primary responsibility for managing absences effectively in their teams. They must ensure that they have received training on how to implement this policy; maintain contact with employees who are absent and make their relevant Line Manager aware of difficult cases.

Employees must acknowledge that Expanse Learning pays them to attend work and that maximum attendance is accepted as the norm. The employee must:

- comply with the notification and certification procedures set out in this policy
- Provide sufficient information to the company to keep the company informed of the absence/prognosis etc
- Cooperate with the company to implement any advice from medical or occupational health practitioners to facilitate a return to work

The Head of Shared Services will be responsible for providing training as required; for advising Line Managers and/or other employees with staff management responsibilities on effective case management; for gathering and analysing management information relating to absences and for reporting on the performance. The School/College Business Officers may also accompany employees with staff management responsibilities to review meetings under the formal management procedure providing localised support and taking accurate records.

6. Employees with a Disability

The Equality Act 2010 covers physical and mental impairments that have a substantial and long-term adverse effect on an employee's ability to carry out normal day-to-day activities. Employees with a disability are responsible for advising Expanse Learning of this at the application recruitment stage, or thereafter if they develop a disability during the course of their employment. This includes advising their Line Manager if the disability has an impact on their role, or if there is anything in the workplace that impacts on their disability.

Under the Equality Act 2010, employers have a duty to make 'reasonable adjustments' where any aspect of working arrangements places employees with a disability at a substantial disadvantage. In the context of this policy, it may be a reasonable adjustment to accept that a disabled employee will need some level of absence from their work for rehabilitation, assessment or treatment relating to their disability. A distinction must be made between disability-related absence and sickness absence so that cases can be managed appropriately.

Expanse Learning also recognises that it may need to make reasonable adjustments to enable employees who become disabled as a result of sickness to return to work. Expanse Learning will usually seek the employees' views in considering adjustments and will also usually ask the employees doctor for advice. Types of adjustments (which may be adopted on a temporary or permanent basis) may include: -

- making physical adjustments to the workplace, or adjustments to the employee's duties / workload
- transferring the disabled employee to another vacant post, with or without reasonable adjustments being made
- altering the disabled employee's working hours through, for example, part-time working, job sharing or other flexible hours arrangements
- providing special equipment to help a disabled employee to perform his or her tasks and giving training on how to use the equipment.

7. Definition of Sickness Absences

There are two main categories of sickness absences, as defined by Cabinet Office guidelines:

- Short term Sickness Absence is absence lasting for less than 20 working days. This may be for an occasional day or for a few days at a time and may be self-certificated or covered by a doctor's certificate.
- Long term Sickness Absence is defined as absence lasting for 20 working days or more (which will be covered by a doctor's certificate by default).

8. Sickness Scheme

An employee's entitlement to occupational sick pay is set out in their terms and conditions of employment. This should not be taken to mean that high levels of sickness absence are acceptable. Expanse Learning reserves the right to terminate employment before the expiry of contractual sick pay, in accordance with the procedure for dismissal on ill health/medical capability grounds (please see Section 15).

Under certain circumstances Expanse Learning may withhold sick pay where:

- there are reasonable grounds to believe that the ill-health is caused by the employee's misuse of drugs/alcohol
- there are reasonable grounds to believe that the employee is fit for work

- the employee has failed to comply with certification/notification requirements
- the employee fails to cooperate with Expanse Learning in implementing advice from a medical occupational health practitioner to facilitate a return to work

Any failure to comply with this policy/procedure and/or the sick pay scheme may lead to the absence being determined as unauthorised absence and/or disciplinary action. This may also result in the non-payment of occupational and statutory sick pay and a break in pensionable service equivalent to the period of unauthorised absence.

9. Absent Reporting Procedure

Any absence due to unforeseen circumstances should be reported:

- a) On the first morning of your absence, you must personally contact the Company by telephone and speak to your Line Manager at the earliest possible opportunity and before your contractual start time.
- b) If you are unable to speak to your line manager personally, you should speak to the relevant School/College Business Officer.
- c) You should give details of the nature of your absence.
- d) For continuity purposes please ensure where possible you complete a handover to your line manager i.e., Teaching & Learning, planned meetings etc
- e) If the absence is an illness of a minor nature, you should indicate when you believe you will be fit to return to work.
- f) You must inform your Line Manager as soon as possible of any change in the date of your anticipated return to work.
- g) **Contacting your Line Manager by text message, e-mail, mobile phone or instant messaging is not acceptable and will not amount to proper notification, other than in exceptional circumstances.** It is also unacceptable for a third party to contact the Company on your behalf to report your absence, other than in exceptional circumstances (for example, where you have been unexpectedly admitted to hospital and you are not in a position to make the telephone call yourself).
- h) If you have been diagnosed as having contracted an infectious or contagious disease, such as measles or chicken pox, or a pandemic virus (such as Covid-19) or experience COVID-19 Symptoms then you must inform your line manager as soon as possible after your diagnosis

For an absence of seven consecutive calendar days or less:

- a) You are required to telephone your Line Manager on a daily basis in accordance with the reporting procedure set out above. However, the Company may relax this requirement in exceptional circumstances, for example, in the case of a pandemic virus affecting a large percentage of the Company's employees.
- b) You will be advised about any modified absence reporting requirements at the appropriate time.
- c) You must also complete a self-certification of your absence form immediately on your return [but in any event no later than [two] working days following the return date] to work via DatabridgeMIS (***Ev. Log/Pattern event: (HR) – Self-Certification Form***)

You are reminded that it is a serious disciplinary offence to knowingly provide false information on a self-certification form.

Should your absence be for a period in excess of seven calendar days:

- a) You are required as an absolute minimum to contact your Line Manager on a weekly basis in order to provide an update on your absence.
- b) In addition to the self-certification form mentioned above, a doctor's certificate (known as a statement of fitness for work) must also be obtained.
- c) A new doctor's certificate must be submitted to cover each continual week of sickness absence. The doctor's certificate must be forwarded to School/College Business Officer as quickly as possible and, in any event, no later than the end of the calendar week in respect of which the certificate applies. They will record and upload your 'Fit-Note' onto DatabridgeMIS.
- d) Each subsequent doctor's certificate must be forwarded in the same manner.
- e) You must always provide certificates (either self-certification forms or doctor's certificates) to cover the entire period of your sickness absence.
- f) Expanse Learning reserves the right to request a doctor's certificate for any period of sickness absence even though this may be less than eight calendar days. If you incur costs in relation to obtaining a doctor's certificate, Expanse Learning will reimburse those costs upon the production of a receipt.

10. Return to Work

If the Line Manager has any concerns about the employee's fitness to return to work, they will contact the Head of Shared Services, for advice. Following each period of absence, the line manager should meet with the employee within 3 working days and undertake a return-to-work meeting. This helps to identify short-term absence problems at an early stage and provides the opportunity to discuss any underlying issues that may be causing the absence so they can be addressed before they escalate. The meeting with the line manager should be held at a mutually convenient date and time and a brief summary of the discussion should be recorded on DatabridgeMIS.

11. Attendance Review Meetings – Short Term Absences

Attendance Review meetings are intended to be supportive in that they allow Expanse Learning and the employee to discuss the absence and to see if there is any help or support that can be given to the employee. Although it is important to allow flexibility according to the circumstances of each case, Expanse Learning must ensure that they have a formal Attendance Review meeting with the employee once the absence reaches specific 'trigger points'.

The management of short-term absence has three distinct reviews:

Stage	Review	"Trigger" for formal action	Outcome	Completed by
One	Attendance Review 1	Three or more separate occasions or has a total of 10* or more days in a six-month period (calculated on a rolling basis)	First Absence Notification	Line Manager &/or School/College Business Officer
Two	Attendance Review 2	If after a Stage One meeting subsequent absences occur for a further two or more separate occasions or 6* or more days in a six-month period (calculated on a rolling basis)	Final Absence Notification	Line Manager & School/College Business Officer
Three	Attendance Review 3	If after a Stage Two meeting subsequent absences occur for a further two or more separate occasions or 4* or more days in a six-month period (calculated on a rolling basis)	Potential termination of employment on medical capability grounds	Director/SLT Manager

** For part-time staff the number of days' absence will be calculated on a pro-rata basis for the purposes of monitoring against the above trigger points. For the purposes of this policy an employee will only be classed as part-time if they normally work less than full-time during term time.*

Once an employee has hit a trigger under Review One or Review Two of the policy, they will receive a warning called an Absence Notification. Termination of employment due to short-term absence will usually only be considered when an employee has received a Stage One and Stage Two Absence Notification and the trigger within Stage Three is hit.

Expanse Learning provides a guide of the "triggers" relating to absences. However, where there are concerns regarding an on-going pattern of absence Expanse Learning reserves the right to amend the "triggers" in such cases. Employees will be notified of these concerns and the adjustment to the triggers for sickness in such cases.

Additionally, Expanse Learning reserves the right to enter this procedure at any stage with due consideration of the employment history and absence record of the employee and any previous actions taken under this procedure. Hence, where an individual has previously been subject to a Stage One meeting and following cessation of the formal process their absence deteriorates again, Expanse Learning reserves the right to re-institute this procedure at Stage Two. Where Expanse Learning remains concerned about an individual's absence record, it may extend Stage One or Two for a period of three months.

All staff have the right to be accompanied by a Trade Union representative or workplace colleague to any formal meeting or review detailed in this policy.

If applicable, prior to any Stage Three meeting Expanse Learning may make a referral to an external Occupational Health provider to establish if there are any underlying medical issues and to provide support to the employee.

Expanse Learning recognises that there may be occasions where an underlying condition, which is considered a disability, is the cause of cases of short-term absences. In such cases, Expanse Learning may adjust the trigger points appropriately following a Stage One meeting. However, it is important to reiterate that this process is a supportive measure and as such

the meetings held in accordance with this policy allow discussions surrounding reasonable adjustments and support to take place.

Review One and Review Two Meetings

Once a trigger has been hit the employee will be invited to the formal Attendance Review meeting under this policy. Notification of the meeting will be sent with reasonable notice prior to the meeting and will confirm/detail:

- The nature of the concern(s)
- The fact that the meeting is being held under Expanse Learnings Absence Management Policy and that a copy of this is available on DatabridgeMIS
- The employee’s right to be accompanied by a Trade Union representative or workplace colleague
- That the Line Manager may be accompanied by the School/College Business Officer
- The absence pattern which has led to a formal instigation of the relevant Stage of the policy
- Copies of any medical information or reports received from the Occupational Health provider
- The absence record of the employee for their entire employment or last five years (whichever is the shorter)
- That the employee has hit a trigger and could be issued with a warning called an Absence notification.

The purpose of the meeting will be to:

- Establish any common theme to the absence and seek to address this with the employee
- Confirm that there is a need to achieve a significant and sustained reduction in absences and this will be the principal consideration for both the manager and the employee
- Allow an opportunity to review the employee’s absence record over their entire employment with Expanse Learning or the last five years (whichever is the shorter) and to highlight any emerging patterns, e.g. falling just before or after weekends or closure periods. Expanse Learning may also review discretionary leave of absence if this is felt to be impacting on the employee’s attendance
- Provide an opportunity to outline/review the support available to the employee and discuss the support detailed in this document
- Identify any adjustments which could be made to the working environment to achieve a sustained improvement in attendance
- Seek the employee’s views on any actions Expanse Learning could take to support a significant and sustained reduction in absence levels
- Confirm that the employee is under formal review for absences, that a significant and sustained reduction in absence is required and detail the review period for such a reduction
- Outline the improvement required and the timescales for this.

Authority to take action under each stage of the procedure is detailed in the table below. This shows the lowest level of manager who can take action under the policy, but this does not preclude a more senior manager taking these actions if appropriate.

Where an employee wishes to appeal against an absence notification then they should do so in writing to the next most senior manager within 7 calendar days of the absence notification being issued. Please refer to the section on appeals (Section 15) for further information.

Stage	Action	Authorised Manager
Stage One	First Absence Notification	Line Manager &/or School/College Business Officer
Stage Two	Final Absence Notification	Line Manager & School/College Business Officer
Stage Three	Termination of Employment	Director/Head of Department

Review Meeting

The formal review meeting will be held with the employee at the conclusion of the review period which will identify whether the employee is meeting the requirement for a significant and sustained reduction in their absence.

Expanse Learning reserves the right to bring forward such a review if the employee’s absence record is demonstrating that there is no significant and sustained reduction in the employee’s absence levels.

The review meeting will ascertain whether the employee has:

a) A Sustained and Significant improvement in Attendance

Where an employee shows sustained and significant improvements they will be informed:

- **Stage One** - that the formal procedure is concluded, and the employee will be removed from the process.
- **Stage Two** - that they are meeting the requirements for a significant and sustained reduction in absence and that the formal process will revert to Stage One and, subject to a sustained improvement at the end of the Stage One process the employee will be removed from the Absence process.

b) Failed to demonstrate a Sustained and Significant Improvement

Where the employee does not meet the required standard and there is no significant and sustained improvement, the employee will be notified that the matter will be escalated:

- **Stage One** - escalated to a Stage Two meeting, however, in exceptional circumstances Expanse Learning reserves the right to take the matter to a Stage Three meeting. This will usually be where an employee has had a poor attendance period over an extended period or short service.
- **Stage Two** - escalated to a Stage Three meeting.

Where there are mitigating circumstances to the employee's absences then a stage can be extended.

Stage Three Meeting

Should the employee show no or insufficient improvement during a review period, a Stage Three meeting will be arranged within 14 calendar days of the written notification to the employee of the outcome of the Stage Two review (in exceptional cases Stage One).

Expanse Learning reserves the right to bring forward any such review if the absence record is demonstrating that there is no significant and sustained reduction.

The Stage Three meeting will be convened to consider whether there is any additional support or adjustments which could be considered to assist the employee to be able to return to work and/or maintain a satisfactory attendance or if their employment should be terminated on Medical Capability grounds. The meeting will be chaired by a SLT Manager/Director. The Head of Shared Services should be consulted where necessary to provide specialist support or to liaise with Expanse Learning Legal Support. The School/College Business Officer will be present to take notes.

Expanse Learning will invite them to the Stage Three meeting. If the individual would prefer another method of communication (i.e. work or home e-mail) they must notify the School/College Business Officer of their preference. In addition to informing the employee of the purpose and arrangement for the meeting the communication will confirm that Expanse Learning is considering termination of employment.

If the employee fails to attend the Stage Three meeting, Expanse Learning will decide whether to proceed in the employee's absence or to reconvene the meeting at another time. Before such a decision is taken, attempts should be made to contact the employee to ascertain the reason for their absence.

The postponement of the meeting will be allowed on one occasion. If the employee is still unable to attend the meeting, they should be provided with the option of making a written submission to adequately represent their wishes and views in the meeting.

At this meeting the Director/Head of Department will consider all the evidence relating to the case, reviewing the actions and support taken at previous stages. Managers involved in earlier Stages of the procedure may be asked to attend the meeting if required to answer questions or present information. The Director/Head of Department will seek the views of the employee and what improvement is demonstrable:

a) Some notable improvement has been made but the significant and sustained reduction in absences has not yet been met.

In such cases, serious consideration will be given to extending the review period once, for three months and deferring the meeting. Following the extension of the review period, and where the employee is meeting the requirement for a sustained and significant reduction in their absences, the formal process will revert to Stage Two.

b) ***Significant and sustained reduction in absences as required by Expanse Learning has not been made***

Where the Director/Head of Department has considered the evidence and determines that there has not been a significant and sustained reduction in absence levels and that the employee's absences fall below that which can be reasonably expected of staff, then they may give notice of dismissal to the employee and provide details on the individual's right of appeal.

The employee will be notified of the decision at the Stage Three Meeting in writing within seven calendar days of the meeting. If applicable the letter will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with Section 15 of this policy.

A flow chart summarising the Sickness Absence Procedure is attached at Appendix 1.

Frequent Periods of Absences

If the employee has returned to work but continues to hit the absence triggers of subsequent stages, the Line Manager should arrange a formal review meeting to investigate supportive measures.

At these meetings, the Line Manager must continue to check progress in terms of the employee's health, discuss the pattern and extent of their absences; previous absence record/medical history, the effect of the absences on Expanse Learning and any appropriate management interventions. Clear objectives/targets for action prior to the next review meeting should be set, recorded and issued to the employee.

Where Occupational Health advises that there is an underlying medical condition that justifies absence from work, or indeed where Occupational Health advises that there is no underlying medical condition but there is equally no doubt that the absences have been for genuine reasons, the Line Manager must advise the employee that Expanse Learning will do everything reasonable to help them to improve their absence levels. However, they must also advise the employee sensitively that if there is not a substantial and sustained improvement in attendance, their employment may be at risk.

When Expanse Learning cannot reasonably continue to tolerate high levels of absences and all reasonable options have been exhausted, the Line Manager must contact the Head of Shared Services to discuss future employment implications and appropriate case management (although it is again important to consider on a case-by-case basis whether there is a need for flexibility and any implications under the Equality Act).

Concerns about Genuine Nature of Absences

If the Line Manager has concerns relating to the authenticity or circumstances of any absence, the case may become a conduct issue to be addressed under the Disciplinary Procedure. The Line Manager must contact the Head of Shared Services to discuss prior to taking any action.

12. Long Term Absences

Long-term absences are generally defined as being 20 working days or longer or where the date of the person returning to work is unclear. In exceptional cases, where the employee has a chronic underlying medical condition which results in a number of short-term absences in quick succession Expanse Learning may decide to follow the Long-term Procedure rather than the Short-term one

If the employee's absence continues, the Line Manager should arrange a review meeting with the employee every four weeks (from the date of the last meeting), unless agreed otherwise with the Human Resource Department.

At these meetings, the Line Manager:

- must continue to check progress in terms of the employee's health and likely return to work date, discuss feedback on any management interventions and agree further interventions where appropriate.
- should set clear objectives/targets with the employee in terms of the action required prior to the next review meeting. These must be recorded and issued to the employee.
- must also advise the employee that Expanse Learning will do everything reasonable to facilitate a return to work. However, they must also advise the employee sensitively that if the absence continues, their employment may be at risk. Section 15 provides further information on the termination of employment on Medical Capability grounds.

At various stages throughout an employee's long-term sickness leave, Expanse Learning may want to obtain advice (or a medical report) on the employee's fitness for work from their medical practitioner/a practitioner nominated by the company.

13. Management Interventions

It is essential that Line Manager's manage any absence appropriately, consistently and effectively. An Attendance Review meeting to discuss appropriate management intervention must generally be convened once an employee has met an absence trigger point. However, this does not stop Line Manager's from completing regular 'welfare' and 'Keep in touch' meetings to recommend appropriate interventions before the employee reaches the trigger points if this would be helpful.

One, or a combination of interventions, may be appropriate depending on each case and may be repeated during the course of the absence (or on the employee's return to work where appropriate). Line Manager's should discuss relevant interventions with the Human Resources Department.

Counselling Services

Employees may find it helpful to access counselling services to discuss any work related or personal difficulties that may be contributing to the absence and Expanse Learning will support any employee with a GP referral. Further details are available from the School/College Business Officers.

Occupational Health

Expanse Learning utilises an external Occupational Health Service that provides up-to-date, professional medical advice to help them make informed decisions about an employee's health in relation to their work. Occupational Health can: -

- advise on how best to manage the case from a medical perspective
- advise whether, in their opinion, the employee has a disability under the Equality Act definition and recommend reasonable adjustments as appropriate
- advise whether the employee would benefit from a referral to physiotherapy services
- advise whether a phased return to work, temporary alternative work, reduced duties or adjustments would be appropriate
- ask the employee for permission to access information from their doctor or specialist and for permission to disclose relevant information to appropriate management

It is important to emphasise again that Expanse Learning does not need to wait until the employee has reached a trigger point before making a referral to Occupational Health. Indeed, an early referral is invariably helpful for all concerned. Failure to attend an Occupational Health appointment without a valid reason may result in loss of pay and decisions about continued employment being based on information available at that time.

Phased Returns

In appropriate cases where an employee has had long-term absences, Expanse Learning may suggest a 'phased return' to work. This enables employees to return to work initially on reduced hours to ease the transition and can facilitate an early return.

This needs to be agreed by the Line Manager, Director and Head of Shared Services and will be subject to time limits and a work pattern agreed with the employee, according to individual circumstances. Employees will not receive less pay than they would have if they had remained absent from work due to sickness.

In some cases, the employee and Line Manager may agree that the employee will use other relevant leave available to reduce the amount of time at work for the first few weeks following the return to work. Alternatively, they may agree that the employee will have a temporary reduction in hours, with the employee just being paid for the time worked.

Temporary Alternative Work / Reduced Duties / Adjustments

An employee may be unable to return to their contracted job due to illness or injury but their doctor or Occupational Health may feel that they are able to return to work to a different job in Expanse Learning on a temporary basis. Alternatively, an employee may be able to return to reduced duties or following other reasonable adjustments to their contracted job on a temporary basis.

In such cases, Expanse Learning will make the necessary arrangements so that the employee can return to work as soon as possible. Any such arrangements will generally remain in place until the employee is able to resume the full duties of their substantive post.

14. Informal “Keep in Touch” / Welfare Meetings

If an employee is demonstrating unreasonably high levels of absences that do not directly contribute to the trigger levels, then the Line Manager will conduct a Keep in touch/welfare meeting with the employee and raise a concern.

15. Conduct Cases

Absences may become a conduct issue to be addressed under the Disciplinary Procedure if the employee has an absence or patterns of self-certificated sickness absence (or indeed absence certified by a sick note) that cause management concern in terms of the authenticity or circumstances of the absence. However, Line Managers must seek advice from Human Resources before taking any action in this respect.

A potential conduct case involves an investigation into the absence(s) and may result in sanctions up to and including dismissal, the non-payment of occupational and statutory sick pay and a break in pensionable service equivalent to the period of unauthorised absence. Employees have a right of appeal against any disciplinary sanction issued.

Other issues that could lead to action under the Disciplinary Procedure are:

- failure to comply with this policy/procedure
- engaging in activities that might delay recovery or exacerbate the illness or injury
- engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents them from working in one employment contract but not in others)

Further information is available from the Shared Services Department and the Disciplinary Procedure.

16. Medical Capability Cases

All periods of long term sickness absences will be reviewed on an individual basis and if the Occupational Health Doctor/Adviser advises that there is no possibility of a return to work and the employee’s job can no longer be kept open and no suitable alternative employment can be found, the Line Manager must contact the Head of Shared Services to discuss possible dismissal on capability grounds, given that the employee is unable to do their job because of their illness.

Subject to advice from the Head of Shared Services, it may also be appropriate to consider possible dismissal on these grounds where an employee has frequent periods of absence and the Occupational Health Doctor/Adviser advises that there is an underlying medical condition that justifies absence from work (or indeed where the Occupational Health Doctor/Adviser has advised that there is no underlying medical condition but there is equally no doubt that the absences have been for genuine reasons) but all reasonable options have been exhausted and Expanse Learning cannot reasonably continue to tolerate such high levels of absences.

However, it is important to consider the full circumstances on a case-by-case basis to assess whether there is a need for flexibility and to ensure that all reasonable action has been taken (i.e. all relevant avenues have been explored, including any implications under the Equality Act).

A Medical Capability hearing will be convened to consider the continued employment of the member of staff will be held with the Line Manager. Another senior manager within Expanse Learning may conduct the hearing in the absence of the Line Manager. The Head of Shared Services will support the Line Manager at the hearing.

Expanse Learning will invite them to the hearing giving reasonable notice. The employee will also be advised on their right to be accompanied. If the individual would prefer another method of communication (i.e. work or home e-mail) they must notify Human Resources of their preference. In addition to informing the employee of the purpose and arrangement for the hearing the communication will confirm that Expanse Learning is considering termination of employment.

If the employee fails to attend the Medical Capability hearing the Line Manager will decide whether to proceed in the employee’s absence or to reconvene the meeting at another time. Before such a decision is taken, attempts should be made to contact the employee to ascertain the reason for his/her absence.

The postponement of the meeting will be allowed on one occasion. If the employee is still unable to attend the meeting, they should be provided with the option of making written submission to the Line Manager to allow them to adequately represent their wishes and views in the meeting.

At this meeting the Line Manager will consider all the evidence relating to the case, reviewing the actions and support taken at previous stages. Managers involved in earlier Stages of the procedure may be asked to attend the meeting if required to answer questions or present information. The Line Manager will seek the views of the employee and consider:

- The medical evidence available to Expanse Learning at the time of the hearing
- Any reasonable adjustments that can be made to facilitate a return including the possible availability of alternative work
- Evidence from the Attendance Review meetings
- Whether a date for return to work can be established within a reasonable timescale

Where the Manager has considered the evidence and determines a return to work within a reasonable timescale cannot be established then they may give notice of dismissal to the employee and provide details on the individual's right of appeal.

The employee will be notified in writing of the decision to terminate their employment on the grounds of medical capability within seven calendar days of the hearing and will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with the information below.

Alternatively, if the Manager considers that the employee will be able to make a successful return to work within a reasonable timescale then they may decide to postpone a final decision for a period of up to three months at which point a further capability hearing will be held.

Right to Appeal against an absence notification, dismissal or notice of dismissal

Where the employee wishes to appeal against an absence notification, dismissal or notice of dismissal they should write within 7 calendar days to Human Resources. The employee should state, in their written communication:

- The grounds for the appeal, (these grounds will normally be an error in procedure or error in fact or error in law)
- Supply sufficient details to support the grounds of appeal

Where an employee confirms they do not wish to attend the hearing it should go ahead in their absence and a decision be based on the evidence available. On the conclusion of the Appeal process, the employee's rights of appeal within Expanse Learning are concluded. The decision of the hearing will be confirmed to the employee in writing within 10 working days.

NEST (National Employment Savings Trust)

If you're suffering from serious ill health, you might be able to take your whole retirement pot as tax-free cash. You may also be able to take your money out early if you're incapable of work due to illness.

If you have a medical condition that means you've been given a life expectancy of less than a year, you can take all of your retirement pot as tax-free cash. You'll need to download the form [Taking money out due to serious ill health \(PDF\)](#).

Part one needs to be completed by you and part two will need to be completed by your doctor. Once NEST have received your completed form, they will contact you to let you know the next steps.

If you have a physical or mental impairment which means you're unable to continue to work in any job now or in the future, you might be able to take your money out of NEST before age 55. It's possible you won't be able to take your whole pot as cash as you may have to use some of it to get a retirement income.

Your inability to work will need to be confirmed by your doctor. You'll need to complete the form [Taking money out early because you're incapable of work \(PDF\)](#). Part one needs to be completed by you and part two will need to be completed by your doctor. Once NEST have received your completed form, they will contact you to let you know about the next steps including retirement options available to you.

If you're aged over 55, you'll be able to take your money out of NEST in the usual way and the option to take your money out early due to incapacity won't apply.

17. Grievance Cases

If an employee raises a grievance about the application of this policy in relation to their case, or due to perceived inaccuracies in absence reporting, or against the Manager for actions that the employee feels has caused the absence, the Manager must contact the Head of Shared Services for advice on how to progress this in relation to each specific case.

Any grievances must be investigated and heard swiftly so as not to prolong the absence. Employees have a right of appeal under the Grievance Procedure.

The requirement to attend an appointment with Occupational Health or an absence review meeting does not constitute a grievance.

18. Suspension on Medical Grounds

If the Occupational Health Doctor advises that an employee is unfit to carry out their normal contracted duties, but the employee disagrees with this, Expanse Learning may suspend the employee on health grounds. This allows Expanse Learning to remove the employee from any health and safety risk until the matter can be investigated and resolved.

The Manager is responsible for taking any such decision and must confirm this to the employee in writing. Suspensions will be on full pay and will not normally last more than 28 calendar days and will remain under constant review.

19. Health and Wellbeing

Expanse Learning may provide a range of health and well-being services (some of which are referred to earlier in this policy), which may include: -

- Health and Safety services
- Occupational Health Services (also available for preventative health care for employees and provides health promotion programmes)
- a number of policies that may help to address certain underlying causes of absence i.e., Anti-Harassment and Bullying Policies etc
- arrangements for covering absence from work unrelated to sickness
- procedures for requesting changes to work patterns, locations or days of work if the employee has caring responsibilities for children or adults, or wishes to ease into retirement

Further information is available from your Line Manager.

20. Holiday Entitlement Does this apply with fixed holidays?

Taking holiday while off sick

Employees cannot get sick pay and holiday pay at the same time. An employee can take holiday (annual leave) while off sick. For example, if they:

- are not physically able to work, but physically able to take a holiday
- have a mental health condition that might be helped by a holiday
- are off sick long term and a holiday might help with their recovery

It's up to an employee to request holiday while off sick. Expanse Learning cannot force an employee to take holiday while off sick.

If Expanse Learning approves the employee's holiday request:

- sick leave can be paused while the employee takes holiday
- the employee should get holiday pay while they are on holiday

After the employee has taken the holiday, sick leave can continue if they're still not well enough to return to work.

Holiday entitlement will continue to accrue while an employee is absent due to illness.

As stated in Expanse Learning Employment Agreement Section 16.5; If the Employee has not taken all their holiday entitlement, then he shall not be entitled to carry forward holiday to the next holiday year. The Employee shall not otherwise, except as required by law, be entitled to carry forward any other holiday entitlement to the next holiday year. In accordance with the Working Time Regulations, the Employee's holiday entitlement includes the statutory basic, which is four weeks of the Employee's working week and statutory additional which is 1.6 weeks of the Employee's working week. It also includes contractual holidays of 3.8 weeks.

21. Medical Examinations

Expanse Learning may at any time during the employee’s employment, require the employee to undergo a medical examination and/or obtain a medical report on the employee – to effectively manage capability issues, determine entitlement to sick pay and to assess whether the employee is disabled (Access to Medical Reports Act 1998).

22. Monitoring and Review

Measuring and monitoring sickness absence accurately are key elements of successful sickness absence management. All sickness absence will be monitored, including the reasons and duration. Data will be collected and analysed to identify particular patterns of absence, use of management interventions and the overall cost of sickness absence. Annual targets will be set for reducing absence and performance will be benchmarked against other employers. Human Resources will report on all areas of sickness absence on a termly basis.

23. Advice

For further advice on this policy, or if Managers have any concerns about practical application, please contact the Head of Shared Services

Impact of non-compliance

Staff:	Disciplinary action
Student:	Not applicable
Legislation/organisational:	Reputational damage, litigation, statutory and non-regulated compliance, Financial payouts.
Compliance lead:	The Head of Shared Services
Policy Reference:	ELGR-POL-HRM-009
Version:	3
Agreed policy location:	DatabridgeMIS
Does the policy require Governor approval?	No

Approval

Prepared by Scott Roberts 01/03/2022  Head of Shared Services	Approved by Tony Brown 01/03/2022  CEO	Counter Signatory Karl Wane 01/03/2022  Director
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Version Control

Version	Date	Revision	Review Date
1	01/09/2019	First Issue	31/08/2020
2	01/09/2020	Policy Review	31/08/2021
3	01/03/2022	Policy reviewed by RRADAR	28/02/2023
4			
5			

Appendix 1 – Breakdown of Absence Management Codes

Authorised Absences	Monitored Absences	Monitored Absences that will be counted towards Attendance Triggers
Business Trip	Appointment – Child ¹	COVID-19 (1)
Christmas Shutdown (Additional 3 Days)	Appointment – Personal ¹	COVID-19 (2)
Funeral	Authorised Absence ²	COVID-19 (3)
Holiday	Emergency time off for dependents ^{1 2}	Medically Certified Leave ¹
Maternity Leave ¹	Compassionate Leave ^{1 2}	Sick
Term Time	Medical Appointment ^{1 2}	Unauthorised Absence
UK Bank Holiday	Personal Circumstances ^{1 2}	
Wellbeing Day	Unpaid Leave ²	
Work from home (Approved) ¹	Authorised Unpaid Absence ¹	

1 = The employee may be asked to provide evidence for this type of absence

2 = If an employee has unreasonable levels of absence, it may lead to an informal keep in touch meeting with their Line Manager to discuss the absences and consider possible support strategies

Appendix 2 – Absence Management Workflow

