

# SICKNESS ABSENCE POLICY & PROCEDURE

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## 1. INTRODUCTION

This policy and procedure applies to all employees of School Partnership Trust Academies (SPTA).

Throughout this document, the term 'Principal' refers to the Principal or Head of Academy and 'Senior Leader' refers to the Senior Department Head within the Core Team. Reference to 'SPTA' includes all Academies as well as the Core Team.

The policy sets out the procedure for reporting sickness absence and for the management of sickness absence in a fair and consistent way. SPTA and all employees are responsible for ensuring that good attendance is maintained. Where absence levels become unacceptable the procedures set out in this policy should be followed.

It is important that the policy recognises that SPTA have a duty to deliver teaching and learning and to minimise the disruption that absence may cause.

The policy is intended to be used in cases involving absence from work due to sickness and is designed to ensure that all employees are dealt with compassionately and equitably, without discrimination.

It also recognises that employees have responsibilities in managing their own attendance and these responsibilities are outlined within this policy. Where additional support is required, SPTA HR can provide specialist advice on individual or complex cases and where necessary seek further expert advice from, for example, Occupational Health.

The policy complies with the requirements of The Education (Teachers) Regulations 1993 and The Education (Health Standards) (England) Regulations 2003 in ensuring all employees have the health and physical capacity to fulfil their duties. Decisions which are made during the use of this policy will also take into consideration the provisions within the Equality Act 2010.

At all stages within this policy and procedure, and in accordance with the Equality Act 2010, provision will be made for any reasonable adjustments to accommodate the needs of individuals attending the meetings/hearing. These adjustments include holding meetings in alternative locations rather than the normal workplace.

For clarity, a working day shall exclude Saturday, Sunday, Public and Statutory Holidays, school holidays for teachers and term time only employees and any extra Statutory Holidays or additional days granted by SPTA or the Secretary of State for Education.

## 2. THE AIM OF THE POLICY

The policy aims to:

- Ensure the effective management of sickness absence and support of employees suffering from ill health
- Improve and maintain the health of employees
- Treat sickness absence in a fair, consistent, sensitive and constructive manner

- Monitor sickness absence on a regular basis to identify any job related issues
- Manage and deal with absence related to a disability, positively as part of the support and management of the employee
- Develop a culture which encourages a high attendance level
- Ensure that all managers receive appropriate guidance and training

### **3. KEY PRINCIPLES**

Sickness absence from work is always assumed to be genuine. It is recognised that most employees have excellent attendance records and that they make every possible attempt to attend work, taking time off only where absolutely necessary. Whilst there is an understanding that there will inevitably be occasions where employees are prevented from attending work due to ill health, this must be balanced with the needs of SPTA and other employees.

The Principal / Senior Leader, or their nominated person, is responsible for monitoring absence levels and applying this policy. The nominated person will normally be a senior employee within SPTA e.g. Vice Principal, Head of Department or Line Manager. In the case of a Principal / Senior Leader being absent from work, a SPTA Director will appoint a nominated person to monitor any absence in keeping with the principles of this policy.

Consideration must be given where the employee is absent as a result of harassment or bullying. In such cases, the person responsible for managing the process must not be related to the cause of the absence.

Where the Principal / Senior Leader has nominated a person to undertake absence management, that person must keep the Principal / Senior Leader up to date regarding the employee's absence. They are also responsible for arranging home visits, contact and support in consultation and with mutual agreement of all parties. Initial contact will be of an informal nature; formal contact will be agreed in long term absence cases when a continuous period of absence exceeds or is likely to exceed four weeks or sooner in order to arrange appropriate support.

Where employees are found to be incapable of continuing their duties because of ill health, SPTA will try to find other employment within the same location, and where appropriate SPTA will endeavour to offer redeployment at alternative locations within the Group.

Where employees have frequent short term absences, medical advice will be sought and counselling offered where appropriate.

### **4. COMMUNICATION**

The need for everyone to play their role in the management of sickness absence is recognised by SPTA. All employees should be made aware of and provided with access to a copy of this policy.

Where the sickness absence of an employee gives cause for concern, the Principal / Senior Leader, or their nominated person, will discuss this with the individual

concerned. This will be where absence levels have been reached or following a period of sustained long term absence.

## **5. ABSENCE NOTIFICATION**

In general, the employee must normally contact their Line Manager by telephone, although local arrangements may differ in some places of work. Text messages are not an acceptable form of communication in these circumstances.

Every employee must adhere to the local absence notification procedures which are in place at their place of work. All employees should be made aware of and provided with access to a copy of the procedure they must follow. Failure to follow these procedures may be treated as misconduct and dealt with as a disciplinary matter.

## **6. MAINTAINING CONTACT**

It is important that regular contact is maintained with employees who are absent due to sickness.

Any contact with an employee should be handled sensitively and should not be intrusive or carried out in a manner that could be seen as harassment. In cases of stress/anxiety related absence or where formal action may/has been taken or in particularly complex situations, advice should be sought from SPTA HR before contact is made. Contact should be through the Principal / Senior Leader, or nominated person, who is familiar with the employee.

Contact may be made with the employee by telephone, sending a letter, card or email, arranging for them to visit the school or by visiting them at home (with prior notification).

The purpose of such contact is to:

- Provide support
- Demonstrate the interest/concern of SPTA
- Ensure reporting policies are followed so there is no loss of pay or benefits
- To help the Principal / Senior Leader, or nominated person, assess the possible length of absence in order to plan cover

SPTA recognises that there are occasions where it may be inappropriate to make direct contact with the absent employee as it may have a detrimental effect on their health and/or recovery. SPTA will consider this on a case by case basis and will seek advice from Occupational Health where necessary. In cases where direct contact may be inappropriate, SPTA will maintain contact with the employee through the union representative or an alternative representative.

## **7. RETURN TO WORK DISCUSSION**

A return to work discussion should take place between the line manager and any employee as soon as possible after their return to work following sickness absence and should be conducted in a private office. The purpose of this discussion is to show employee's that they are missed, to encourage a culture of good attendance and highlight any potential problems or difficulties.

It is important that this is carried out for all employees without exception, in a consistent manner, with sympathy and sensitivity and without presumption before the discussion. However, the method of approach and the nature of the discussion should be mediated by common sense.

The discussion should follow a consistent format covering the following areas:

- Welcome the employee back to work
- Enquire about their health / reasons for absence
- Ensure they are fit to resume their duties
- Discuss any support/action which may be required, including any reasonable adjustments (e.g. phased return to work, flexible working, workplace adaptations)
- Update them of developments at SPTA
- Discuss any observations and concerns (e.g. patterns of absence / frequency of absence)
- Reiterate to the employee that a high level of attendance is expected from all employees and this will be managed fairly and sensitively
- Where absence has reached a problematic stage, inform the employee that a formal meeting will be arranged or advise the employee that further prolonged or regular absences may result in a more formal approach being taken

The return to work discussion should be recorded on the appropriate return to work form and placed in the employee's personal file.

Matters of particular concern should be raised with the Principal / Senior Leader or SPTA HR.

## **8. SHORT TERM ABSENCE**

### **8.1 Absence Levels**

The following absence levels may initiate formal management intervention in cases of short-term sickness absence where the employee has:

- Four separate absences within a rolling twelve month period, or
- Twelve days of certified absence within a rolling twelve month period, or
- An unacceptable trend of absence (e.g. repeated absences linked to weekends or other breaks).

*Note: A self-certified absence is one of seven calendar days or less. Where an absence extends beyond eight calendar days and a doctor's statement is provided then the entire absence (including the first seven days) is deemed to be certified.*

### **8.2 Stage 1**

Where an employee has reached one or more of the absence levels, the Principal / Senior Leader or nominated person, should review the employee's sickness absence records and arrange for a stage 1 meeting to take place.

The employee will be informed in writing, providing at least ten working days' notice of the meeting date.

The written notification will contain the following information:

- The mutually agreed date, time and venue of the stage 1 meeting
- An outline of the concerns/problem
- The possible consequences
- Copies of any relevant documentation
- The employee's statutory right to accompaniment by either a work colleague or trade union representative

The meeting should have regard to a number of factors including:

- the pattern of absence,
- their record and general sickness absence levels,
- identification of any work related factors,
- whether the employee has consulted a doctor
- additional support that can be provided (e.g. counselling)

It may be appropriate to include the line manager in any discussion where they are not the nominated person.

In the case of the Principal / Senior Leader being the subject of the meeting, a SPTA Director will conduct the meeting, supported by SPTA HR.

If an employee prefers not to discuss their medical condition with the nominated person because of the sensitive or personal nature of the information, they may request to be referred to another person.

During the meeting, the Principal / Senior Leader, or nominated person, will seek to agree with the employee an appropriate course of action.

Some of the options for consideration are: -

- To agree that there is no need for immediate action, but continue to monitor the situation and review after a reasonable period e.g. twelve weeks
- To attempt to resolve any working difficulties or welfare problems
- To advise the employee to consult their GP
- To seek an improvement in the level of absence
- To consider reasonable adjustments in line with the Equality Act 2010
- To obtain advice from SPTA HR on whether to refer to Occupational Health Service
- To consider transferring the employee to another post within SPTA, following consultation with the Principal / Senior Leader (this option should only be chosen where it is felt that their sickness absence record is specifically attributable to workplace/occupational factors or disability and a suitable alternative vacant post is available)
- To consider requiring that all future absences are covered by a medical certificate (where this option is pursued there may be a charge for medical certificates; this cost will need to be covered by SPTA)

It is important to recognise that a disabled employee's absence may still require intervention. However, care should be taken not to place undue pressure to reduce

their sickness absence levels, as in some instances this requirement may be difficult for a disabled employee to achieve. The provisions set out within the Equality Act 2010 should be followed at all times. SPTA accepts that disabled employees may require amendments to absence levels. Such amendments for disabled employees may be deemed a reasonable adjustment and will be considered on a case by case basis.

The Principal / Senior Leader, or nominated person, wherever possible should advise the employee verbally of the outcome of the meeting, including details of any improvements required, actions to be undertaken and any review period. This will be confirmed in writing to the employee within five working days of the meeting.

Further advice and guidance is available from SPTA HR.

### **Stage 1 Review**

Following the initial meeting, the Principal / Senior Leader, or nominated person, will undertake follow up action and discuss the matter further with the employee as necessary.

The sickness absence record will be kept under review with the employee and if there has been no satisfactory improvement within an agreed timescale as determined at the initial meeting the Principal / Senior Leader, or nominated person, may choose to move to Stage 2 of the policy.

### **8.3 Stage 2**

Where absences have continued at an unsatisfactory level despite the actions taken at Stage 1, a further meeting should be arranged to explore the reasons for continuing absence.

The employee will be informed in writing, providing at least ten working days' notice of the meeting date at a mutually agreed date, time and venue. The written notification will also contain the relevant information as outlined at stage 1.

It is recommended that a SPTA HR Advisor should be present at this meeting to advise the Principal / Senior Leader, or nominated person.

It should be explained at the meeting that the instances of sickness absence continue to give cause for concern despite previous efforts at Stage 1 to secure an improvement. The employee, or their representative, should be given the opportunity to respond.

The following points should be considered at the meeting:

- the overall sickness absence record
- any medical evidence available
- any mitigating factors or explanations presented by the employee
- the degree of disruption caused by the absence
- the likelihood of an improvement
- the list of options also considered within stage 1



Some of the options available for additional consideration are:

- to determine whether there is no need for immediate action but to keep the record under review for a specified period e.g. 12 working weeks
- to attempt to resolve any working difficulties
- to defer a decision pending a report from Occupational Health and/or a Doctor nominated by SPTA (who may be their own GP)
- to consider transfer to another post
- to formally notify the employee that their attendance record is unacceptable and set a timescale for improvement

The Principal / Senior Leader, or nominated person, wherever possible should advise the employee verbally of the outcome of the meeting, including details of any improvements required, actions to be undertaken and any review period. This will be confirmed in writing to the employee within five working days of the meeting. The letter should confirm that failure to improve to an acceptable standard of attendance by the end of the review period may result in the employee's record being dealt with at a formal stage 3 hearing, and that this includes consideration of their future employment.

### **Stage 2 Review**

At the end of the review period, or earlier if there has been an increase in the level of absence or it is apparent that there is not going to be the desired improvement, a meeting will be arranged giving at least ten working days written notification to the employee and including the right to representation.

It is recommended that a SPTA HR Advisor be present to provide advice.

The review should specifically address all the issues raised at the previous meetings and any new issues that may have arisen or come to light.

If attendance is deemed to be acceptable the procedure will end, but if, at any time within a twelve month period, (commencing on the date of the initial meeting) their attendance again falls below an acceptable level, the Principal / Senior Leader, or nominated person, may reintroduce the formal procedure commencing at the point which is appropriate in the light of previous action.

Where an attendance record has not improved significantly, and no acceptable mitigating circumstances have been identified, the employee should be told that the matter will be referred to a formal stage 3 hearing where consideration will be given to their future employment. This should be confirmed in writing to the employee within five working days of this meeting taking place.

### **8.4 Stage 3**

**IT IS RECOMMENDED THAT IN ALL CASES, ADVICE IS SOUGHT FROM SPTA HR BEFORE TAKING ANY ACTION UNDER THIS STAGE OF THE PROCEDURE**

Refer to section 11 – Ill health capability hearing

## **9. LONG TERM ABSENCE**

### **9.1 Absence levels**

Long term sickness absence is a continuous absence of four consecutive weeks or more. Given that many cases of long term sickness absence involve substantial personal and medical confidentiality it is important that SPTA HR is involved at the initial stage i.e. approaching the fourth week.

### **9.2 Welfare Meetings**

Contact should have been maintained during the absence, however, the Principal / Senior Leader, or nominated person, may make contact with the employee as soon as the absence level of four weeks continuous absence has been reached and may arrange a welfare meeting to:

- establish the medical condition and if necessary, report to SPTA HR who may advise that an independent medical opinion is obtained
- discuss a possible date for return to work
- discuss any reasonable adjustments to assist in a speedy return to work

Any welfare meeting must be undertaken in a supportive context and should not be regarded in any way as threatening or 'policing' the situation. Information regarding change in work practice, developments in SPTA, or news bulletins may be given which will keep the employee up to date and involved with the work situation. The value is in encouraging the employee to think positively about a future return to work and any special arrangements that might need to be made.

An employee who prefers not to discuss their medical condition with the Principal / Senior Leader, or nominated person, because of the personal or sensitive nature of the illness may request to be referred to another person.

The nominated person should contact the absent employee either in writing, by email or by telephone (where the contact is by phone any arrangements should be confirmed in writing) to propose a convenient date, time and venue for the welfare meeting and give them the opportunity to have, if they wish, a trade union representative or work colleague with them.

Where possible, the welfare meeting should take place in the normal workplace. If the employee does not feel that this is appropriate, an alternative location may be mutually agreed. In certain circumstances, it may be necessary to conduct the welfare meeting at the employee's home address. In all instances, a home visit must be voluntarily agreed to by the employee.

It is advisable that either the line manager of the employee or a SPTA HR Advisor accompanies the nominated person at the welfare meeting, to ensure that they are always attended by two people.

For the visit to be completed successfully, preparation prior to the welfare meeting should be carried out, gathering facts about:-

- medical evidence/background

- sick pay entitlements
- alternatives available for them to consider
- arrangements for medical assessment, if appropriate
- booking diary appointments for subsequent visits

The welfare meeting should take the format of establishing the health and welfare of the employee and for the Principal / Senior Leader, or nominated person, to assess the possible time of absence.

### 9.3 Referral to Occupational Health

Dependent upon the outcome of the welfare meeting and any referral to SPTA HR, it may be appropriate to refer the employee to the Occupational Health Service to obtain a diagnosis of the implications of the absence and identify any appropriate support measures.

In determining whether this is an appropriate course of action the Principal / Senior Leader, or nominated person, should have regard to a number of factors including:

- the overall sickness absence record
- any medical evidence available
- any mitigating factors or explanations presented by the employee
- the degree of disruption caused by the absence
- the likelihood of an improvement

To ensure that a relevant report is prepared, the Principal / Senior Leader, or nominated person, should give as much background information as possible (e.g. current duties, job description, special characteristics of the post and sickness record) together with a clear indication of the advice required.

**The Occupational Health provider will obtain consent from the employee in accordance with their rights under the Access to Medical Reports Act 1988 which includes the right to see the report if they so wish before it is sent to SPTA. Further advice is available from SPTA HR.**

Where a medical report has been obtained but its content is inconclusive, the Principal / Senior Leader, or nominated person, should consult SPTA HR to decide whether a second opinion should be obtained. If so, it will be necessary to write again to the employee explaining that a second opinion is required. At this stage, the employee will again be advised of their right to seek advice from their trade union or other representative.

### 9.4 Options/Actions Available

Where an employee is absent due to long term sickness, the Principal/Senior Leader, or nominated person, must maintain contact throughout the procedure with SPTA HR in order to fully consider potential options at relevant stages.

Possible options available are:

- Establish the nature and likely duration of any medical condition using the diagnosis from the Occupational Health Service

- Establish the support needs of the employee, in relation to medical conditions, but also with regard to any working difficulties and any personal or emotional difficulties, and consider any reasonable adjustments that could be made to enable the individual employee to return to work
- Establish a need for alternative employment. If, after consultation with the Occupational Health it becomes apparent that the employee is either permanently unfit to return to their existing post, or there is no prospect of return within a reasonable timescale, then consideration should be given to finding suitable alternative employment where practicable. Initially, the alternative posts should be sought within the normal workplace location. Where there are no such suitable posts, SPTA will explore alternatives at other locations within the SPTA Group
- Consider an employee's request for ill health retirement. Where the employee has approached SPTA to request ill health retirement, the matter should be discussed with the employee and support and advice will be provided to the employee accordingly. The employee will also be advised to discuss the matter and seek advice from their union representative
- Consider a phased return to work. Where an employee has been absent from work on long term sickness SPTA may consider allowing a return to work on a part-time basis where this would facilitate an earlier return to work than would have otherwise been the case. It may be appropriate to seek guidance via SPTA HR from Occupational Health on whether or not a phased return to work will be beneficial. During any period of phased return unworked time should be regarded as authorised absence rather than sick leave. Employees will receive normal pay during the first four weeks of a phased return to work. Where it is agreed to extend a phased return beyond this period, SPTA will be responsible for determining separate payment arrangements based on the merits of each case.

If, after all the above options have been fully considered and there is no reasonable prospect of a return to work in the foreseeable future, the Principal / Senior Leader or nominated person, should advise the employee that a formal hearing (section 11) will be held where consideration will be given to their future employment. This decision will be confirmed, in writing, to the employee within five working days.

## **10. OCCUPATIONAL HEALTH**

SPTA is able to offer an Occupational Health Service (OHS). The OHS provides a wide range of services including:-

- Advising on health issues either in relation to employees or the workplace
- Advising on sickness absences and whether referral to any other agency or body is advisable
- Undertaking confidential health investigations on employees referred and to advise both the employee and SPTA of appropriate courses of action
- Arranging specific medical examinations where appropriate with occupational health physicians/medical practitioners and advise outcomes accordingly
- Advising managers when absences or other factors affecting work performance are deemed to be attributable to the work environment

- Recommending and coordinating arrangements for physiotherapy and other manipulative treatment in cases of back/muscular problems
- Assessment of reports from specialists on teaching staff absent over three months with specified illnesses
- Provision of access to professional counselling service for employees with health problems/personal difficulties
- Coronary Risk Profiling via the appropriate external agencies
- Support for employees linked to alcohol and drug misuse

**More information on the services which can be provided are available from SPTA HR**

## **11. ILL HEALTH CAPABILITY HEARING**

### **11.1 Notification of a formal hearing**

The employee will be informed in writing, providing at least ten working days' notice, of the hearing date.

The written notification will contain the following information:

- The mutually agreed date, time and venue of the ill health capability hearing
- An outline of the concerns
- The potential for dismissal to be an outcome of the hearing
- Copies of any relevant documentation
- The employee's statutory right to accompaniment by either a work colleague or trade union representative
- All parties' ability to produce any documents in evidence or references/testimonials, at least five working days before the hearing takes place
- All parties' requirement to provide names and status of any witnesses to be called at the same time as any documentary evidence

### **11.2 The hearing**

The Principal / Senior Leader will hear cases in accordance with this procedure. Where the hearing involves the Principal / Senior Leader, a SPTA Director will hear the case. In all cases, a SPTA HR Advisor will also be present.

The Principal / Senior Leader is responsible for ensuring a note taker is present at the hearing to take formal notes.

In deciding what action to take, the Principal / Senior Leader will take account of:

- the overall sickness absence record;
- all records of discussions with Nominated Person/SPTA HR
- the likelihood of a change in the attendance record
- the availability of suitable alternative work
- whether any reasonable adjustments could be made which would enable the employee to return to work
- the degree of disruption caused by the absence

- any medical evidence available
- any mitigating domestic circumstances

In the light of the evidence available and the above considerations, the Principal / Senior Leader may decide on one of the following options:

- To take no action but to keep the record under review for a specified period
- To take any other action as may be appropriate in the circumstances
- To withdraw the facility for the employee to self-certify subsequent absences and thereby require production of a Doctor's fitness to work statement to cover all subsequent periods of sickness absence (if this option is chosen they will be reimbursed the cost of the private Doctor's fitness to work statement). Where this option is chosen the Principal / Senior Leader should specify for how long this facility will be withdrawn and when the situation will be reviewed, this should not normally be a period in excess of six months. Failure to provide a Doctor's fitness to work statement in these circumstances will result in loss of pay for any days of uncertified absence
- To defer a decision pending further investigations/medical report
- To make the decision, under the guidance of a SPTA HR Advisor, that the employee's contract of employment is terminated.

### **11.3 Implementing the action**

The Principal / Senior Leader, wherever possible, should advise the employee verbally and confirm their decision in writing not later than five working days after the hearing.

The written notification will contain the following information:

- The details of the allegations
- Specify the action being taken(\*)
- State, if appropriate, the period of time given for improvement which is expected
- Indicate the likely consequences of further absence
- Inform the employee of their right to appeal within ten working days of receiving the written confirmation
- State to whom the appeal should be made (the relevant SPTA HR Advisor)

\* If it is decided to terminate the employee's contract of employment the full contractual period of notice, on full pay, will be given (although SPTA may at its discretion give pay in lieu of notice). The letter should state the reason for termination, i.e. as a consequence of the employee's unacceptably high incidence of sickness absence, which renders them incapable of fulfilling the contract of employment.

## **12. RIGHT OF APPEAL**

Every employee has the right to appeal against the outcome of an ill health capability hearing and they may choose to do so, on any number of grounds. The appeal hearing will focus only on the grounds of the appeal which the employee raises within their letter of appeal.

An appeal panel composed of two SPTA Directors will hear any appeal against ill health capability action. In cases where the Principal / Senior Leader is the subject of the appeal hearing, the appeal hearing will be heard by an appeal panel composed of two SPTA Directors alongside the Chair of the Education Advisory Body. If SPTA Directors were used at the original ill health capability hearing, it must be different SPTA Directors at the appeal hearing. In all cases, SPTA HR will be also present.

The appeal should be made in writing to the SPTA HR Advisor to the hearing within ten working days of the receipt of the written confirmation of the ill health capability hearing, clearly outlining the grounds of appeal.

The employee will be informed in writing, providing at least ten working days' notice of the date of the appeal hearing.

The person conducting the hearing is responsible for ensuring a note taker is present at the hearing to take formal notes.

### **12.1 Action available to the appeal panel**

In the light of the facts and evidence presented, the Appeal Panel may:

- confirm the original decision
- uphold the appeal and take no further action
- in the case of dismissal, uphold the appeal and take some other course of action as might be deemed appropriate in the circumstances
- take any other course of action as may be appropriate in the circumstances but without increasing the penalty

### **12.2 Notification of decisions made by the appeal panel**

Wherever possible, the appeal panel will convey their decision verbally and this decision will be confirmed to the employee, in writing, not later than five working days after the hearing. This letter will also confirm that this decision is final and there is no further right of internal appeal.

## **13. SICKNESS ABSENCE RECORDS**

The Principal / Senior Leader, or nominated person, should ensure that all instances of sickness absence are documented appropriately and countersigned as necessary.

In conjunction with payroll, they should ensure that individual sickness records are kept for every employee, showing details of absences, reasons, and whether they are self-certified or medically certified. Individual records should be updated after each absence and reviewed on a regular basis. By maintaining accurate records the scope for dispute when dealing with sickness absence cases under the policy will be minimised.

## **14. CONFIDENTIALITY**

All meetings and any subsequent capability/appeal hearings will be dealt with in the strictest of confidence. The Principal / Senior Leader (or SPTA Directors) should not discuss a case with anyone other than a SPTA HR Advisor.

## **15. REVIEW**

This policy will be reviewed every three years, or when there are changes to relevant legislation.