


## POLICY/PROCEDURE CONTROL SHEET

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Title	Management of Attendance and Wellbeing Procedure		

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Prepared by (author)	Joanne Benzies, HR Manager
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## Version Control

Version Number	Date Ratified	Reason for Revision	Brief Description of revisions made
1.0	23.7.03	New Document	
2.0	22.2.06	Full Review	Changes in procedures
3.0	24.6.08	Full Review	New document title, change in procedure, further guidance
4.0	1.6.10	Full Review	Revisions in line with NHSLA, new Trust attendance targets
5.0	1.4.11	Full Review	Harmonisation following integration of CDDFT and CDDCHS
5.1	16.1.12	Partial Review	Section 25 - Provision for time off for IVF Treatment

### Procedural Document Validity Statement

Users of this document should ensure that they are using the current signed version of this documentation. The guidance will remain valid, including during any period of review, for the duration stated above. The document must be reviewed at least once every three years, or sooner if there is a change to national guidance/practice.

This template should be completed in conjunction with POL/CA/0001 (Policy for Policies)

6.0	15.6.12	Full Review	Clarity on Trigger points, Annual Leave, Medical Exclusion Amendment to Stage 1 for former CHS staff Removal of increment deferral Appendix 2 Inclusion of Reorientation Checklist for staff on long term sick leave Appendix 3 removed Other minor amendments
7.0	18.12.12	Partial Review	Section 23 & 24 Changes made relating to carry over of statutory leave following case law Section 4.1 Minor word changes to provide clarity Section 26 Guidance on Gender Reassignment Surgery
7.1	20.9.13	Full Review	Amendments to wording following review by Audit North Amendments following Ward Hadaway Review of procedure Changes to AfC National T&Cs – re injury allowance Harmonisation of triggers for short term sickness absence i.e. 3 episodes or 3% in 12 month period Removal of formal warning under Stage 1 Short Term Sickness for former CHS staff
7.2	10.4.15	Full Review	Section 4.1; 9; 11; 16 Production in new policy format Minor word changes to provide clarity
7.3	1.7.16	Full Review	Minor word changes to provide clarity on service areas Section 24 and 25 New Section 26 added Further clarification around annual leave and statutory requirements for accrual Information provided regarding revalidation.
7.4	2.9.16	Partial Review	Section 6 Clarity on contact with employees Section 7 Minor amendment regarding original fit notes required Section 8 Secondary employment check Section 9 Addition of musculoskeletal injuries Section 10 Addition of Disability Passport Section 25 Clarifications around annual leave whilst on sick leave and notification arrangements Section 30 Amendment of groups, responsibilities and monitoring process
7.5	25.5.18	Partial Review	Section 19.1 Updated to reflect the requirements of GDPR
	April 2019	Extension	Extension of Review Date to 31 December 2019

8.0	26.11.19	Full Review	Inclusion of Flowcharts New Injury Allowance Approval Process Clarification of OH referral process in cases of bereavement New Section referring to IVF
9.0	27.9.21	Full Review	Change of Procedure Title Combination of short-term and long-term absence to management of absence on an overall basis
10.0	30.5.23	Partial Review	Removal of reference to statutory leave accrual and completion of Wellbeing Conversation as part of Return to Work discussions. Amendment of Injury Allowance process in light of discussions with TU reps. Amendment to number of people on panel at Stage 3 Hearing process to mirror Disciplinary Procedure.
11.0	29.01.24	Full Review	General Update. Incorporate Rehabilitation and Redeployment Policy (POL/PD/0004)
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## 1 Introduction

The Trust is committed to providing a safe and healthy working environment and to promoting the wellbeing of its employees. However, understands that at some time during their working life almost all employees will suffer from ill health and be genuinely unable to attend work. When these incidents arise the Trust will deal with sickness absence in a sympathetic and understanding way.

Absences due to sickness can have a detrimental impact not only on the employee but also on quality of services that the Trust provides through covering work, costs to business, and reduction of frontline staff delivering frontline care which ultimately has an effect on staff motivation and morale. It is therefore essential that managers take action to address sickness absence wherever possible and that employees familiarise themselves with their obligations under the procedure. Research has shown that the longer people are off work, the less likely is it that they will return. It is also accepted that minor and moderate conditions can develop into chronic ones if action is not taken at an early stage to assess the impact of the illness on the individual's ability to work.

This policy aims to balance the need to deal sympathetically with employees during periods of sickness with the need for consistency and fairness in the treatment of staff, whilst fulfilling our commitment to provide the best possible quality of service to patients and clients.

The Trust recognises the importance of having a robust policy that encourages and facilitates employees to return to work following a period of sickness and to manage and support staff who have underlying health conditions.

## 2 Purpose and Definition

The purpose of this policy is to provide an equitable, consistent and sensitive approach to the management of sickness absence. Overall, absenteeism has a substantial impact on service delivery and the quality of patient care. It can also have a detrimental effect on the employee themselves and evidence supports that appropriate work is generally good for people's physical and mental health.

This procedure has been developed in order to highlight the importance of the management of sickness absence from the first day of absence and to give guidance on how the health and wellbeing of employees can be supported during periods of absence and the assistance which can be given to them in achieving an early return to work.

### DEFINITIONS

Where the word 'absence' appears in the text, it refers to sickness absence.

### Equality Act 2010

In the Act, a person has a disability if:

- They have a physical or mental impairment
- The impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- “substantial” means more than minor or trivial
- “long-term” means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- “normal day to day activities” include everyday things like eating, washing, walking and going shopping

People who have had a disability in the past that meets this definition are also protected by the Act.

## 3 Scope

This procedure applies to all employees of the Trust Group.

The ‘CDDFT Group’ includes CDDFT and its wholly owned subsidiary; County Durham and Darlington NHS Services (CDD NHS Services). Any reference to the ‘Trust’ shall be interpreted as a reference to the Trust Group

This policy/procedure also applies to persons who, although not employed by The Trust, have authorised access to the Internet through the equipment owned or managed by The Trust. This includes staff working for any affiliated organisations.

Sick Pay entitlements are in accordance with National NHS Terms and Conditions of Service, Section 14.

Please note that for employees who are employed on SCL Terms & Conditions, please refer to the SCL Terms & Conditions handbook for sick pay entitlements.

## 4 Duties

### 4.1 Managers

- Proactively support and monitor the health and wellbeing of staff using 1:1 meetings, Health and Wellbeing Conversations and other relevant tools/mechanisms to maintain attendance
- Manage sickness absence equitably, consistently and sensitively
- Must keep accurate records of all sickness absence (episodes and reasons) and ensure that absence is recorded, and kept up to date, on ESR or Health Roster systems
- Must carry out return to work discussions after every episode of absence please see section 5.3
- Ensure that appropriate records are maintained of formal meetings including welfare/long-term sickness review meetings, meetings as part of the monitoring processes

- Ensure that contact sheets are kept up-to-date within staff member's personal files detailing the contact they are having with their staff member
- Keep the absent staff member informed of their sick pay entitlements and any changes in entitlements (i.e. coming towards half and nil pay)
- Must identify and address unacceptable levels of attendance in accordance with this Procedure (see Section 5.5)
- Must agree with the employee regular contact during their period of absence
- Must use the provisions within the Special Leave/Employment Break/Parental Leave/Flexible Working Policies where appropriate
- Refer employees to the Occupational Health & Wellbeing service in a timely way and in accordance with the requirements at Section 5.4
- Where employee is unable to attend their scheduled appointment, any cancellation must be agreed in writing with the line manager prior to the appointment
- Where an employee fails to attend an Occupational Health & Wellbeing assessment, where it is deemed to appropriate, advice to be taken from HR
- Must document and facilitate return to work plans including any recommended adjustments as necessary using the template from available on StaffNet, Managers Toolkit or from the HR Team
- Document and update ESR with date of return to work
- Take responsibility for the purchase and supply of specialist equipment/workplace changes as advised by Occupational Health & Wellbeing and/or Access to Work as appropriate
- Undertake risk assessments in relation to maternity, manual handling, stress and offer support to staff appropriately, making appropriate use of the Occupational Health & Wellbeing service
- Complete Health Passport as at the point of a disability being disclosed or known
- Attend training as appropriate to support attendance management
- Respond supportively to any health conditions, implementing any reasonable adjustments in the short or longer term to enable an employee to undertake their role/attend work, especially for those staff with a disability under the Equality Act 2010
- Take all reasonable steps to utilise opportunities across the Trust to accommodate an early return to work
- Remind staff that they must not undertake any secondary employment whilst claiming sick leave/pay without permission from the manager (advice must be sought from the Occupational Health & Wellbeing team and guidance from HR)
- Seek HR advice with a view to informing the Trust's Counter Fraud team where there may be a suspicion that any member of staff is undertaking secondary employment without permission whilst claiming sick leave/pay
- If managers have reason to believe that an employee is abusing the sickness absence scheme, they should contact HR to discuss whether action should be taken in accordance with the Trust Disciplinary Procedure (PROC/PD/0009). Examples might be an employee who was refused a request for annual leave and reports in sick, an employee who undertakes other paid employment whilst on sick leave, or an employee whose behaviour away from work is incompatible with the reason for the absence.



## 4.2 Employees

- Maintain regular attendance at work
- Advise their manager as soon as they are aware of any health issue that may have an impact on their ability to fulfil their duties, leading to absence or not
- Comply with absence notification/certification procedures by notifying the relevant manager or an agreed alternative manager as soon as they are not fit for work, whether due to be at work or not
- Agree frequency and format of regular contact with their manager during the period of absence ensuring any agreement is maintained
- Promptly provide medical certificates/fit notes to their line manager on the 8<sup>th</sup> day of continuous absence. Failure to do so may lead to the suspension of occupational sick pay until such a document is provided. Possible formal action may be considered for unauthorised absence from work.
- Attend Occupational Health & Wellbeing appointments and meetings with managers; where unable to attend a scheduled appointment, any cancellation must be agreed in writing with the line manager prior to the appointment
- Failure to attend an Occupational Health & Wellbeing assessment, where the manager deems this to appropriate, will result in HR advice being sought by the line manager
- Remain contactable at their home address during their absence, unless an alternative contact address has been notified to their manager
- Ensure that they do not partake in any activity that will have a detrimental effect on their recovery
- Gain authorisation and notify their manager of any holidays occurring during their period of absence
- Must report any major changes to their health that may have an impact on their ability to carry out the full requirements of their role to their line manager. This is to enable the Trust to make reasonable adjustments where appropriate or where required due to the provisions of the Equality Act.
- Act in a way consistent with the nature of their illness/injury, ensure that they take appropriate steps to facilitate recovery and proactively identify to their manager any negative impact on their health as a result of their work or working conditions
- Ensure that they do not undertake any paid secondary employment whilst in receipt of sick leave/pay from the Trust. Any contravention of this may be treated as fraud. Only in exceptional circumstances with agreement from the employee's line manager would this be permitted.
- Actively engage in working with their manager to keep well at work and contribute to and participate in return to work plans and associated risk assessments

Failure to comply with any of the above without good reason, will be regarded as a breach of contract, and may result in the employee being subject to disciplinary action under the Trust's Disciplinary Procedure. Where employees are absent without notification and fail to maintain contact, decisions on their continued employment with the Trust may be made in their absence and based on the information available at that time.

### 4.3 Human Resources

- Work in partnership with the manager in the proactive management of sickness absence and staff wellbeing to ensure a fair and consistent approach has been adopted
- Maintain and update this procedure and any associated guidance as appropriate to ensure they are in line with organisational and legislative changes and strategic direction of the Trust
- Provide advice and support to line managers on the application of procedure and associated guidance
- Provide professional advice to managers at all formal meetings
- Work in partnership with managers, oversee any sickness absence and make recommendations to the manager on appropriate action
- Provide detailed sickness monitoring information to managers, in support of the Trust Management Information data set
- Monitor and analyse absence across the Trust and inform services appropriately of relevant trends and supporting interventions
- Provide coaching and advice to managers in relation to this procedure, and its application
- Provide advice and support to employees regarding the interpretation of this procedure
- Signpost and highlight relevant avenues of support via the Trust's Wellbeing Strategy and associated plan

### 4.4 Occupational Health & Wellbeing

- Undertake confidential health assessments of individual employees following a management referral
- Provide general health guidance and signposting where relevant to individual employees
- Provide an advisory and consultancy service to cover Occupational Health & Wellbeing concerns as they affect an individual employee or groups of employees in their workplace environment
- Provide professional advice to the Manager and/or Human Resources on an employee's fitness for work, via a report following an appointment with employees
- Advise managers on phased returns in accordance with the policy. Phased returns enable staff to work towards fulfilling all their duties and responsibilities within a four week time period, through interim flexible working arrangements, whilst receiving their normal pay.
- Advise managers on the ability to extend the four week time period further through a combination of annual leave
- Advise managers on reasonable adjustments recommended for an employee's role
- Provide professional advice on whether an employee is unfit to be able to continue in their role, whether redeployment may be an option and/or whether they would support an ill-health retirement application
- Undertake case conference reviews as and when appropriate

## 4.5 Employee Assistance Programme

The Trust provides a 24 hour, seven day a week confidential helpline ran 365 days a week which is run by an independent, external organisation to the Trust.

This service is available for use for all staff and provides free confidential assistance with work, personal or family issues. There is also a counselling service available and this is offered both over the phone and face-to face where appropriate. Contact details for this service can be found on the Health & Wellbeing Portal and Occupational Health & Wellbeing Portal on the staff intranet site.

# 5 Main Content of Policy

## 5.1 Recording and Reporting Absence

Effective management of sickness absence depends on accurate and comprehensive record keeping. Managers will record individual levels, frequency and reasons for absence, and must report absence on ESR or Health Roster system. Managers will identify problems or patterns at an early stage and provide support and assistance to improve attendance. Managers and Leaders will be trained in the management of sickness absence and promotion of health and wellbeing to understand the link between Occupational Health & Wellbeing and attendance at work, quality of patient care and productivity.

Employees are responsible for making themselves familiar with any local/departmental absence notification procedures including the nominated person to contact.

It should be noted that in the case of time off owing to ill-health, such absence is counted in calendar days not working days. So, if at the end of a period of sickness an employee has days off, either rostered or as a weekend not normally worked, unless they report their fitness to return to work by the last day of their illness, the days off/weekend will be counted.

Employees and managers are reminded that where time off is required for reasons relating to dependents/domestic circumstances, there are separate provisions with the various Work Life Balance Policies, i.e. Special Leave, Employment Break.

### On the First day of absence

Employees are required to notify their manager/nominated person of their absence as far in advance as possible prior to commencement of the period of duty. The manager can be informed in person or by telephone by the employee. Where an employee leaves a message on an answerphone or with colleagues, the manager will ring the employee back. The use of text messages and emails to notify the manager that an employee is unable to attend work due to illness should only be used where it is an agreed department rule. Only in circumstances where the employee is physically unable to speak to their manager due to illness, can a relative or friend contact their manager on their behalf.

A brief indication of the reason for absence must be offered, its likely duration, and whether the reason is work related. Where the employee is unable to give a confirmed date of return

to work they will agree with the manager how often the employee should contact the manager during their absence.

On return to work employees will be required to complete the Employee’s Self Certification of Absence (available on Staff Intranet site or from the HR Team) for every period of absence up to 7 days.

Any period of absence longer than 7 days an employee must submit a Fit Note from their GP. Where an employee does not obtain a Fit Note this may result in non-payment of salary and disciplinary action, unless there are exceptional circumstances.

If an employee becomes ill at work i.e. after starting their shift, they must report to their manager, who will ensure their safe return home. In these circumstances, this will be recorded as the rostered shift worked on time sheets for payment purposes. However, a record of hours lost owing to sickness should be recorded on the employee’s return to work discussion form. This will be regarded as an episode of absence for the purpose of managing sickness absence.

If an employee is sent home on arrival at work, prior to commencing duties (other than for infection control exclusion), the period of absence and sick pay will commence on that day.

If an absence is related to injury illness – see sections 5.15 – 5.17

**On the Eighth day of absence**

The employee must notify their manager of continuing absence and submit a Statement of Fitness for Work (referred to as ‘Fit Note’) from a registered medical practitioner. The employee must ensure the Fit Note is received by their manager within 2 calendar days inclusive of the day of issue, unless there are exceptional circumstances.

Non-adherence will be regarded as unauthorised absence which may affect their pay and may be dealt with under the Trust Disciplinary Procedure where appropriate. Please see section 5.20 for further details.

NOTE: For absences due to an accident or injury at work please refer to Section 5.15 & 5.16

**5.2 Statement of Fitness to Work (Fit Note)**

Fit Note Details	Return to Work Date
<p>Where a Fit Note indicates absence in months, these should be regarded as calendar months</p> <p>Example: Signed on 20<sup>th</sup> January for 3 months</p>	<p>Return to work date is 19<sup>th</sup> April</p>

Where a Fit Note indicates absence in weeks, these should be regarded as 7-day weeks  Example: Signed on Friday 18 <sup>th</sup> January for 6 weeks	Return to work date is Friday 1 <sup>st</sup> March.
Where a Fit Note indicates actual dates 'from' and 'to', the return to work date is the day after the 'to' date  Example: Indicates absence from 20 <sup>th</sup> to 27 <sup>th</sup> March –Return to work date is 28 <sup>th</sup> March.	Return to work date is 28 <sup>th</sup> March.

The original Fit Note must be sighted by the line manager scanned/photocopied notes are not acceptable.

The Fit Note may indicate that the employee may be able to carry out some work if adjustments can be made to the employee's existing role such as reduced hours, changes to duties and responsibilities or working from a different location. It is incumbent on managers to explore such options with a view to facilitating the employee's return to work and if the manager can accommodate this the employee can be expected to make a return as soon as it can be arranged. Where adjustments cannot be made to the employee's existing role a suitable alternative role will be identified taking account of the restrictions on the Fit Note and the employee will be expected to undertake those duties.

If the line manager cannot accommodate the Fit Note then they must seek to place the employee elsewhere within the Department, the Care Group or within the Trust.

If the suggested changes cannot be implemented, for sound business reasons, which should only be in exceptional circumstances, then for sick pay purposes, the employee will be regarded as if the GP had advised that the employee was 'not fit for work.'

Managers should seek advice from HR if they are unsure as to the correct course of action.

### 5.3 Return to Work

If an employee receives a Fit Note which indicates that a return may be possible the employee should contact their manager (or nominated deputy) by telephone or in person no later than 5.00pm of the following working day (after receipt of the Fit Note) to discuss the note, any adjustments that are needed and whether an Occupational Health & Wellbeing appointment is needed.

Failure to comply with this may result in the employee being sent home without pay, if arrangements have already been made to cover their duties.

On their first day back on duty following sickness, an employee must report to the person in charge. The manager (or nominated deputy) must conduct a return to work meeting on the employee's first day back at work, or at the earliest opportunity, within 5 working days at the latest.

The manager should review the employee's absence record prior to the meeting. The meeting should be held in private on an informal one-to-one basis and is done to welcome the employee back to work, establish the nature and cause of absence and see if any help is needed (It is recognised that for some managers this may be difficult to do on the first day of return from absence. However, they can conduct the interview by phone, or ask another manager to deputise for them)

Other issues unrelated to sickness absence should not be discussed (e.g. misconduct/performance issues), but addressed on another occasion.

At the Return to Work meeting the employee's previous attendance record should be discussed and:

- If the employee's absence level has reached the Trust absence % target in a rolling 12 month period the employee should be informed that a Stage 1 meeting will be arranged
- If the employee has had, in the last 12 months, 3 or more occasions of absence the employee should be informed that a Stage 1 meeting will be arranged
- If the employee has previously had a Stage 1 or Stage 2 meeting, and their absence rate since that meeting (to the last date of the most recent episode of absence) has reached the target set, they will be informed that a Stage 2 or Stage 3 meeting will be arranged.

Where possible a date will be agreed at the Return to Work meeting, for the absence review meeting to take place.

The Return to Work Form is available on the Staff Intranet or from the HR Team. It has been developed to assist managers in conducting these discussions and also to act as a record of the meeting. The employee should be given a copy of the completed form with a copy retained on the employee's sickness absence file.

Where needed, a Workplace Wellbeing Plan (available on the Staff Intranet or from the HR Team) is available to support employees to maintain wellbeing at work. This should be completed in conjunction with line managers to proactively support employees manage their mental health wellbeing.

In line with NHS Protect recommendations the employee will be asked to declare that they have not undertaken any secondary employment during the period of absence. Please refer to the HR Team in any such circumstances.

Indicators that suggest a trigger point has been reached, which may lead to formal sickness absence management are:

- The employee's absence level has reached the Trust absence % target in a rolling 12 month period. Please note that this will continue to apply after a break in service. The HR Department will advise on the current absence target and can provide an absence calculation tool. The employee should be informed that a Stage 1 meeting will be arranged (Section 5.7).
- The employee's absence is 3 or more separate occasions within a rolling 12 month period – the employee should be informed that a Stage 1 Meeting will be arranged (Section 5.7).

OR

NOTE: where Occupational Health & Wellbeing have indicated the employee has a condition or impairment that could likely be regarded as a disability in accordance with the Equality Act 2010, they may have a higher absence target. Advice should be sought from HR in such cases. There should also be a Health Passport completed for the employee which should be held on their personal file. Please see Disability and Long Term Health Conditions Policy (POL/PD/0043)

- In all these circumstances the manager retains discretion to act directly on receipt of information received from reasonable sources which make the solution for a return to work clear.

NOTE: where the absences include episodes that are related to pregnancy, the manager must contact the HR Team for advice.

The manager will identify, with advice from the HR Team, the appropriate course of action.

Where the reason for absence is due to Covid: For monitoring purposes only, absences that occurred from 1<sup>st</sup> September 2022 will be included, all previous absences for this reason, prior to this date should not be included.

#### 5.4 Referral to Occupational Health and Wellbeing

Referrals to the Occupational Health & Wellbeing service should be discussed with the employee by the line manager as an occupational health & wellbeing assessment cannot be undertaken without prior consent.

The Occupational Health & Wellbeing referral process is via the OPAS G2 system, a link for which can be found on the Staff Intranet page. Any medical reports provided for managers are confidential, and provide part of the information that is taken into account along with other factors, on which the manager decides what action to take. Occupational Health & Wellbeing's role is advisory and not managerial. It is essential that the manager informs the employee of the reasons for the referral.

The Occupational Health & Wellbeing assessment will seek to ensure all relevant avenues of medical support are pursued, to provide general health guidance and appropriate signposting. The Occupational Health practitioner will fulfil their obligation to provide guidance to the manager in relation to fitness to work and possible reasonable adjustments. Occupational Health & Wellbeing reports can only be sent to managers with employee explicit consent.



Referral to the Occupational Health & Wellbeing service is indicated where managers require guidance in supporting any employee in relation to health issues. Therefore, a management referral to the Occupational Health & Wellbeing service can be made at any point whether an employee is at work or is absent. Early referral is more likely to lead to a positive outcome for the employee and employer.

See appendix 1 for guidance on when to refer.

If the employee has any concern in relation to the content of the Occupational Health & Wellbeing report, they should bring this to the attention of the Occupational Health Practitioner involved via the department's generic email account or via telephoning the Occupational Health & Wellbeing service. Any misunderstanding of the facts will be rectified and the amended report will be re-issued.

Employees and managers should understand that the report constitutes the professional opinion of the Occupational Health Practitioner. The staff member is entitled to request a second medical opinion from another Occupational Health Physician within the Trust, or if not available, from another NHS Trust or independent provider approved by the Trust. The employee will be responsible for meeting any associated costs and both opinions should then be made available to the Trust for consideration.

The manager concerned should make any decision based on all the facts available. They will need to weigh the relative expertise of the professionals and others from whom information is received. For example, it would usually be expected that an Occupational Health Physician's opinion is more relevant than that of a GP. This is because the Physician knows the workplace and is specifically trained to consider questions of fitness for work and the health impacts of work. In all cases of conflicting opinions, the Occupational Health Physician will, however seek to contact the GP (with appropriate consent).

Subsequent to an assessment, advice will be provided by the Occupational Health Physician to the manager based both on the appointment and further information from a third party (if applicable). If an employee is unable or refuses to provide consent for release of the Occupational Health & Wellbeing report, any decision on future employability will be taken on such information that is available and known to the Trust. The Trust cannot be held responsible for errors made due to lack of information denied to them

## **5.5 Procedure for the Management of Absence**

It is a requirement for both managers and employees to maintain agreed, regular contact, as a minimum, monthly, to offer support and help if required and to keep up-to-date with the employee's progress, and consider which work adjustments could facilitate a return to work. This may include pre-arranged visits to employees who are hospitalised, by arrangement with relatives and the agreement of the hospitalised employee. Managers should seek advice from a HR representative if they are unsure how to make contact. During the early days of absence it is essential that regular contact is maintained and the employee keeps the manager informed on their progress and a date for their likely return to work. Managers must complete the contact sheet on each occasion, to record when the discussions have taken place.



In cases of prolonged absence this helps to reduce the feeling of isolation that can otherwise develop and can identify needs for management action on any return to work at an early stage. As a minimum it is reasonable for a manager to have contact a few days before a doctors certificate or self-certification period is to expire, within a few days after a new certificate is received, after any report from Occupational Health & Wellbeing and, during a longer absence, at least on a monthly basis, in the absence of advice to the contrary from Occupational Health & Wellbeing.

In all cases, telephone or personal contacts must be recorded using either the Health Roster system, or the Contact form (available on the Staff Intranet or from the HR Team).

An initial welfare meeting should be arranged by the manager within 2-4 weeks of the absence starting. HR are not required to attend these. However If the absence is complex, related to mental health or stress/anxiety/depression/general debility or a musculoskeletal concern then HR will be in attendance. . It should not be the first contact the employee has had during the absence. The employee will have the right to be accompanied at this meeting. This meeting can take place at the employee's home if that is more convenient, or at a mutually agreed location.

Thereafter there should be regular meetings (4-weekly) with the employee, with a representative from Human Resources present, to review progress with their condition and to discuss any Occupational Health & Wellbeing reports.

Managers should deal with long-term/chronic sickness absence sensitively and in accordance with these procedures. Even when it is apparent that the sickness absence will be long-term the manager should become involved at an early stage. Where employee is terminally ill, please refer to section 5.12 for further guidance.

Managers should work with employees to provide support and explore potential reasonable adjustments that may support the employee in improving their attendance and/or returning to work. These may include, for example:

- a) Occupational Health & Wellbeing referral/assessment and advice
- b) Temporary or permanent reduction in hours/different working pattern/times
- c) Temporary or permanent adjustments to duties, subject to regular reviews
- d) Secondment
- e) Phased return to work
- f) Temporary or permanent Redeployment
- g) Refresher training
- h) Work Restrictions/ Reasonable Adjustments
- i) Ill Health Retirement Applications

(Ref: Disability & Long Term Conditions Policy POLPD0043)

Where any of the above is likely, the manager must consult with the HR department and/or seek an opinion from the Occupational Health & Wellbeing service, as appropriate.

## 5.6 Procedure for Rehabilitation and Redeployment

The Trust's primary aim is to support staff in their rehabilitation back to work following a period of long-term sickness absence. If this is not possible, for example in situations where an employee is diagnosed with a medical condition which may affect their ability to continue in their current role, the Trust will aim to work with an employee to support redeployment, where possible, into another role.

In situations of rehabilitation back to work or redeployment following a period of long-term sickness absence, managers will work with the Human Resources team and the Occupational Health & Wellbeing Department.

Following a referral from managers for an Occupational Health & Wellbeing review, a manager may receive recommendations in the form of a report which may facilitate a return to work or give further recommendations, for example:

- The employee is able to return to their current post, but will require a period of rehabilitation (i.e. reduced hours, restricted duties)
- The employee is able to return to their current post if the manager is able to support reasonable adjustments to an employee's role to accommodate the recommended modifications – this could include temporary or permanent modifications
- The employee is not able to return to their current post, but may be able to undertake alternative work

The recommendations from the Occupational Health & Wellbeing department are advisory only, and it is always at the manager's discretion as to whether they can be implemented, taking into account legislative obligations and following advice from the Human Resources team. All decisions made must be justifiable, but managers need to take into the account the benefits to the employee when considering a rehabilitation programme.

### Risk Assessment

It is a requirement of both the Management of Health & Safety 1999 and the Manual Handling Operations Regulations 1992 to undertake risk assessments. This is particularly applicable to an individual who has been absent with a musculo-skeletal (MSK) condition. This is applicable to many scenarios including MSK, stress, lone-working and infection risks.

The manager should carry out a risk assessment at departmental level, and refer to the Manual Handling Advisory Service or Occupational Health & Wellbeing Department for additional advice if required. This should normally be undertaken before the employee returns to work so that any support/modifications identified can be put in place.

On the basis of this assessment and the medical report, recommendations regarding modification of duties or re-deployment may be made by the Occupational Health & Wellbeing Department. It should be noted that the accommodation of the recommendations made by either the Risk Assessment or Occupational Health & Wellbeing Department are at the manager's discretion, bearing in mind the overall service requirements. Managers must ensure that they review the assessment on a regular basis.

### Where the Employee Is To Be Rehabilitated Into Their Current Post

Where recovery looks favourable the manager should keep the position under regular review. Managers should make a referral to obtain a report from the Occupational Health & Wellbeing department and wherever possible, accommodate the recommendations of the Occupational Health & Wellbeing department, during a period of rehabilitation.

The Occupational Health & Wellbeing department may advise in some cases that an employee returning from long-term sickness absence should return to work on a rehabilitation programme which may involve reduced hours. In these circumstances, the employee should receive their normal full pay for up to a maximum of four weeks following the return to work, based on their contracted hours.

Rehabilitation periods are normally up to a maximum of 4 weeks. Due to individual circumstances, there may be a need for a longer rehabilitation period. In these circumstances outstanding annual leave must be used for the period of rehabilitation exceeding the originally agreed time period. If annual leave is not used and a request for a longer rehabilitation period has been agreed, the employee will be paid for the number of hours actually worked.

Any rehabilitation programme should be discussed and agreed between the employee and their manager and should fit in with the needs of both the employee and the service.

If a return to work looks likely then an employee could be offered a host of measures to help “ease” them back to work. For example:

- Initially working shorter shifts, increasing over the phased return period
- two or three days at work followed by days off
- Considering short term redeployment – a move to a less physical job for an interim period of time
- Modifying or reducing workload

During rehabilitation periods, working overtime or additional bank shifts is not permitted. Where employees are on a phased return to work programme, they should not undertake other employment outside the Trust, during their rehabilitation period. Employees are advised to take advice from their line manager and the Human Resources team as needed in respect of this.

Employees returning from short-term sickness and expressing a need for a rehabilitation programme involving a reduction in hours, will need to discuss and agree with their line manager using annual leave or time owing.

### Modifications Are Recommended For Return To Their Current Post

Where the Occupational Health & Wellbeing Report advises that an employee is fit to return to their current post if the manager is able to accommodate modifications to the post, the manager should initially consider if these are practical/possible. Where necessary a Workplace Risk Assessment can be undertaken. At all times managers need to consider the requirements of the Equality Act (see Trust’s Disability and Long-Term Health Conditions Policy POL/PD/0043).

The manager should meet with the employee to discuss the Occupational Health & Wellbeing report together with a HR representative, and explore what modifications would be practical. If modifications are possible, then these should be in place before the member of staff returns to work/or needs to use that particular piece of equipment. Following long term absence, a period of updating under a mentor may be required, at the discretion of the manager.

If the outcome is that it is not reasonable to accommodate the recommended modifications, the manager should explore with the employee whether they wish to be considered for alternative employment.

### The Employee Is Able To Return To An Alternative Post

Advice on suitability of an employee for redeployment should be obtained from the Occupational Health Physician or Specialist Practitioner/Adviser in Occupational Health & Wellbeing service.

Where the Occupational Health & Wellbeing Report advises that an employee is unfit to return to their current post, even with reasonable adjustments, but may be able to undertake alternative duties, the Occupational Health Physician will provide guidance around any requirements of an alternative role given the employee's current function.

The manager should meet with the employee to discuss this together with a Human Resources representative.

At the meeting the manager will:

- discuss the outcome of the report and the advice received with the employee
- advise of any vacant suitable alternative positions which have been identified by the manager
- advise the time period during which the employee will be considered for suitable vacancies under the Trust's Prior Consideration Arrangement in accordance with the employee's notice period)
- At this time, the employee will normally be given notice of the termination of their employment on the grounds of ill-health.

## **5.6 Termination of Employment on Medical Grounds**

There are occasions when it is not possible to identify suitable workplace adjustments/alternative employment or where the Occupational Health & Wellbeing Department recommends that the staff member is not fit to return to work in any capacity. The employee should attend a meeting with by their manager and HR during their absence, and all options explored before coming to this conclusion. If the Occupational Health & Wellbeing Report recommends that the employee is not fit to return to work in any capacity the employee should attend a meeting with their manager and HR to discuss the contents of the Occupational Health & Wellbeing Report and/or the fact that no suitable alternative employment has been identified and/or a timescale for return to work cannot be given. The employee has the right to be accompanied at this meeting.

This meeting can take place before the employee exhausts their sick pay. At the meeting the manager will:

- Discuss the outcome of the Occupational Health & Wellbeing report with the staff member and their opinion on the advice received. (If the employee is not yet ready to return, it is possible to adjourn the final review meeting and reconvene at a later date).
- advise that the individual can obtain a second opinion (Section 5.4 if they disagree with the Occupational Health & Wellbeing Report
- Where employees are members of the NHS Pension Scheme they may wish to be considered for ill health retirement if they have ill-health to the extent that they cannot work in any role and are unlikely to be able to work prior to usual pensionable age. This is normally following advice from the Occupational Health & Wellbeing Department that an application for ill-health retirement pension benefits is appropriate.

**Please note** that different arrangements are in place for those SCL employees in the NEST Pension Scheme and they are advised to contact NEST direct. Further details available on their website:

<https://www.nestpensions.org.uk/schemeweb/memberhelpcentre/changes-in-circumstances/suffering-from-ill-health-or-im-incapable-to-work.html>

- If appropriate at this stage, confirm that the employee's employment will be terminated with due notice.
- inform the employee of their right of appeal against the termination of their employment
- confirm the outcome of the meeting in writing

### Ill Health Retirement Pension Arrangements (NHS Pension Scheme only)

Where an employee has contributed to the NHS Pension Scheme, they may make an application for premature retirement on the grounds of ill health. The HR Department will make the necessary arrangements for such an application in conjunction with the employee, Occupational Health & Wellbeing Department and the Pensions Officer from the Payroll section. Employees must be made aware that the criteria for termination of contract on medical grounds are not the same as the criteria for qualifying for retirement on ill health grounds and employees can have their employment terminated without qualifying for ill-health retirement. The decision to grant ill-health retirement pension benefits rests with the Medical Advisors at the NHS Pensions Agency and not the Trust or Occupational Health & Wellbeing Department.

Where the Occupational Health Physician does not consider an application for ill-health retirement appropriate or likely to succeed, an employee can arrange for their GP or treating consultant to support their application for ill-health retirement benefits. The employee will be responsible for meeting any costs associated with the GP or Consultant completing the form.

Ill Health Retirement will only be considered when the reason for the termination of employment is solely ill-health.

## 5.7 Absence Triggers

Where the employee has reached the triggers outlined in section 5.3, they should be informed at the Return to Work Discussion (see Section 5.3) that their attendance will be addressed formally in accordance with the Procedure for the Management of Absence.

The procedure has the following stages:

- Stage 1 – First Absence Review Meeting - where employee has reached triggers outlined in Section 5.3
- Stage 2 – Final Absence Review Meeting – failure to meet standard or continued poor attendance
- Stage 3 – Absence Review Hearing – failure to meet standard or continued poor attendance

### Guidance on conducting Stage 1 and 2 Absence Review Meetings:

- a) The employee will be given written notice of the absence review meeting and made aware of the right to be accompanied at the meeting. A HR representative must be in attendance at a Stage 2 Absence Review Meeting
- b) The meeting should take place in private with the Procedure and absence record available for discussion, and it should be an investigation into any underlying problems, medical, work based or domestic, which may be preventing the employee from attending work regularly
- c) Any pattern of sickness absence should be highlighted and explored. If it is a Stage 2 Absence Review Meeting the manager should review the reasons for the employee failing to meet the standards previously set
- d) Where appropriate managers should discuss and agree with the employee any changes to working practices, hours or environment that may alleviate the problem
- e) Where the Occupational Health & Wellbeing Department have confirmed an underlying medical condition has caused the absences and they amount to more than half of the time off, but are expected to continue, these should be dealt with under the long term sickness absence procedure. An example would be an employee absent for a few periods of several weeks undergoing surgery and other treatment expected to give a good chance of cure of an underlying condition
- f) Managers should explain that attendance will be monitored over the following 12 month period and explain what is considered to be a reasonable standard of attendance, using the current Trust target and 3 episodes as a standard (setting a nil sickness target is unrealistic). They should not however allow the situation to continue indefinitely and must consider the impact of continuing absence on service delivery

- g) **NOTE:** where the employee has a condition that would likely meet the definition of a disability in accordance with the Equality Act 2010, a reasonable adjustment is to give them double the normal absence target with the additional adjustment applicable for any disability-related absence and advice from the HR team should be sought in this situation
- h) Managers should give the employee an indication of the consequences of any continued poor work attendance or failure to meet the required standard within the time period
- i) All points of the meeting should be put in writing to the employee
- j) If in the 12 month period (starting from the day after the end date of the period of absence which triggered the Stage meeting)
  - I. Absence levels exceed the target set; the employee will be moved to the next stage of the procedure. This can occur at any time in the 12 month period where it is known that the target set will be exceeded
  - II. there is no absence or absence levels do not exceed the target set no further action is taken
- k) In addition at a Stage 2 Review Meeting: Employees will be issued with a Final Caution on the consequences of continued poor attendance or failure to meet the required standard within the time period i.e. that it will place the employee's employment in jeopardy and may lead to their dismissal. The employee will have the right to appeal against the Final Caution. A HR Representative must be in attendance at a Stage 2 Absence Review Meeting

### Stage 3: Absence Review Hearing

If, following exhaustion of Stages 1 to 2 of the procedure, an employee's attendance fails to meet the required standards, a hearing will be arranged where consideration will be given to the employee's continued employment.

An up-to-date medical opinion from the Occupational Health & Wellbeing Department must be sought in advance of the hearing taking place.

The employee will be given written notice of the Stage 3 Absence Review Hearing and made aware of the right to be accompanied at the Hearing

This Stage 3 Hearing can take place before the employee exhausts their sick pay.

The Hearing will be chaired by a more senior manager who has had no prior involvement in the case. The Hearing panel will be heard by a panel of three members one of which will be a representative from Human Resources.

The format of the Stage 3 Hearing is available from the Human Resources Team.

The employee will be given every opportunity to state their case.

In the absence of an important indication to the contrary, dismissal will normally take place at this point.

However, there may be circumstances where other action is more appropriate e.g. extension of monitoring period or transfer to alternative employment

Minimum periods of notice in accordance with the Employment Rights Act and the employee's contract of employment must be given.

The manager must confirm the decision to the employee in writing and advise of their right of appeal.

The Trust reserves the right to continue with the process and/or Hearing without the employee's input/attendance to consider their continued employment with the Trust where there is a lack of engagement on behalf of the employee.

Please note there may be occasions when a stage 3 hearing would not be conducive to the employees' health and wellbeing. Please contact HR for further advice.

## 5.8 Representation

Under the Employment Relations Act 1999 and the *ACAS Code of Practice 2015 - Disciplinary and Grievance Procedures*, the employee has a right to be accompanied by a 'companion' at formal meetings that may result in a warning or some other action. The employee may be accompanied by a trade union representative, an official employed by a trade union or a Trust employed colleague but not someone acting in a legal capacity. Employees may only have one companion and the companion should not be someone who would prejudice the absence review meeting/hearing process.

A Trust employee who has agreed to accompany a colleague (also employed by the Trust) is entitled to take reasonable paid time off to fulfil that responsibility, where possible.

The companion should be allowed to address the meeting/hearing and to put and sum up the employee's case, but does not have the right to answer questions on the employee's behalf.

Any companion must maintain confidentiality during and after the application of this policy.

It is the employee's responsibility to arrange their own representation.

If the reason given for failing to attend a meeting is due to the non-availability of a trade union representative or colleague and there have been no earlier adjournments in the process for this reason, on only one occasion a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.



## 5.9 Appeals

An employee who is aggrieved by any action taken which results in the issue of a formal warning or dismissal has the right of appeal against this action. The opportunity to appeal against such decisions is essential to natural justice and appeals may be raised by employees on any number of grounds, for instance new evidence, undue severity or inconsistency of the penalty.

An appeal must never be used as an opportunity to punish the employee for appealing the original decision and it should not result in any increase in penalty as this may deter employees from appealing.

The appeal should be dealt with by the next level of management above that of the officer who issued the warning/dismissal and to a manager who has not previously been involved in the case. An appeal must be lodged within fourteen (14) calendar days of the date of the letter confirming the decision. The appeal letter must outline the grounds for the appeal.

Procedure for the appeal hearing can be obtained from the HR Team

A member of the HR team will also attend the hearing in an advisory capacity.

It is important that both parties exchange written statements of their case seven (7) calendar days prior to the appeal hearing unless a shorter period is agreed by the Chair of the Panel. The members of the appeal panel are presented with copy statements to afford the panel the opportunity to read and understand the case.

Appeals should be heard without unreasonable delay.

The Chairperson will confirm to the employee and their representative, in writing, the decision of the appeal panel within 14 calendar days of the hearing

## 5.10 Sick Pay for those who have exhausted Sick Pay Entitlements

***This section only applies to those staff who are employed on NHS National Terms & Conditions of Service***

Employees who have exhausted sick pay entitlements should have those entitlements reinstated at half pay dependent on length of reckonable service. Please refer to section 14 of the National Terms & Conditions of Service handbook for further guidance.

Reinstatement of half pay should continue until the final review meeting has taken place.

Reinstatement of half pay is not retrospective for any period of zero pay in the preceding 12 months of continuous absence.

It is vital that line managers contact HR if they have an absent employee who meets the circumstances outlined above.

These arrangements will only apply where the failure to undertake the final review meeting is due to delay by the employer. This provision will not apply where a review is delayed due to reasons other than those caused by the employer.

Therefore managers should arrange for a final review meeting to take place before the first anniversary of the employee's sickness absence **OR** a final review meeting should be arranged as soon as it is known the employee is unlikely to return to work. In either case it is acceptable to adjourn the meeting to allow for further information to be considered,

### 5.11 Disability

In seeking to manage sickness absence we all share a duty not to discriminate against people with disabilities and must not treat an employee less favourably on the grounds that they have a disability or unfavourably because of something arising in consequence of an employee's disability where this cannot be justified

In such instances the Trust must consider whether all "reasonable adjustments" to the employee's working environment, conditions and place of work have been made. Please refer to the Trust's Disability & Long Term Conditions Policy (POL/PD/0043) and seek advice from a HR Manager.

Where Occupational Health have indicated the employee has a condition or impairment that could likely be regarded as a disability in accordance with the Equality Act 2010, a reasonable adjustment to the procedure is to give them double the current Trust absence target (episodes/percentage) applicable for any disability-related absence. Advice should be sought from HR in these situations.

### 5.12 Terminal Illness

Where terminal illness is diagnosed it is essential that the manager contacts both the HR and Occupational Health & Wellbeing Departments for advice as early as possible in order to ensure that the employee has the opportunity to discuss Ill Health Retirement options (including pension or death in service benefits) and access any support which they may require. The manager will discuss the options with the employee, with the support of HR and any other specialists as appropriate, i.e. a member of the Pensions Team (where appropriate). The outcome of this discussion will determine any future action.

### 5.13 Confidentiality

All aspects of an employee's sickness absence are strictly confidential. Managers may discuss these details with a HR representative or the Occupational Health & Wellbeing staff, but the absence should not be discussed with colleagues or other members of the employee's family without their express consent and knowledge, unless in exceptional circumstances, and advice should be sought from a HR Manager. If there is a suspected breach of confidentiality please take advice from the HR team.

## Data Protection

All employees working in the NHS are bound by a legal duty of confidence to protect personal information they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within Data Protection Legislation which the Trust must comply with.

### **5.14 Medical Exclusion**

Where staff have symptoms or conditions that could pose an infection risk to patients and/or colleagues, staff should exclude themselves from work. If the staff member feels well enough to work, they should inform a senior colleague to consider an alternative working arrangement that removes risk for the relevant time period. Where alternative work arrangements are not possible, managers should consider the absence as Medical Exclusion. An Occupational Health & Wellbeing referral is not required, however guidance may be sought where necessary.

Employees who report absent as a result of an illness (e.g. D&V) should have their absence from work recorded as sickness and it would count towards the number of episodes/percentage.

However the 48 hours that they must remain symptom free before returning to work may be managed differently. The employee must report to their manager at the point that they feel fit enough to return to work but are not able to do so due to not being 48 hours symptom free. If there is an opportunity to change their shifts/work a different day then this should be explored. If these options are not available then these two days are classed as medical exclusion and recorded as such.

The period of medical exclusion should not be recorded as Sickness Absence for payment or monitoring purposes, and managers should use the Exclusion from Duty code.

Where it is clear that the whole episode of absence was due to an illness contracted in the workplace, this should be recorded as an 'Industrial Injury'.

When addressing issues as part of the moving through the various stages of the procedure, management would consider any contributing workplace factors and take this into account as necessary, with advice provided by HR.

Where employees have persistent exclusions from work, managers should make a referral to the Occupational Health & Wellbeing Department and contact HR Department for advice.

### **5.15 Absence due to Work Related Injury, Illness or Other Health Condition**

An electronic incident reporting form/safeguard via the Ulysses Risk Management system should be completed for every occasion resulting in a work-related injury, illness or other health condition.

Where an individual sustains a work-related injury, illness or health condition, in order to assess the need for support and any work place adjustments which may be needed to minimise absence from work, they should be referred to the Occupational Health & Wellbeing

Department as soon as possible, and the manager must notify HR and the Payroll Department that the absence is due to this. Where timesheets/attendance reports are used, the Injury at Work code must be used in place of the normal sick leave code.

Absence review meetings should be held with the line manager under the provisions of Section 5.7 as appropriate

### 5.16 Injury Allowance

***This section only applies to those staff who are employed on NHS National Terms & Conditions of Service***

Injury Allowance is payable when an employee is on authorised sickness absence or on a phased return to work with reduced pay or no pay due to an injury, disease or other health condition that is wholly or mainly attributable to their NHS employment. The payment tops up sick pay or reduced earnings up to 85% of pay and is covered by the provisions within Section 22 of the NHS Terms and Conditions of Service Handbook.

If an employee feels that they may be entitled to receive Injury Allowance the manager should immediately refer to the Occupational Health & Wellbeing Department for advice as to whether the injury, disease or other health condition is wholly or mainly attributable to the individual's NHS employment. Included in this referral should be; a management summary of the facts of the incident, any witness statements and any other supporting evidence.

In the first instance the employee should complete the Injury Allowance Application Form (available on the Staff Intranet or from the HR Team) and should then pass it to their manager to complete and forward to the HR Team as soon as possible. Relevant supporting documentation should be attached by the manager, including;

- Copy of the safeguard logged and outcome.
- Management summary of the facts of the incident.
- Any witness statements.
- Copy of fit note/s.
- Employee's job description and absence record.
- Copy of the management referral to the Occupational Health & Wellbeing Department and report (if received.)
- Information regarding any previous Injury Allowance application.

In all cases, the application will be considered by a Care Group Representative, or designated representative together with a HR representative, and any other parties as deemed necessary. The employee will not be required to attend this meeting. The employee will be notified of the outcome within 7 days.

If it is determined that Injury Allowance is payable, the application will be signed and authorised. A letter confirming the outcome of the payment will be provided to the employee. The Care Group Representative, or designated representative, will be responsible for completing any payroll documentation.

Where a claim for Injury Allowance is rejected, the decision will be provided in writing giving the full reasons for the decision and the appeal process that could be followed.

If an employee disagrees with the decision not to pay Injury Allowance they are entitled to lodge an appeal in accordance with Stage 3 of the Trust Resolution Procedure (PROC/PD/0010).

### **5.17 Accident/Injury outside of work**

It is NHS policy that any employee absent as a result of an accident is not entitled to any occupational sick pay if damages are receivable from a third party in respect of such an accident. Outside of work is defined as any occurrence at any time whilst not engaged on Trust business.

The manager and employee must make the Payroll Department aware of the accident/injury.

In this event, the Trust may, having regard to the circumstances of the case, advance a sum not exceeding the amount of sick pay payable, subject to the employee undertaking to refund to the Trust the full amount of sickness allowance when damages are received. A separate agreement to this repayment must be made with the employee if this agreement does not appear in the terms and conditions of service.

Sick pay is not normally payable for an absence caused by an accident due to active participation in sport as a profession, or where contributable negligence is proved.

### **5.18 Public Holidays during Sickness Absence**

If an employee reports sick on a public/statutory holiday they will not be entitled to an additional Statutory/Public Holiday in accordance with Section 14 of the NHS National Terms & Conditions of Service.

### **5.19 Accrual and Use of Annual Leave during Long Term Sickness**

#### Accrual of Annual Leave during absence

Staff who are absent on long term sick leave under the NHS National Terms & Conditions of Service have the following rights:

- to accrue and take annual leave entitlement during long term sick leave. Public Holidays will be deducted at the appropriate rate, as and when they fall during sickness absence, in accordance with paragraph 5.18 above. Their annual leave entitlement will be adjusted to reflect this.
- to take any untaken leave, when they return to work, if they are on sick leave for part or all of the annual leave year.
- to carry forward any of their accrued statutory annual leave (up to a maximum of 20 days) into the next leave year if they have been unable to take their entitlement due

to sickness absence or service need, in the current leave year. Any annual leave taken before the sickness absence began will be deducted from annual leave entitlement.

- All contractual/NHS Terms & Conditions annual leave will be lost and cannot be carried forward to the next leave year.
- *Note: If an employee is able to take their accrued annual leave on their return to work and before the current annual leave year ends, they should do so.* In exceptional circumstances an employer may require an employee to take annual leave on a particular date or dates - the minimum period of notice given will be twice as many days in advance of the earliest day i.e. if the Trust wants an employee to take two weeks leave at a particular time, the notice period would be 4 weeks (Ref: Working Time Regulations Guidance POL/PD/009). Managers are advised to seek advice from the HR Department.
- to have a request to take annual leave whilst on sick leave granted, subject to complying with the usual/ written notification arrangements for annual leave request arrangements. The Manager will need to notify the Payroll Department (proforma available on StaffNet or from the HR Management Team). Annual leave taken will be deducted from entitlement, and sick pay will be reinstated following the period of annual leave (if the employee remains unfit for duty). This period of absence will be counted as one episode of absence. Payment for the period of annual leave will be at full pay.

It is essential that managers maintain accurate records relating to sickness absence and annual leave entitlement.

For advice on the accrual of annual leave due to pregnancy-related absence immediately before the commencement of maternity leave, please contact the HR Team.

#### [Sickness occurring during annual leave](#)

If an employee becomes ill while on annual leave or on lieu days, they will need to adhere to the normal notification procedures, if they wish to reclaim some or all of the annual leave for that period. The employee must inform the manager of the episode of sickness as soon as possible, and must not wait until their return to work to report it retrospectively. They will need to submit a medical certificate or a letter from a treating physician; then they will be regarded as being on sick leave from the date of notification to the manager and their annual leave entitlement will be adjusted accordingly.

#### [Going on holiday whilst on sick leave](#)

There may be occasions where an employee has a holiday pre-booked before the start of their long term sickness absence or wishes to go on holiday during their absence. Employees are asked to notify their manager so that absence review meetings are not arranged during this time. Any Annual leave taken will be deducted from entitlement.

Where a manager has any concerns that a particular holiday has had a detrimental impact on an individual's recovery, they may ask the Occupational Health & Wellbeing Department for advice.

### **5.20 Unauthorised Absence**

Unauthorised absence occurs when an employee fails to report their absence for one or more days in accordance with the local procedure for reporting sickness absence.

Unauthorised absence may also occur if certification for a sickness absence is not provided, or if an employee fails to maintain appropriate contact with their manager during a period of sickness absence.

Any period of unauthorised absence will be investigated by the Line Manager and may result in Occupational Sick Pay being withheld or in disciplinary action being taken in accordance with the Trust's Disciplinary Procedure.

### **5.21 Cosmetic Surgery or Treatment**

It would not be appropriate for employees to take sick leave where they have chosen to undergo surgery or treatment for cosmetic reasons. However, where the reason for surgery is medical or psychological, then the sick pay provisions would be appropriate. In these circumstances a letter would be required from the treating Consultant/Specialist stating that the surgery or treatment is essential. The employee will be responsible for meeting the cost of obtaining this letter.

### **5.22 Gender Reassignment Surgery**

Planned surgery for medical gender reassignment will be managed under the same process as any other planned surgery the employee may undergo, which results in absence. A sensitive approach should be taken to discuss options and fully support the employee in returning to work

### **5.23 Attendance at Hospital/Specialist Clinical appointments**

Please refer to the Trust Special Leave Policy (POL/PD/0029).

### **5.24 IVF**

During IVF treatment, an employee is considered pregnant following implantation. Any sickness following this is maternity related, unless the employee is made aware that the implantation has not been successful. An employee is expected to inform their employer of what stage they are at during treatment



### 5.25 Sickness absence due to substance addiction or misuse

In some cases, sickness absence may be caused by a substance (for example drug or alcohol) related problem. Where this is identified and accepted by the employee, use of the Attendance Management and Wellbeing Policy may be inappropriate. Please see the Trust's Alcohol and Drug Policy (POL/PD/00030) for information on how to manage these situations

### 5.26 Access to Work Scheme

Where appropriate the Trust will support employees to apply for Access to Work support. The Access to Work Scheme may provide financial assistance towards equipment and support for employees with a long term health condition which may facilitate a return to work after long term absence or support them to remain within work and sustain an acceptable level of attendance.

## 6 Monitoring

### 6.1 Compliance and Effectiveness Monitoring

Compliance with this policy will be monitored as outlined in the table below.

### 6.2 Compliance and Effectiveness Monitoring Table

<b>Monitoring Criterion</b>	<b>Response</b>
Who will perform the monitoring?	WF&OD Directorate – HR Team Care Group & Corporate Assurance Groups Integrated Business Performance Review Groups
What are you monitoring?	Absence Rates for each area  Compliance in relation to application of appropriate stages of the procedure i.e. return to work discussions, referral to Occupational Health & Wellbeing, applying stages of short term sickness process
When will the monitoring be performed?	Absence Rates are published on a monthly basis by the Workforce Planning & Information Team
How are you going to monitor?	Reports to Care Group & Corporate Assurance Groups on a monthly basis and Performance Review Group meetings.  Regular meetings held with line managers and HR Advisors to review statistics, individual cases and ensure that appropriate actions are undertaken in line with policy.



What will happen if any shortfalls are identified?	Further training and action plans developed in including consideration of other issues such as vacancy/turnover levels etc
Where will the results of the monitoring be reported?	Reports to Care Group & Corporate Assurance Groups on a monthly basis and Performance Review Group meetings.
How will the resulting action plan be progressed and monitored?	The nominated HR Advisor for area will be responsible for following up Action Plans to ensure managers have implemented actions and met timescales
How will learning take place?	Within teams, feedback to managers and Care Group/Corporate areas

## 7 Glossary of Terms

Where the word 'absence' appears in the text, it refers to sickness absence.

## 8 Associated Documentation & References

POL/PD/0043 Disability and Long Term Conditions Policy  
POL/PD/0006 Management of Stress in the Workplace  
POL/PD/0055 Parental Policy  
POL/PD/0019 Working Time Regulations  
PROC/PD/0010 Resolution Procedure  
POL/HR/IG/0005 Data Protection Policy  
POL/PD/0003 Alcohol & Drug Policy  
PROC/PD/0009 Disciplinary Procedure  
POL/PD/0036 Protection of Pay and Terms and Conditions Policy

NICE Guidelines – managing long term sickness absence and incapacity for work  
ACAS Guidelines for Managing Attendance at Work  
NHS Resolution Risk Management Standards  
Equality Act 2010  
NHS National Terms and Conditions of Service Handbook  
Data Protection Legislation

## 9 Appendices

Appendix 1 – Referral Guidance  
Appendix 2 - Equality Impact Assessment  
Appendix 3 - Document Approval Request Form

**9.1 Appendix 1 – Referral Guidance**

The following table can be used as a general guide as to when referrals are required:

Scenario	Guidance re managers' decision to refer				Additional Guidance
	Required	Advised	At managers discretion	Not required	
Advice required on workplace adjustments	x				
Fit Note advises return to temporary alternative duties which manager cannot accommodate		x			
Fit Note advises return to temporary alternative duties which manager can accommodate				x	
Advice required on ability to perform the duties required in the role	x				Managers should have a concern that there is a health element to the issue. Employees must be informed of manager's concern.
Manager has concerns regarding employee's underlying medical condition	x				
Employee is having planned surgery likely to result in absence of over 28 days (referral to be made once date of surgery is known)		x			
Advice required on likely timescale of absence		x			Managers should be aware that Occupational Health & Wellbeing may not always be able to offer an accurate estimate, but will endeavour to provide a minimum estimated period of absence. E.g at least 6 weeks
Employee unlikely to be able to return to post and	x				OH will not make decision to re-deploy but can advise on adjustments that may be considered in re-deployment process.

redeployment to be considered					
Employee unlikely to be able to return to work and termination of employment on medical grounds to be considered	x				Employee must be made aware of processes prior to referral. OH will not “approve” decision, but will provide managers with adequate information to aid decision making process.
Advice required on whether a condition affects ability to attend work in relation to a potential infection control risk and whether employee can carry out alternative duties or medical exclusion applies			x		For short term issues advice should also be sought from Infection control team.  A management referral may not be required in the short term but the OH duty nurse can provide telephone advice.  Management referral is advised if this relates to longer term condition or medical treatment
Employee absent 8 calendar days or more due to stress/anxiety/depression		x			Please ensure prior to referral that appropriate support has been put in place and all relevant and available wellbeing support has been provided. If the absence is due to work related stress, all work place issues should be acknowledged with an associated action plan, a brief summary should be provided in the referral. An Individual Stress risk assessment should be carried out to include a review of the employees current work load. Further guidance can be sought from HR
Prior to a Stage 3 Absence Hearing	x				In most cases, referral may be required prior to reaching this level of absence. However, if this has not occurred, all those employees attending for Stage 3 Absence hearing should have a recent OH assessment (within 6 months)
Employee absent or is likely to be absent for 28 calendar days or more.		x			It may not be necessary to refer if the absence is anticipated and the manager has all relevant information to support employee during absence and on their return e.g. previous OH reports.
Employee indicates sensitive health issue unable to discuss with manager	x				The OH consultation will remain confidential and the employee will be supported to disclose any relevant information. A management referral report will be anticipated with employee consent.

Employee requests their manager make a referral	x				
Short term episodes of absence for minor illnesses				x	
Bereavement			x		Employees should be allowed to grieve without additional health assessment. Referral may be indicated if guidance on support for return to work is required or manager concerned for other reasons. Guidance from HR may be required.
Employee on Stage 1				x	Unless indicated by another reason
Employee on Stage 2				x	Unless indicated by another reason
Advice required on whether a medical condition falls under the terms of the Equality Act 2010				x	Managers should be confident with support from HR to identify whether the EA is likely to apply. Please note that this is a legal definition and not a medical definition. Managers should be able to support employees whether the EA is relevant or not.
Employee absence is pregnancy-related				x	Manager to contact HR for advice. Referral may be required if there are medical complications of pregnancy.
Self-referral by an employee	Self-referrals will be accepted at any time. Employees will be encouraged to engage in conversation with manager where there is a link between health and work. A report to the manager may be generated, but this may not always be required				

**This list is not exhaustive and advice should be sought from the Human Resources Team if the specific circumstances relating to a member of staff are not listed**

## 9.2 Appendix 2 - Equality Analysis/Impact Assessment

Care Group/Specialty	Workforce & OD
Document Type	Procedure
Lead Person Responsible	Joanne Benzies, HR Manager
People involved with completing this document	Policy Review Group, Policy Review Forum, JCNC
Type of Policy, procedure, decision, project, function or service	Existing
Date Completed	16/02/2023

Step 1 – Scoping Your Analysis
What is the aim of your policy, procedure, project, decision, function or service and how does it relate to equality?
This procedure has been developed in order to highlight the importance of the management of attendance from the first day of absence and to give guidance on how best employees can be supported during periods of absence and the assistance which can be given to them in achieving an early return to work. Equality of approach is important for this particular policy to ensure a fair and consistent approach is taken which also takes account of individual's diverse needs
Who is the policy, procedure, project, decision, function or service going to benefit and how?
Trust Managers Employees (will benefit because they will be treated fairly and supported appropriately in accordance with their individual circumstances).
What are you hoping to achieve?
Give guidance to managers on how to pro-actively manage the wellbeing of their staff and facilitate their return to work (where appropriate).
What barriers are there to achieving these outcomes?
Managers reporting and recording sickness absence appropriately and in a timely manner to ensure quality of data. Maintaining a consistent approach throughout the Trust.

How will you put your policy, procedure, project, decision, function or service into practice?
Via the normal communication channels and line management arrangement with support from HR team for professional advice and support. Training sessions are provided for those with responsibility for supervising/managing staff attendance.
Does this policy link, align or conflict with any other policy, procedure, project, decision, function or service?
See Section 8

<b>Step 2 – Collating your information</b>
What existing information/data do you have?
Absence Data is available from the Employee Staff Record and Health Roster System
Who have you consulted with?
Staff Representatives via the Policy Review Group. Staff via the Policy Review Forum which is made up of staff with characteristics protected under the Equality Act 2010.
What are the gaps and how do you plan to collect what is missing?
None identified
<b>Step 3 – What is the Impact?</b>
Using the information from step 2 explain if there is an impact or potential for impact on staff or people in the community with characteristics protected under the Equality Act 2010?
Ethnicity or Race
No differential impact known
Sex/Gender
As people get older changes due to the natural part of aging occur, therefore changes in a person’s wellbeing would be expected
Age
As people age their health invariably deteriorates and changes due to the natural part of aging occur, therefore higher levels of absence or changes in a person’s wellbeing would be expected.

<b>Disability</b>	
<p>People who have a disability/long term condition may be adversely affected by this policy however the policy has in place some reasonable adjustments to take account of staff disabilities such as having a higher absence target and does refer to the Disability &amp; Long Term Conditions Policy.</p> <p>All HR Policies are held on the Trust Intranet, however, the HR Department or Trades Union representatives can provide paper copies and verbally explain content if required. Copies of the procedure can be provided in different formats if requested.</p>	
<b>Religion or Belief</b>	
No differential impact known	
<b>Sexual Orientation</b>	
No differential impact known	
<b>Marriage and Civil Partnership (applies to workforce issues only)</b>	
No differential impact known	
<b>Pregnancy and Maternity</b>	
<p>The policy makes a note to request managers to contact HR for advice if absence is related to pregnancy. This is to ensure appropriate advice is given and that no discrimination occurs in the management of absence and that flexibility can be adopted for individual circumstances.</p>	
<b>Gender Reassignment</b>	
<p>Planned surgery for medical gender reassignment will be managed under the same process as any other planned surgery the employee may undergo, which results in long term absence. However, within the Policy, it is already highlighted that individual circumstances are managed sensitively and taken into consideration within the process.</p>	
<b>Other socially excluded groups or communities e.g. rural community, socially excluded carers, areas of deprivation, low literacy skills etc.</b>	
No differential impact known	
<b>Step 4 – What are the differences?</b>	
<p>Are any groups affected in a different way to others as a result of the policy, procedure, project, decision, function or service?</p>	
<p>Yes potentially pregnant employees and staff members with disabilities/long term conditions which cause frequent absence</p>	
<p>Does your policy, procedure, project, decision, function or service discriminate against anyone with characteristics protected under the Equality Act 2010?</p>	<p>No</p>

If Yes, explain the justification for this. If it cannot be justified, how are you going to change it to remove or mitigate the affect?
N/A
<b>Step 5 – Make a decision based on steps 2 – 4</b>
If you are in a position to introduce the policy, procedure, project, decision, function or service? Clearly show how this has been decided
N/A – existing policy, which has been updated
If you are in a position to introduce the policy, procedure, project, decision, function or service, but still have information to collect, changes to make or actions to complete to ensure all people affected have been covered please list:
N/A
How are you going to monitor this policy, procedure, project or service, how often and who will be responsible?
As per monitoring table at 6.2



### 9.3 Appendix 3 - Document Approval Request Form

This form should be completed when creating or reviewing this document. Documents will not be considered for approval until this form has been completed. Should you need any assistance contact Governance Support Team or the Corporate Records Lead on ext 44178.

<b>Document Title</b>	Management of Attendance and Wellbeing Policy		
1. Document Type	Procedure		
2. Is this a new document	No		
3. If no, provide brief details of amendments made to this version.	<p>General Update.            Incorporate Rehabilitation and Redeployment Policy (POL/PD/0004)</p>		
4. Are there any documents (policies or procedures) to be withdrawn following the ratification of this document because they are no longer valid?	Yes		
If yes please provide reference number and name of documents to be removed			
PROC/PD/0001 Management of Attendance Procedure v10.0 POL/PD/0004 Rehabilitation & Redeployment Policy v6.4			
5. Please confirm that consultation has been completed and that there are no outstanding issues. This should be evidenced on CDDFT Quality Insights	Confirmed		
6. Specific assurance to approving Committee	Abbreviations/Short hand are explained	<input checked="" type="checkbox"/>	
	Grammar and spelling has been proof checked	<input checked="" type="checkbox"/>	
	A monitoring table is included	<input checked="" type="checkbox"/>	
	The correct template has been followed	<input checked="" type="checkbox"/>	
	Reference number correct	<input checked="" type="checkbox"/>	
	Paragraph numbering is correct	<input checked="" type="checkbox"/>	
7. Are there any financial implications from this document? If so, how will it be funded	None identified		
8. Dissemination Plan Please detail how you will disseminate this policy/procedure	Trust Bulletin Copy available on StaffNet		
<b><i>All Trustwide procedural documents will be disseminated once ratified in the Trust Bulletin</i></b>			