

# MANAGING ATTENDANCE POLICY

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# SICKNESS ABSENCE MANAGEMENT POLICY

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## 1 INTRODUCTION

The Trust recognises the importance of managing attendance in a fair, consistent and sympathetic manner. It aims to ensure that disruptions to service delivery due to sickness absence is minimised. All managers will monitor attendance and apply the Trust policy consistently.

If there are any uncertainties about any aspect of sickness absence management, then the appropriate HR Business Partner will be contacted for advice.

In accordance with the Improving Working Lives principles the Trust actively promotes a positive attendance culture. The policy applies to all Trust employees, although nothing within the policy will override the statutory provisions within Department of Health guidelines.

## 2 POLICY STATEMENTS

- 2.1 Managers and employees will seek to resolve genuine sickness absences that are properly notified and reported, as issues concerning the employee's "capability" to perform their duties and responsibilities; as distinct from an issue of employee "misconduct".
- 2.2 In its application all employees are treated in a fair, consistent and sympathetic manner and will be given the opportunity to improve their attendance informally in the first instance through counselling and an informal improvement plan before proceeding to the formal procedures. Ultimately, the needs of the service and the provision of patient care will prevail.
- 2.3 Where an employee has a pattern of frequent short term sickness absence for which no underlying health cause can be established, then the Trust will strike a reasonable balance between the need for service provision and the genuine needs of the employee to take occasional short periods of time off because of sickness; taking into account the Trust's absence targets.
- 2.4 Where an employee has long-term absence where there is an underlying health cause the Trust will strike a reasonable balance between the need for service provision to continue in the employee's absence and the genuine needs of the employee; taking into account available and relevant facts and including the likely date of return to work.
- 2.5 The Sickness Absence Policy applies similar principles contained within the Capability Policy in that an employee must receive 'management advice', 'notice' that absence levels are becoming or have become unacceptable and the consequences of a failure to improve. It would normally be inappropriate to reprimand or 'warn' an employee about genuine sickness for which they have little or no control.
- 2.6 Where a return to work in the foreseeable future is not likely and/or where there is no realistic date for a return to work the Trust will consider available options and this will include termination on the grounds of 'capability'
- 2.7 Failure to properly notify or report sickness absence is a matter of misconduct and sickness absence that appears not to be genuine should be investigated under the Trust's Disciplinary Policy.
- 2.8 It is not the Policy of the Trust to require employees to attend for work when being unfit to do so.

- 2.9 The attendance of all employees at work will be monitored and managed regularly by line managers and records of sickness absence will be maintained. Regular reports will be submitted to the Trust Board, JSCC, HRODC and other appropriate fora.
- 2.10 All employees are required to comply with the notification arrangements for reporting sickness absence as notified by their line manager.
- 2.11 All employees are required to comply with requests to attend the Occupational Health (OH) department for health assessment or support at any time following discussion with their manager.
- 2.12 Failure to comply with 2.10 or 2.11 above may be regarded as a disciplinary offence and will be dealt with in accordance with the Trust's disciplinary procedures.
- 2.13 Where employees become permanently incapable of undertaking their normal contractual duties the Trust will consider making reasonable adjustments to the duties of their job, subject to the needs of the service; or to find suitable alternative employment elsewhere within the Trust. If an employee becomes disabled as defined within the Equality Act 2010 the manager should contact their HR Business Partner who will be able to discuss the situation and offer further advice about what steps should be taken to ensure that the requirements of the Act are met.
- 2.14 An employee may be accompanied at any formal meeting conducted under this procedure (see 'Rights to representation').
- 2.15 Any employee who is dismissed on the grounds of capability (or ill health) will have the right of appeal against that decision as detailed within this procedure.

### **3 ROLES & RESPONSIBILITIES**

#### **3.1 The Trust Executive Board will:**

- receive, analyse and monitor data on attendance Equality Act 2010 requirements from HRODC, via Resource Governance Committee
- determine the impact of sickness absence on service delivery and Trust strategic objectives
- determine the strategic direction for managing attendance
- consider requests for funding for back-filling business critical roles

#### **3.2 Divisional Managers will:**

- Regularly report to the Executive Team on absence
- develop contingency/action plans to minimise impact of absence on service delivery
- support Ward/Department Managers in managing complex absence cases

#### **3.3 Ward/Department Managers will:**

- monitor attendance within their area of responsibility
- manage sickness absence pro-actively adopting a fair and consistent approach
- work in partnership with the employee using the format set out in this policy and guidelines to improve and maintain attendance levels as necessary
- seek advice from HR and/or Occupational Health regarding employees who may have an underlying cause for their absence
- identify issues in relation to impact of absence and report to their line manager
- support the Divisional Manager in development of action plans to minimise impact of absence on service delivery

- 3.4 **Employees will:**
- demonstrate a positive approach to attendance and be responsible in managing their own health
  - know and follow procedure for reporting absence and return to work
  - attend meetings with line manager e.g. on return to work after absence
  - work in partnership with their line manager using the format set out in this policy and guidelines
  - attend Occupational Health as required
- 3.5 **Human Resources Team will:**
- advise and support managers and employees in accordance with local policies & procedures, following good HR practice and employment legislation
  - in conjunction with OH, provide necessary inputs to support managers/employees with absence issues
  - provide relevant and timely absence data and trends
  - provide evidence to the Department of Health to meet local and national management information requirements
- 3.6 **Occupational Health Team will:**
- provide impartial advice to employee and manager in relation to health issues impacting on the individual's work or vice versa
  - advise and support managers and employees in accordance with local policies & procedures, following good OH practice and relevant legislation
  - in conjunction with Managers and HR attend attendance management 'case conferences' to support managers in particular to seek to establish likely dates for return to work and also issues around managing the return to work e.g. a phased return and/or any reasonable adjustments that might be considered
  - take a pro-active approach in health promotion activities and prevention of ill health in the workplace
- 3.7 **Staff Side will:**
- advise and support managers and employees in accordance with local policies & procedures, following good HR practice and employment legislation

## 4 REPORTING AND RECORDING OF SICKNESS ABSENCE

- 4.1 The Trust has established some general standards for reporting sickness absence. These may be supplemented by individual requirements within Divisions and employees must comply with the Division's requirements above the general requirements of the Trust.
- 4.2 The Trust's general standards require as an **absolute minimum** that employees must:
- report their sickness absence normally by telephone as soon as possible to their manager or the designated deputy on the first day of absence, and no later than one hour before the commencement of their shift or normal start time wherever possible.
  - when reporting their absence, unless inappropriate to do so, give an indication of the nature of their illness so that an accurate absence reason can be recorded; an estimate of the duration of the absence and the anticipated return to work.
  - where applicable, contact their manager (or the designated deputy) again on the 4<sup>th</sup> day of absence to give an update on their situation.
  - provide a medical certificate 'Fit note' to cover any absence which continues beyond 7 calendar days (14 calendar days in the event of a Flu Pandemic) and

where applicable for long term sickness (see Long-term absence section of this policy) employees should provide continuity of certification.

4.3 Failure to comply with sickness reporting procedures may result in disciplinary action in accordance with the Trusts disciplinary procedures and/or, the withholding of pay.

#### 4.4 RETURN TO WORK

4.4.1 On the first day of return to work **after every occasion of sickness absence** employees must report to their line manager (or designated deputy) and together they will hold a Return to Work (RTW) Interview and complete the Return to Work (RTW) Form (APPENDIX B). For more information see the section on Return to Work Interviews.

4.4.2 After the fourth occasion of sickness absence within any 12 Month period the Manager will invoke the 'informal counselling stage' of the procedure

#### 4.5 RECORDING

4.5.1 Managers are required to ensure the maintenance of individual absence management records and therefore must:

- complete the Absence Notification Form (APPENDIX A) on each absence occasion
- place Appendix A in the employee's personal file
- make a **file note** for the personal file for **part days** worked (Appendix A is not completed)
- ensure the absence data including part days is entered on the Electronic Staff Record (ESR) within **2 working days** to ensure 'real time' reporting of absence
- complete the **pink returns** provided by payroll, currently on a monthly basis but for nursing staff should be recorded on their monthly time sheet
- record the date of each Return to Work (RTW) interview on the ESR system

4.5.2 In addition, managers are required to maintain appropriate levels of contact depending upon the circumstances and employees should expect that in most cases contact is made on a regular basis, such as is necessary to ensure efficient service delivery. Exceptionally and specifically where advised by Occupational Health contact levels may need to be either less or more regular with good reason.

4.5.3 If in very exceptional circumstances, the employee is prevented from working due to a decision by Occupational Health, then this absence may not be recorded. This is subject to the discretion of the manager in association with Occupational Health. An example of this may be absence related to the side effects of prophylactic treatment for HIV exposure following a sharps injury at work. This absence would be on full contractual pay.

#### 4.6 ABSENCE RETURNS

4.6.1 Managers must ensure that all periods of **full days** of sickness absence are recorded on the pink weekly returns or monthly time sheets submitted to payroll. This no longer applies to any part days absence.

#### 4.7 FIT NOTES

4.7.1 'Fit notes' replaced the 'sick note' and allow a doctor to provide the employee and employer with more information on how health conditions affect ability to work. This

helps the trust to understand how they might be able to help an employee return to work sooner. With the fit note a doctor can:

- advise when an employee may be fit for work with some support
- suggest common ways to help an employee return to work
- give information on how an employee's condition will affect what they can do

4.7.2 If a GP recommends that an employee 'may be fit for work' they can still apply for benefit and if both the employee and the Trust agree that the employee should remain off work, the employee should still get Statutory Sick Pay; but not Contractual Sick pay.

4.7.3 A 'Fit note' is evidence why an employee cannot work due to illness or an injury and must be provided for any sickness absence that continues beyond 7 calendar days and be retained in the employee's personal file. For example:

- A DSS recognised practitioner including GP, Dentist, or Chiropractor can provide acceptable medical certificates
- A hospital issued yellow medical certificate (Med 10) remains unchanged and covers the employee for up to 7 calendar days from the date of discharge from hospital
- Private medical certificates are acceptable but the employee concerned must meet any costs incurred. The exception to this is when they are specifically requested by the Trust in which case the respective Department/Division meets any associated costs. However, the Trust reserves the right to require the employee to pay depending on the individual case circumstances.

4.7.4 In the unusual event of a Flu Pandemic being declared by the Department of Health, the self certification period will be extended to 14 days. This will be announced by the Civil Contingencies committee and managers will be advised by HR should this national action be taken. This will support GP surgeries in reducing their workload at what will be a demanding time.

## **5 MANAGING FREQUENT SHORT TERM SICKNESS ABSENCE**

5.1 Frequent short term absence may be defined as a series of short term absences, which may or may not relate to a single medical complaint. The Trust defines 'frequent' as 4 periods of absence in any 12 month period.

### **5.2 TRIGGER POINTS**

5.2.1 At 3 occurrences of absence within 12 Months Managers should advise employees that their absence levels are becoming an issue and that the employee might trigger the policy if they were to have 4 in a rolling 12 month period

5.2.2 As a guide and to ensure consistent application of the Policy the key trigger points are:

- 4 periods of sickness absence in any 12 month period – Triggers Informal Counselling stage.
- 5 periods of sickness absence in any 12 Month period and/or further absences during the Informal Counselling stage – Triggers First Formal Review Stage
- failure to meet standards set during or at the end of an agreed review period – Triggers the next stage review

- failure to maintain acceptable standards of attendance after successful completion of a 'recent' review. - Normally Triggers implementation of the next incremental stage of Review above that which was recently completed.
- When managing Long –term sickness absence the trigger is any **28 days continuous absence** which triggers requirements under the Long Term Absence Management Section

5.2.2.1 As secondary to the triggers and the cost of absences and Trust Targets Managers may wish to consider the following formula:

$S \times S \times D = \text{Points Score}$  where

**S** = number of spells of sickness

**D** = days lost through sickness

Thus 1 absence of 12 days, score =  $1 \times 1 \times 12 = 12$  points

6 absences of 2 days each, score =  $6 \times 6 \times 12 = 432$  points

12 absences of 1 day each, score =  $12 \times 12 \times 12 = 1728$  points

5.2.2.2 Where an employee has a pattern of frequent short term sickness absence for which no underlying health cause can be established, then the Trust will strike a reasonable balance between the need for service provision and the genuine needs of the employee to take occasional short periods of time off because of sickness.

5.2.3 When an employee is frequently and persistently absents from work as described in the triggers within this Policy this damages efficiency, morale and service provision, and places an additional burden of work on the employee's colleagues.

In order to manage sickness absence consistently across the trust the following 5 stage approach will normally be undertaken by each manager:

5.2.3.1 **Return to work Interview (RTW)**. Managers will conduct a RTW after every occasion of Sickness absence and record this on the RTW Form (Appendix B) and on ESR. See below.

5.2.3.2 **Informal Counselling Stage**. This will normally take place after 4 absences within a 12 Month period. It is a RTW meeting and additionally there is a requirement to agree an Informal Improvement Plan. See below.

5.2.3.3 **First Level Formal Review Stage**. This is the first Formal Stage of the procedure and would normally commence with a Formal Improvement Plan if there hasn't been an acceptable level of improvement at the Informal Counselling stage. At this stage and beyond the employee is entitled to be represented by a Trade Union Representative, colleague or friend, not acting in a legal capacity. See below.

5.2.3.4 **Second Level Formal Review Stage**. Where following the First Level Formal Review Stage the required improvement is not achieved or maintained, a second level Formal Review will be put in place and the Formal Improvement Plan will be reviewed, replaced, amended or extended to ensure the employee has every opportunity to improve their attendance levels. See below.



5.2.3.5 **Sickness Absence Hearing.** Where unsatisfactory attendance persists the Manager's will consider dismissal on the grounds of capability or 'some other substantial reason'; or, an appropriate alternative course of action. See below.

### 5.3 RETURN TO WORK (RTW) INTERVIEWS

It is essential that every employee has a Return to Work Interview (RTW) with their manager (or nominated person) at the earliest opportunity on their return to work from Sickness Absence. This should take place within 3 working days of their return.

The formality and structure of these discussions will be dependent on individual circumstances but the overriding approach must be consistent for all employees and must reflect both confidentiality and sensitivity. The interview date should be recorded on the ESR system and a record of the meeting on Appendix B.

Where appropriate the RTW Interview is also an opportunity to reinforce positive messages about the employee's performance and contribution. The purpose of the interview is to:

- Welcome the employee back and ensure they're well enough to return to work
- Clarify that the meeting is informal and is taking place in accordance with the Trusts Sickness Absence Management Policy
- Complete the Return to Work form (Appendix B)
- Confirm the reason for the absence and to accurately note it
- Identify any issues at work or outside work which the employee may wish to bring to your attention which may be contributing to the sickness absence
- stress the importance of a positive attendance culture to the the Trust
- Ensure an understanding of the relevant policies and procedures involved in monitoring and managing absence
- Identify any underlying issues contributing to sickness absence including disability if the employee is defined as disabled within the Equality Act 2010
- Agree a referral to the Occupational Health Service if identified as needed
- Update on any relevant information s/he missed during absence
- If applicable, discuss previous absence record and determine what action is appropriate (if any)
- Discuss any other areas of support or advice which may be offered within the Trust if required. e.g. OH; Chaplain; Union Representative

### 5.4 INFORMAL COUNSELLING STAGE

5.5 Where an employee's attendance is becoming unsatisfactory, normally after 4 occurrences of absence 'within' 12 Months, they will be given informal counselling by their Manager and an opportunity to improve attendance levels via an **informal improvement plan** (see Appendix c). The plan can be put in place sooner where this is deemed necessary including if an employee's absence levels are not satisfactory over a period of time.

5.6 The Informal Counselling and Improvement Plan are supportive measures put in place to enable the employee to focus on reducing absence levels but it should not attempt to require the employee from attending work when they are clearly not fit to do so.

5.7 The Informal Counselling stage is similar to the RTW with additional responsibility to ensure the employee is aware that **absence levels are becoming unacceptable** and to see if there is a way that the absence levels can be tackled. It ensures employees are supported and given the opportunity to improve their attendance levels. In addition to a RTW meeting (see above) the informal counselling stage includes:

- Explain how the employee has 'triggered' this stage of the policy (normally 4 occurrences within 12 Months) and that it is an early intervention to seek to help prevent the employee from triggering the formal stages of the Sickness Absence Management Policy
- The consistency with absence management within the team or place of work
- Existing plans or targets to reduce absence levels including the Trusts overall targets.
- Note previous RTW meetings and actions
- Recognise that attendance levels are becoming unacceptable
- Provide further opportunity for the employee to discuss any underlying personal, domestic or work related problems
- Review the need for medical advice and opinion via Occupational Health
- If appropriate agree an **informal improvement plan** with a specific absence level objective / target for improvement that can be achieved within a reasonable timescale
- Discuss the likely outcome/s of a failure to improve – this would normally be escalation to the formal stages within the procedure
- Any support, learning and development or other intervention as agreed
- Set a date for a review

## 5.8 IMPROVEMENT

Where informal counselling (and where implemented an informal improvement plan) is achieved - employees will be congratulated and asked to maintain the acceptable levels of absence moving forward. Improvement would be deemed to be achieved, for example, where an employee on 3 absence occurrences and at risk of triggering 4 occurrences within a 12 month period and was able to avoid triggering the Formal part of the policy.

Otherwise, where an employee reaches 4 or more absences within 12 Months and has received informal counselling (and where implemented an Informal Improvement Plan) this will be regarded as evidence that the informal stage has not achieved the required improvement in reducing absence levels.

## 5.9 Rights of Representation

- 5.9.1 The Trust allows employees to be accompanied at 'formal' meetings where a meeting could result in a formal improvement plan being put in place.
- 5.9.2 Also, an employee may be accompanied at Investigatory Meetings or where the Trust is taking some other action; confirming a 'caution' or a Sickness Absence Hearing including Appeal Hearings.
- 5.9.3 The chosen "companion" may be a Trade Union Representative, a fellow worker or another person or whose presence would not prejudice the meeting / hearing.
- 5.9.4 It would not normally be reasonable for an employee to ask to be represented at 'informal' meetings or where counselling is being undertaken by the Manager
- 5.9.5 It would not normally be appropriate for the employee to be represented by someone whose availability is limited and/or who would unduly hold up the process; particularly where someone suitable and willing is available either on site or local to the Trust.

## 5.10 FIRST LEVEL FORMAL REVIEW STAGE

- 5.10.1 This stage is similar to the equivalent stage within the Trust's Capability Policy although it is specifically designed to achieve an improvement in Sickness Absence Levels. Managers

would normally be accompanied by their HR Business Partner who will act in an advisory capacity.

5.10.2 Where the informal counselling stage has not achieved the required level of attendance the Manager will provide the employee further opportunity to improve their attendance levels through a First Level Formal Review Stage.

5.10.3 A **First Level Formal review meeting** with the employee should be arranged, aiming to give them 5 working days (or 7 calendar days) notice of the meeting. Review meetings can be arranged with less than 5 days notice with the agreement of all parties. The request to attend the meeting should be confirmed in writing stating the right of the employee to be accompanied and detailing:

- Reference to the Informal Counselling Stage
- That the employee is being invited to a First Level Formal Review Meeting in line with the Trust's Sickness Absence Policy where **Appendix C** of the Policy will be completed
- The area where improvement is required is with regard to unacceptable attendance levels
- A copy of the employee's absence record (to include the absences that are of specific concern e.g. that triggered this stage of the policy)

5.10.4 During the meeting, the manager should clearly state the following:

- The purpose of the meeting is to put in place a Formal Improvement Plan;
- The required standards of attendance (refer to previous informal counselling stage)
- The absences where the employee has failed to meet the required standard;
- The impact of this on the service;
- Reference to remedial action taken and discussed during the previous informal counselling and RTW meetings.

5.10.5 During the meeting the employee and their representative will be given the opportunity to respond to the areas of improvement required and any explanations must be fully considered before issuing a First Level Formal Review Notice.

5.10.6 If a **First Level Formal Review Notice** is issued the manager should confirm the following at the meeting:

- A first level Formal Review Notice is 'management advice' to the employee that their absence levels have become unacceptable and there is a need for improvement recognised formally within the procedure
- The method of monitoring and on-going review of future attendance
- How this will be notified and recorded e.g. on ESR and the Pink Returns
- Agreed future objectives which are both measurable and achievable see template Formal Improvement Plan at Appendix C;
- The level of attendance required
- The period over which improvement is required (normally a minimum of 3 Months);
- Confirmation of progress review meetings during above period (these would normally be 3 Monthly and can be changed by mutual agreement of manager and employee);
- The date of the next review meeting;
- The outcome if standards of attendance are not achieved or maintained during the review period;
- Access to additional support e.g. Occupational Health, Chaplaincy, etc.
- Any other action that has been taken to resolve the situation

5.10.7 This outcome should be confirmed in writing to the employee within 5 working days (or 7 calendar days) covering all of the above points together with the date of the review meetings. Template Outcome letters are available on the HR Intranet Pages or via HR Business Partners.

5.10.8 The First Level Formal Review Notice remains operative for the duration of the Formal Improvement Plan and will be considered spent at the end of this time if satisfactory attendance has been achieved. However, this may be extended normally to a maximum of a further 3 Months at the discretion of the manager, where it is considered that further time is required to achieve satisfactory attendances.

5.10.9 Where an employee's attendance improves to the required standard within the defined timescale, the employee should be informed of this in person and in writing. This must include advising the employee that further formal action either at First Level or Second Level Formal Review stage may be taken if satisfactory attendance levels are not maintained.

5.10.10 The employee is entitled to appeal against the First Level Formal Review Notice. Any appeal should be made in writing to the next level of manager within 14 days of the First Level Formal Review meeting.

5.10.11 If, at the end of the First Level Formal Improvement Plan the employee has not reached or sustained the required standard of attendance, the manager, in consultation with Human Resources, will consider taking further action within the Procedure.

## 5.11 SECOND LEVEL FORMAL REVIEW STAGE

5.11.1 If following or during the First Level Formal Review Stage the required improvement is not reached or subsequently maintained, a Second Level Formal Review Meeting should be convened with the employee giving them 5 working days (or 7 calendar days) notice of the meeting. Managers would normally be accompanied by their HR Business Partner who will act in an advisory capacity. Review meetings can be arranged with less than 5 days notice with the agreement of all parties. The request to attend the meeting should be confirmed in writing stating the right of the employee to be accompanied.

5.11.2 The manager will review the information from the First Level Formal Review Notice and Formal Improvement Plan, including sickness absence occurrences against the objectives set at the previous meeting and the continued areas requiring improvement.

5.11.3 The employee will be given the opportunity to respond to the areas that require improvement and put forward any mitigating circumstances for the non achievement of expected attendance levels. The employee is entitled to be represented at this meeting by a Trade Union Representative, colleague or friend, not acting in a legal capacity.

5.11.4 If a **Second Level Formal Review Notice is issued** the manager should confirm the following at the meeting:

- A first level Formal Review Notice is 'management advice' to the employee that their absence levels have become unacceptable and there is a need for improvement recognised formally within the procedure
- The method of monitoring and on-going review of future attendance
- How this will be notified and recorded e.g. on ESR and the Pink Returns
- Agreed future objectives which are both measurable and achievable see template Formal Improvement Plan at Appendix C;
- The level of attendance required

- The period over which improvement is required (normally a minimum of 3 Months);
- Confirmation of progress review meetings during above period (these would normally be 3 Monthly and can be changed by mutual agreement of manager and employee);
- The date of the next review meeting;
- The outcome if standards of attendance are not achieved or maintained during the review period;
- Access to additional support e.g. Occupational Health, Chaplaincy, etc.
- Any other action that has been taken to resolve the situation

5.11.5 This outcome should be confirmed in writing to the employee within 5 working days (or 7 calendar days) covering all of the above points. Template Outcome letters are available on the HR Intranet pages or via the HR Business Partner.

5.11.6 Once satisfactory attendance standards have been achieved the employee's attendance will continue to be monitored for a period (not normally longer than 6 months) to ensure satisfactory attendance is being maintained. After this Formal Review Notice Letter should be removed from the employee's personal file.

5.11.7 The employee is entitled to appeal against the Second Level Formal Review Notice. Any appeal should be made in writing to the next level of manager within 14 days of the Second Level Formal Review meeting.

5.11.8 If, at the end of the monitoring period, the employee has not reached or sustained the required standard of performance, the manager, in consultation with Human Resources, should consider taking further action under this policy; normally progression to a Sickness Absence Hearing. The employer's need and the necessity of maintaining the service must be the prime consideration in deciding the course of action.

5.11.10 Where an employee's attendance levels do not improve to the required standard within the defined timescale this employee should be invited to a Sickness Absence Hearing – see below. Any correspondence must include advising the employee of the likelihood of dismissal, or alternatives to dismissal, as satisfactory attendance has not been achieved / maintained. Other options the Manager could consider before the Sickness Absence Hearing include:

- A Further review period at the manager's discretion where it is considered that further time is required to achieve satisfactory attendance levels;
- Seeking alternative employment/redeployment;
- Referral to Occupational Health on the grounds of health impacting on ability to perform (which may lead to termination on the grounds of incapacity if the issues are not resolved
- A reasonable adjustment to the role

## **6 MANAGING LONG TERM SICKNESS ABSENCE**

6.1 For the purpose of this policy, long term sickness absence is determined as a period of 28 days or more (Dept of Health guidance) or a situation where an employee has an underlying health problem, which is resulting in frequent short term absences.

6.2 Where the employee is absent from the workplace for long term sickness the Manager will consider whether home visits are appropriate e.g. for some health issues attendance in the workplace may be detrimental to the individual's recovery. A home visit is not a right and can only go ahead with the explicit consent of the employee. A meeting at a 'neutral' venue may also be considered appropriate

## INFORMAL SICKNESS ABSENCE REVIEW

- 6.3 Where an employee's sickness absence falls within the definition set out above, the line manager will contact the employee, and if appropriate, arrange an **Informal Sickness Absence Review** with the employee to discuss the situation. The meeting should
- identify any matters the employee may wish to bring to the managers attention
  - outline any concerns the manager may have regarding the employees situation
  - consider doctor's certificates that may indicate that the employee "may be fit for work" with certain adjustments,
  - consider what **reasonable adjustments** might be made to working conditions and/or premises to accommodate him or her.
  - establish an appropriate course of action for the management of the employee's sickness absence. The manager will record in a letter to the employee, the outcome of the meeting.
- 6.4 In the event that this meeting identifies that:
- The employee may have difficulty returning to their full contractual duties and/or
  - It is difficult to project an early return to work and/or
  - The employee requires some additional medical advice or support and/or
  - The pattern of sickness absence is likely to continue and/or
  - The employee falls or may fall within the definition of disability

It would be normal, although not in every single case to refer the employee to occupational health to gain advice and guidance regarding any underlying medical condition or in relation to a possible or known disability.

- 6.6 Where the manager does refer the employee to the Occupational Health department for medical advice they will complete Appendix D and Letter 2 of this Policy, explain the purpose of the referral to the employee and confirm this to him/her in writing.

## REFERRAL TO OCCUPATIONAL HEALTH

- 6.7 In due course Occupational Health will write a report to the manager and the employee will receive a copy.
- 6.8 On receipt of the report from Occupational Health the Manager will consider whether or not a return to work is likely to occur within the next couple of months. If it is, the Trust should normally wait, and in the meantime explore reasonable adjustments with the employee to enable his or her return, possibly on a phased basis.
- 6.9 If the manager waits but the employee has not returned by the date advised, the Manager should ask Occupational Health for a written update on the employee's illness.
- 6.10, The manager will determine whether or not follow up meetings to the first Informal Sickness Absence Review will be **formal or informal** based on his/her assessment of the information contained in the medical report. A formal meeting will be arranged if the manager considers that the report suggests anything other than a normal return to work within a reasonable period of time.
- 6.11 Where the medical report suggests that a return to work is not imminent, the Manager should write to the employee to arrange a **formal meeting** with him or her and any representative to discuss the contents of the medical report. Again, the Manager will be advised by the HR Business Partner and should explore with the employee whether or not

any **reasonable adjustments** could be made to the working conditions or work equipment to enable him or her to return earlier than envisaged, either to the employee's normal duties or to duties or hours more suitable to his or her state of health. Following the meeting, the employee should be given a reasonable opportunity to come up with any further proposals or suggestions.

## 6.12 DISABILITY

6.12.1 Disability is a "protected characteristic" under the Equality Act 2010. An employee has a disability if he or she "has a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on [his or her] ability to carry out normal day-to-day activities. The effect of any medical treatment that the employee is receiving should be disregarded when assessing whether or not s/he meets the definition of disability.

6.12.2 The effect of an impairment is long term if it has lasted at least 12 months, is likely to last at least that long, or is likely to recur if in remission.

6.12.3 If an employee has a disability that prevents them from carrying out their contracted duties, the Manager will seek advice from HR and Occupational Health and this may subsequently be extended to getting further relevant advice.

6.12.4 The Trust will be discriminating against a disabled employee if, because of something arising from his or her disability, it treats him or her less favourably, and cannot show that the treatment is justified in the circumstances. This includes less favourable treatment because of a person's association with someone who has or is believed to have a protected characteristic 'discrimination by association', or because the person is wrongly thought to have a protected characteristic 'discrimination by perception'. In addition, if we fail to comply with our duty to make **reasonable adjustments** in relation to the disabled employee. Reasonable adjustments to be considered therefore may include:

- adjusting premises;
- reallocating duties;
- transferring the employee to fill an existing vacancy;
- altering work or training hours;
- assigning a different place of work or training;
- allowing absence for treatment/rehabilitation or assessment;
- arranging training or mentoring (whether for the disabled person or any other person);
- acquiring/modifying equipment;
- modifying procedures for testing or assessments;
- providing a reader or interpreter;
- providing information in an accessible format; or
- providing supervision or other support.

## 6.13 FORMAL MEETINGS

6.13.1 If a formal meeting is necessary, the arrangements and purpose of the meeting will be confirmed in writing to the employee who will be advised that they may be represented.

6.14 The meeting will consider the information contained in the report, the employee's assessment of his/her personal circumstances and the manager's assessment of the situation. Taking service delivery into account, at this stage options which may be discussed could include:

- a phased return to work
- referral to an appropriate specialist service (this may be facilitated through Occupational Health) such as a counsellor or physiotherapist
- a limited period of restricted/modified or alternative duties
- reasonable adjustments to accommodate a disability
- a permanent reduction in number of hours worked
- a process of redeployment to an alternative post
- early retirement on grounds of ill health (advice should be sought from OH)
- the possibility of termination of employment due to incapacity (advice should be sought from Business Partner)

6.15.1 If, after full exploration and consultation, through both informal and formal meetings and where no reasonable adjustments can be made to enable the employee to return to work within a reasonable time frame, dismissal can be contemplated. In this case the Manager should arrange a Sickness Absence Hearing. See Sections on Sickness Absence Hearing, Avoiding Dismissal and Checklist before proceeding to Sickness Absence Hearings.

6.15.2 The Manager should therefore write to the employee to confirm there will be a Sickness Absence Hearing. This letter should point out that one of a range of options available to the Trust is termination of the employee's employment on the grounds of long-term incapacity. The employee will be permitted to be accompanied at this meeting normally by either a work colleague or a trade union representative, or other person who would not prejudice the meeting. At the meeting, the employee should be given full opportunity to comment on the dismissal proposal.

## **6.16 RETURN TO WORK**

6.16.1 Once an employee who has been absent on health grounds for a significant period of time returns to work, the Manager should hold a return-to-work interview and offer support to the employee until he or she has settled back into work. Returning to work after a long period of absence can be extremely difficult, particularly if the employee has had a serious illness, so the Manager should ensure that the employee is given adequate support and counselling to help him or her through this stage.

## **6.17 PHASED RETURN TO WORK**

6.17.1 Not everyone will need a phased return to work but in some situations such as long term absence or absence due to some conditions such as serious mental health problems or severe musculoskeletal problems this can benefit both the organisation and the individual

6.17.2 A phased return will be for a maximum of 4 weeks, with the employee working at least half of their contracted hours during week 1, building up to normal hours by week 5. In exceptional circumstances fewer than half contracted hours or an extended phased return to work may be indicated. In this case annual leave will normally be utilised for the period beyond 4 weeks with the employee's consent. During a phased return the employee will receive full contractual pay and they will not be recorded as absent.



## 6.18 RESTRICTION / REDUCTION IN HOURS

- 6.18.1 In the case of a restriction/reduction of hours and/or duties for medical reasons, the manager **must always** refer to Occupational Health for advice and discuss the matter with the appropriate HR Business Partner.
- 6.18.2 If a reduction in hours is being considered beyond a phased return situation, the manager may need to consider a revised contract or the negotiated use of annual leave to offset the 'lost hours'. The Agenda for Change terms and conditions will apply. In either case the HR Business Partner, will provide assistance although it should be noted that such arrangements would normally be established on a temporary basis, following negotiation with a four weekly review.

## 7 SICKNESS ABSENCE HEARING

- 7.1 An employee whose absences are due to sickness, either frequent or long-term, may not be capable of performing his or her job, and may ultimately be required to attend a Sickness Absence Hearing.
- 7.2 If there is insufficient improvement once the stages of this Policy and procedure have been exhausted and if the employee's levels of attendance are still not acceptable the Employment Rights Act 1996 provides that 'capability' is a potentially fair reason for dismissal. That is because an employee whose absences are due to sickness may not be capable of performing his or her job.
- 7.3 Where an employee has 'recently' (normally within the last 6 Months) successfully completed an improvement plan / review but their attendance levels have not subsequently been maintained, the Manager may go straight to the next stage of the procedure. In the case that an employee has 'recently' successfully completed a Second Level Formal Stage and subsequently fails to maintain a satisfactory level of attendance they may be required to attend a Sickness Absence Hearing and might be dismissed, with notice, for this reason.
- 7.4 These cases of genuine illness should not be treated as an issue of misconduct by the employee and Managers should treat this stage of the procedure with the same sympathy, understanding and compassion as in previous stages. However, the Trust may come to the decision that it is impossible to continue to employ the employee who may be dismissed for 'capability' and unsatisfactory attendance.

## 7.5 AVOIDING DISMISSAL

- 7.5.1 Other options should be considered as an alternative to dismissal but if they have been exhausted or are not applicable then authorised managers should proceed as necessary.
- 7.5.2 Managers will check and discuss with HR Business Partners that all key elements have been followed before proceeding to a Sickness Absence Hearing where there is a potential dismissal following unacceptable attendance. Checks will include:
- meaningful **consultation** has already taken place with the employee
  - in the case of intermittent absence the employee has had the **opportunity to improve** their attendance levels via at least two 'improvement plans/reviews'
  - the employee has had the opportunity to be **represented** at all 'formal' meetings
  - stages of the **procedure has been followed** e.g. a Second Level Formal Review Stage for intermittent absences

- other meetings with or without the employee e.g. '**case conferences**' (where it concerns long-term absences )
- the manager is fully appraised as necessary (e.g. via OH Referrals) regarding any medical opinion including **underlying medical causes** of the absence/s
- duties and responsibilities in relation to making **reasonable adjustments** where the employee is considered disabled for the purposes of the Equality Act 2010

7.6 The Sickness Hearing will be held by an appropriate senior officer with the authority to dismiss (line manager provided Band 7 or above, plus senior member of the HR Department) and the employee may be accompanied by a Trade Union Representative, friend or colleague not acting in a legal capacity.

7.7 All available evidence must be reviewed by the Hearing Manager who must be satisfied the procedure has been followed and that the employee has been given the necessary opportunity, support and assistance to improve and achieve the required standard of attendance.

## 7.8 ALTERNATIVES TO DISMISSAL

If dismissal is not found to be appropriate, the Hearing Manager should make recommendations of alternative action. This could include:

- Redeployment to a more appropriate post
- Downgrading the current post to one with less responsibility
- Change of mix of duties in current role
- Change of working hours, etc

7.9 The alternatives to dismissal should not be considered as an automatic right and will be subject to the needs of the service and the discretion of the Trust.

## 7.10 DISMISSAL

7.10.1 It is possible for the dismissal of an employee who has been, or will be, absent for a long period of time due to ill health to be fair. Such a dismissal would be on the grounds of capability.

7.10.2 The Hearing Officer must be satisfied the Trust can demonstrate that it acted reasonably both in treating the long-term ill health as a sufficient reason for dismissing the employee and in the procedure adopted to effect that dismissal.

7.10.3 If the employee is disabled, the Hearing Officer will also need to ensure that he or she has not been treated unfavourably because of something arising in consequence of his or her disability.

7.10.4 An employee who is dismissed because of disability-related absence will be able to argue that, as the absence arises from his or her disability, this constitutes discrimination. The Trust must be able to show that dismissal is justified, i.e. that it is a **proportionate means of achieving a legitimate aim**.

7.10.5 In reaching a decision as to whether or not to terminate the employee's employment, the Hearing Officer should carefully consider:

- the length of the employee's employment;
- the employee's past sickness record;

- the nature, effect and anticipated length of the employee's illness;
- whether or not it is envisaged that the employee may return to work and, if it is, when;
- the nature of the employee's job;
- the reasonable adjustments that could be made to accommodate the employee;
- whether or not the employee could undertake alternative work;
- whether or not the employee's work could continue to be done by a replacement in the meantime; and
- the effect of the employee's absence on other employees and on the business.

7.10.6 If, taking into account all the circumstances of the case, termination of employment appears to be a fair and reasonable option, a capability dismissal should be effected with notice or pay in lieu of notice and should be confirmed in writing. The employee should receive the greater of his or her contractual or statutory minimum notice period and any pay in lieu of accrued but untaken annual leave.

7.10.7 An employee's contract may be terminated prior to the exhaustion of contractual sickness absence entitlement as long as all potential options have been fully explored.

7.11 Where dismissal is the outcome the Hearing Officer, on completion of the Hearing, will tell the employee immediately (or if this is not possible within 24 hours) that the Trust is terminating the employee's contract of employment on the grounds of 'capability' for unsatisfactory attendance.

7.12 The decision must be confirmed in writing to the employee within 5 working days or 7 calendar days of the meeting and must include the following:

- The reason for dismissal;
- The process undergone including opportunities to improve;
- The date of Termination;
- Notice period, and whether this is required to be worked or paid in lieu;
- Any outstanding payments
- Confirmation of the right of Appeal. Any appeal should be made in writing within 14 days of receipt of the letter confirming the decision to dismiss. See 'Appeals'

## **8 APPEALS**

8.1 Appeals giving the reason for the appeal must be made in writing within 14 calendar days of receipt of the letter advising the employee of the decision. Except in the case of dismissal Appeals are to be addressed to the next senior manager to that manager making the decision. Upon receipt of the appeal letter the Appeal Hearing will normally be arranged within 4 working weeks subject to availability of all parties.

8.2 Appeals against termination of employment be also be made in writing within 14 calendar days of the date of the decision letter, but are to addressed to 'The Director of Human Resources & Organisational Development'.

8.3 A Trust Board panel in line with current Trust procedure will consider appeals against dismissal. There is only one level of appeal against dismissal and that decision is final. An employee who exercises the right of appeal under this procedure cannot pursue a separate complaint on the same issue under the Trust Grievance procedure.

## 9 OTHER

### 9.1 PART DAYS WORKED

9.1.1 Part days worked are not recorded either on Appendix A to this Policy nor the Pink Returns although they are recorded on ESR. If an employee reports part way through a shift that they are sick and can no longer continue, this sickness absence is not recorded. Similarly if an individual attends a shift or even reports for duty and is then sick for the remainder or leaves early e.g. for doctor/dental appointments or other reasons, this too should not be recorded. However, in these situations a **file note** should be made in the employee's personal file and can be taken into consideration when managing attendance, if a regular pattern emerges. Additionally, ESR has the facility to record part day's absence.

### 9.2 ANNUAL LEAVE

9.2.1 A medical certificate 'Fit note' must be provided for a sickness absence which occurs during a period of annual leave where an employee is seeking to convert the annual leave into sickness absence. In addition, the employee must also contact his/her line manager **immediately** they fall ill during annual leave and must not wait until their return to work. Failure to comply with this notification will normally prevent conversion of annual leave to sickness absence regardless of the subsequent production of a fit note.

### 9.3 ADDITIONAL SUPPORT

9.3.1 A free and confidential counselling service is available for all employees through Occupational Health.

9.3.2 The Chaplaincy is also available to provide pastoral support. They are happy to be contacted and will explain what services can be offered.

9.3.3 To support employees who may benefit from physiotherapy for musculoskeletal problems, a direct referral system is in place through Occupational Health. Strict criteria for referral, based on research and national guidelines, will need to be met. This enables employees to be seen quickly and thus aid speedy recovery. Employees may self refer to Occupational Health to be assessed for eligibility for referral.

### 9.4 ACCIDENTS/INJURIES AT WORK

9.4.1 It is essential that all accidents/injuries, incidents and near misses at work must be reported in accordance with the Trust's Health & Safety policy. **All** employees must be informed immediately of Temporary Injury Allowance from day one of injury by their manager.

9.4.2 Payroll Services must be notified either directly by the manager or via the monthly pink absence return form.

9.4.3 The NHS Temporary Injury Allowance may be payable where injuries are sustained at work. Permanent Injury Allowance may become applicable at a later stage. Payroll and/or HR and/or Trade Union representatives will be able to give more information and

guidance on this issue. Such cases should be managed in line with the Managing Attendance policy.

- 9.4.4 Employees are entitled to receive 85% of their previous year's pay (up to the day before the accident/injury occurred). In order to calculate this 85% payment, any such benefits paid by the DSS are taken into account. Therefore, it is important that any such benefits paid are notified to the Payroll department without delay. Normally the DSS will supply a form stating the rate payable with the first payment they make to the employee, and this form should be forwarded to the Payroll department. For employees involved in third party accidents where the third party is responsible, the Trust may be able to reclaim the employee absence costs as part of any settlement. Further advice is available from the HR and/or Payroll departments.

## 9.5 GATEWAY REVIEWS

- 9.5.1 In relation to KSF and gateways, it should be noted that in following good practice managers will be undertaking regular discussions with employees. Unless these discussions have highlighted a performance or development issue then any employee on long term sickness absence (4 weeks or more) when a gateway occurs, will pass through the gateway and the gateway review will occur on their return.
- 9.5.2 If in both cases, employees returning to work are found not to have met the gateway requirements it should be dealt with according to the Capability Policy.

## 9.6 VISITS TO DOCTORS AND DENTISTS

- 9.6.1 Visits to the Doctor, Dentist or Hospital etc must not be recorded as sickness but should be recorded separately on the employee's personal file. Employees and managers are expected to adopt a sensible approach to limit any impact on service provision to a minimum. For example – employees are requested, where possible, not to book any off site appointments in the middle of a shift, instead to do so at the beginning or end of the shift.
- 9.6.2 Ante natal care – pregnant employees have a statutory right to attend antenatal appointments. Records of visits must not be recorded as sickness, but should be recorded on the employee's personal file.

## 9.7 IVF

- 9.7.1 If an employee is undergoing IVF treatment please see the Maternity, Adoption, Maternity Support (Paternity) Parental and Fertility Treatment Leave Policy.

## 10 MONITORING COMPLIANCE

- 10.1 Implementation, compliance and effectiveness of this policy will be monitored by the Human Resources & Organisational Development Committee as part of the annual policy review. This will be achieved through reporting against defined key performance indicators below:
- Monthly analysis of sickness absence data and trends
  - Analysis of WIS Team data and manager's subsequent action plans
  - The frequency nature and resultant actions from incident cases recorded on the HR Case management database. This database is maintained via the HR Dept

- An analysis of the recorded activity on the HR case management database by Human Resources & Organisational Development Committee (HRODC) as required

## **11 EQUALITY IMPACT ASSESSMENT**

11.1 This process has been assessed using an equality impact assessment initial template and is deemed to meet current equality requirements.

### **AND FINALLY**

The HR department is there to help and advise you. If you are uncertain about any issue' or have a specific query related to attendance management – please contact an HR Business Partner and/or Staff side representatives who will be happy to offer advice/guidance.

APPENDIX 6 & 7 provide useful flowcharts which give an 'at a glance' view of the various stages of the process.

Further advice on this Policy is available from your HR Business Partner.

**ABSENCE NOTIFICATION FORM**

To be completed by Manager/Nominated Deputy (& retained in the employee personal file. DO NOT send a copy to Occ Health)

Department: ..... Date: ..... Day: ..... Time: .....

Employee Details: Name: ..... Band: ..... DOB: .....

**Absence Details:**

Reason for absence (is it health related?) .....

Who reported absence? ..... How? .....

Nature of Illness .....

First **full** day when sickness commenced .....

Was this a working day? **YES / NO**

When is the person next due to attend work? Date/Time .....

When does the person expect to return to work?.....

If the person is away from work for any other reason other than sickness, please give details

(a) Accident at work **YES / NO** (a1) Was accident form completed? **YES / NO**

(b) Accident away from work **YES / NO** (b1) Was any other person involved? **YES /**

**NO**

If yes to (a) advise about Temporary Injury allowance

If yes to question (b), give details.....

Name of Manager/Nominated Deputy Completing Form .....

Signature .....

**NOW RECORD ON ESR**

**RETURN TO WORK FORM**

To be conducted by Manager/Nominated Deputy

**Interview details:** Date..... Time.....  
Employee Name.....

---

Day reported fit for work: Date: ..... Time: .....

When did employee return to work? Date: ..... Time: .....

Are details on Part 1 confirmed as accurate **YES / NO**

If NO to above give details: .....  
.....  
.....  
.....

Number of days lost through sickness:

Any other comments on absence: .....  
.....  
.....  
.....

Is illness/absence likely to re-occur? **YES / NO**

(If YES to above discuss and list possible corrective or preventative actions.)  
.....  
.....

EMPLOYEE NAME: ..... SIGNATURE: .....

MANAGER NAME: ..... SIGNATURE: .....

**NOW RECORD ON ESR**



**INFORMAL / FORMAL REVIEW NOTICE - IMPROVEMENT PLAN  
(SICKNESS ABSENCE POLICY ONLY)**

Please indicate 'x' if this is **Informal**  or a **First Level**  or **Second Level**  **Formal** Improvement Plan?

<p><b>Objective:</b> Please agree and enter the attendance objective which is normally described in terms of the level of attendance required over a period of time</p> <p>e.g. To achieve full attendance over the next xxxx Months</p>	<p><b>Attendance Objective:</b></p> <ul style="list-style-type: none"> <li>• .</li> </ul>
<p><b>Success Criteria:</b> Please describe achievement of the objective</p> <p>e.g. Full Attendance has been achieved</p>	<p><b>Success Criteria:</b></p> <ul style="list-style-type: none"> <li>• .</li> </ul>
<p><b>Other Outcomes:</b> At the end of the Improvement Plan where the objective has been partially achieved what is a likely outcome</p> <p>e.g. the Improvement Plan could be extended where improvement is taking place and likely to reach acceptable levels</p> <p>Where standards of attendance are not achieved during the Improvement Plan</p> <p>e.g. Progress to the next stage of the Sickness Absence Policy</p>	<p><b>Other possible Outcomes:</b></p> <ul style="list-style-type: none"> <li>• .</li> <li>• .</li> </ul>
<p><b>Support:</b> Any additional support e.g. Occupational Health, Training, Chaplaincy, etc. that was agreed</p>	<p><b>Please enter:</b></p>
<p><b>Other Action:</b> Any other action that has been taken to resolve the situation</p>	<p><b>Please enter:</b></p>
<p><b>Next Meeting:</b> The date of the next review</p>	<p><b>Please enter:</b></p>
<p><b>Employee Comments (Optional)</b></p>	
<p><b>Employee Signature and Date (Required)</b></p>	
<p><b>Manager Comments (Optional)</b></p>	
<p><b>Manager Signature and Date (Required)</b></p>	

REFERRAL TO OCCUPATIONAL HEALTH DEPARTMENT

**EMPLOYEE DETAILS**

Name: ..... Date of Birth: .....

Department: ..... Position: .....

Home Address: .....

..... Telephone: .....

**FEATURES OF JOB**

(please indicate as appropriate)

**DESCRIPTION / CATEGORY OF JOB**

(please indicate as appropriate)

Seated/standing	<input type="checkbox"/>	Clerical/Support/Managerial	<input type="checkbox"/>
Lifting/handling	<input type="checkbox"/>	Laboratory	<input type="checkbox"/>
Working with machinery	<input type="checkbox"/>	Medical	<input type="checkbox"/>
Working at night	<input type="checkbox"/>	Nursing/Midwifery	<input type="checkbox"/>
Working in confined spaces	<input type="checkbox"/>	Ancillary	<input type="checkbox"/>
Driving	<input type="checkbox"/>	Maintenance	<input type="checkbox"/>
Internal rotation/shifts	<input type="checkbox"/>	Technical	<input type="checkbox"/>
Light/medium/heavy physical effort required	<input type="checkbox"/>	Allied Health Professionals	<input type="checkbox"/>

Hours of work..... Day / Night/Shift rotation (please circle)

Attendance record (if relevant)

Total days' absence  Please specify whether over 6 / 12 / 18 month period on

occasions

Presently: on Sick Leave / On Duty If absent please state from when: .....

**MAIN CONCERN / OUTLINE OF HEALTH PROBLEM**

.....  
.....  
.....

Please turn to next page

PLEASE INDICATE THE QUESTIONS YOU WISH TO BE ANSWERED BY TICKING APPROPRIATE QUESTION(S).

Is there any underlying medical condition for this attendance record?

When is he/she likely to return to work?

Will there be any restrictions on carrying out his/her duties on returning to work?

- If yes: a) please specify and give advice;
- b) how long is this likely to last?

Is he/she likely to be able to perform regularly and efficiently the duties of the post in the future?

Is there a need to seek alternative employment?

If yes, have you specific recommendations you wish to make about this, ie no lifting/carrying etc?

Is there any additional help/treatment you can recommend?

If you have any additional questions please write them in the space below:

.....

.....

.....

.....

**I have discussed the contents and purpose of the referral with the employee concerned. Please send an appointment.**

**Signed (Manager):** ..... **Date:** .....

**Name (please print):**..... **Tel Ext:**.....

**I confirm that my manager has discussed the contents and purpose of this referral with me. I understand that a report will be sent to my manager and I will receive a copy.**

**Signed (Employee)** ..... **Date:**.....

**SICKNESS ABSENCE MEETING / REVIEW LETTER**

Our Ref.  
[Date]

[NAME]  
[ADDRESS]

Dear [Name]

**Re: Managing Attendance [Informal Counselling Stage / First Level Formal Review Stage / Second Level Formal Review Stage]**

[Following our recent discussion] I am writing to confirm that I would like to meet with you on [date] at [time] in [venue] to discuss your sickness absences [which I fully understand have been necessary and are for genuine reasons]. A copy of your absence history is enclosed for your information.

**Either,**

[This is an informal meeting within the 'Informal Counselling Stage' of the Managing Attendance Policy [as you have triggered 4 occasions or more of Sickness Absence within the last 12 Months]. Therefore I would like us both to discuss and explore any issues, which, may be contributing to your sickness absence, and to agree an informal plan to improve the situation].

**Or,**

[The meeting is for us to formally review your sickness absence which remains at unacceptable levels [following the Informal Counselling Stage of the Managing Attendance Policy] and to discuss and to agree a formal improvement plan to achieve the required improvement.

You are entitled to be accompanied by a Trade Union representative, colleague or friend not acting in a legal capacity. The outcome of the formal review may result in a First Level Formal Review 'Notice' / Second Level Formal Review 'Notice' / Sickness Absence Hearing]

Please confirm your attendance and provide details of your friend or representative where appropriate.

I appreciate that this course of action may be leading to some anxiety and I would remind you that Occupational Health are available to provide support and counselling if required.

Yours sincerely

Referring Manager

**LETTER CONFIRMING REFERRAL TO EMPLOYEE**

Our Ref.

(Date)

Division

Contact etc

Dear (Name)

**Re: Occupational Health Referral**

As discussed at our meeting on (Date) I write to confirm that I have referred you to the Occupational Health Department for their advice.

They will be contacting you shortly to advise about a suitable date and time. Please note that under your terms and conditions of employment with the Trust, you are required to attend any appointments arranged.

Yours sincerely

Referring Manager

**FOLLOW UP MEETING TO OH REFERRAL**

Our Ref.

(Date)

Private and Confidential

(Name and Address)

Dear (Name)

**Re: Occupational Health Report**

Following your appointment with (name) on (date), I would like to meet with you to discuss his/her report and advice.

I understand you have been provided with a copy of his/her report, which I would like you to bring with you to this meeting.

I have arranged the meeting for (date) at (time) in (venue) which will also be attended by (Human Business Partner's name). Please feel free to bring along a Trade Union Representative or friend not acting in a legal capacity to this meeting which will be conducted in accordance with the Trust's **Managing Attendance Policy** (copy enclosed).

Please confirm you will be attending and let me know if there is anything you wish to clarify before we meet.

Yours sincerely

(Manager)

cc(                    ) Human Resources Business Partner

**TERMINATION – CONSENT TO NON-REDEPLOYMENT**

Our Ref.

(Date)

**Private and Confidential**

(Name and Address)

Dear

**Re: Termination of Employment - Permanent Medical Incapacity**

Thank you for coming to see me on (date) together with (names of other attendees).

The purpose of our meeting was to discuss the report of Dr (name) who has advised me, that in his/her opinion you are permanently medically unfit to undertake your contractual duties as (occupation).

We discussed the options available to us in view of this advice including:

- redeployment elsewhere in the Trust
- what adjustments could be made to accommodate your medical condition
- dismissal from the Trust on the grounds of medical incapacity.

We agreed that we could not reasonably adjust your contractual duties to take account of your medical condition and you confirmed that you did not wish to pursue redeployment within the Trust.

I advised you that in these circumstances and taking account of the medical report provided to me by Dr (name) I had no alternative but to dismiss you from your post as (occupation). I advised you to make application to the NHS Pensions Agency for early retirement on the grounds of ill health if you have not already done so. Payroll services can give you specific advice on this matter and on any entitlements you may have under the scheme.

I explained that under your contract of employment you are entitled to (number of weeks) notice to terminate your employment.

The purpose of my letter is to confirm to you my decision to terminate your contract of employment on the grounds of medical incapacity and to give you (number of weeks) notice that your last day of service with the Trust will be (date).

I have advised Payroll Services of my decision and asked them to make any appropriate outstanding payments due to you in respect of annual leave etc in your final salary payment.

You have the right to appeal against my decision. You may do so by writing to the Director of Human Resources & Organisational Development within 7 calendar days of the date of this letter. If you decide to appeal please state in your letter the reasons for your appeal.

May I ask you to sign and return the enclosed copy of this letter as confirmation that you have read and understood its contents and to confirm your decision not to seek redeployment elsewhere in the Trust.

Finally on behalf of the Trust may I thank you for your hard work and contribution over the past (number of years), your contribution will be missed.

Yours sincerely

Name

(on the second copy letter and subsequent file copies)

I have read and understood the contents of this letter and confirm my decision not to seek redeployment within the Trust.

Signed: .....

Name: .....  
(Please print)

Date: .....



## REDEPLOYMENT REQUESTED

Our Ref.

(Date)

### Private and Confidential

(Name and Address)

Dear

### Re: Termination of Employment - Permanent Medical Incapacity

Thank you for coming to see me on (date) together with (names of other attendees).

The purpose of our meeting was to discuss the report of Dr (name) who has advised me, that in his/her opinion you are permanently medically unfit to undertake your contractual duties as (occupation).

We discussed the options available to us in view of this advice including:

- redeployment elsewhere in the Trust
- what adjustments could be made to accommodate your medical condition
- dismissal from the Trust on the grounds of medical incapacity

We concluded at the end of our discussions that I could not reasonably readjust your contractual duties to take account of your medical condition and further agreed that I did not have suitable available alternative employment within the Directorate. We considered other available opportunities elsewhere in the Trust and agreed that none of these were suitable.

I advised you that in these circumstances and taking account of the medical report provided to me by Dr (name), I had no alternative but to dismiss you from your post as (occupation). I advised you that, notwithstanding the efforts that would be made during your notice period to continue to find a redeployment opportunity, you should make application to the NHS Pensions Agency for early retirement on the grounds of ill health if you have not already done so. Payroll services can give you specific advice on this matter, and on any entitlements you may have under the scheme.

I would like to emphasise that throughout your notice period the Trust will continue to make every effort to find suitable alternative employment.

The purpose of my letter is to confirm to you my decision to terminate your contract of employment on the grounds of medical incapacity and to give you (number of weeks) notice that your last day of service with the Trust will be (date).

I have advised Payroll Services of my decision and asked them to make any appropriate outstanding payments due to you in respect of annual leave etc in your final salary payment.

You have the right to appeal against my decision. You may do so by writing to the Director of Human Resources & Organisational Development within 7 calendar days of the date of this letter. If you decide to appeal please state in your letter the reasons for your appeal.

May I ask you to sign and return the enclosed copy of this letter as confirmation that you have read and understood its contents and to confirm your acknowledgement that we have discussed and been unable to provide a redeployment opportunity to you.

Finally on behalf of the Trust may I thank you for your hard work and contribution over the past (number of years), your contribution will be missed.

Yours sincerely

Name

(on the second copy letter and subsequent file copies)

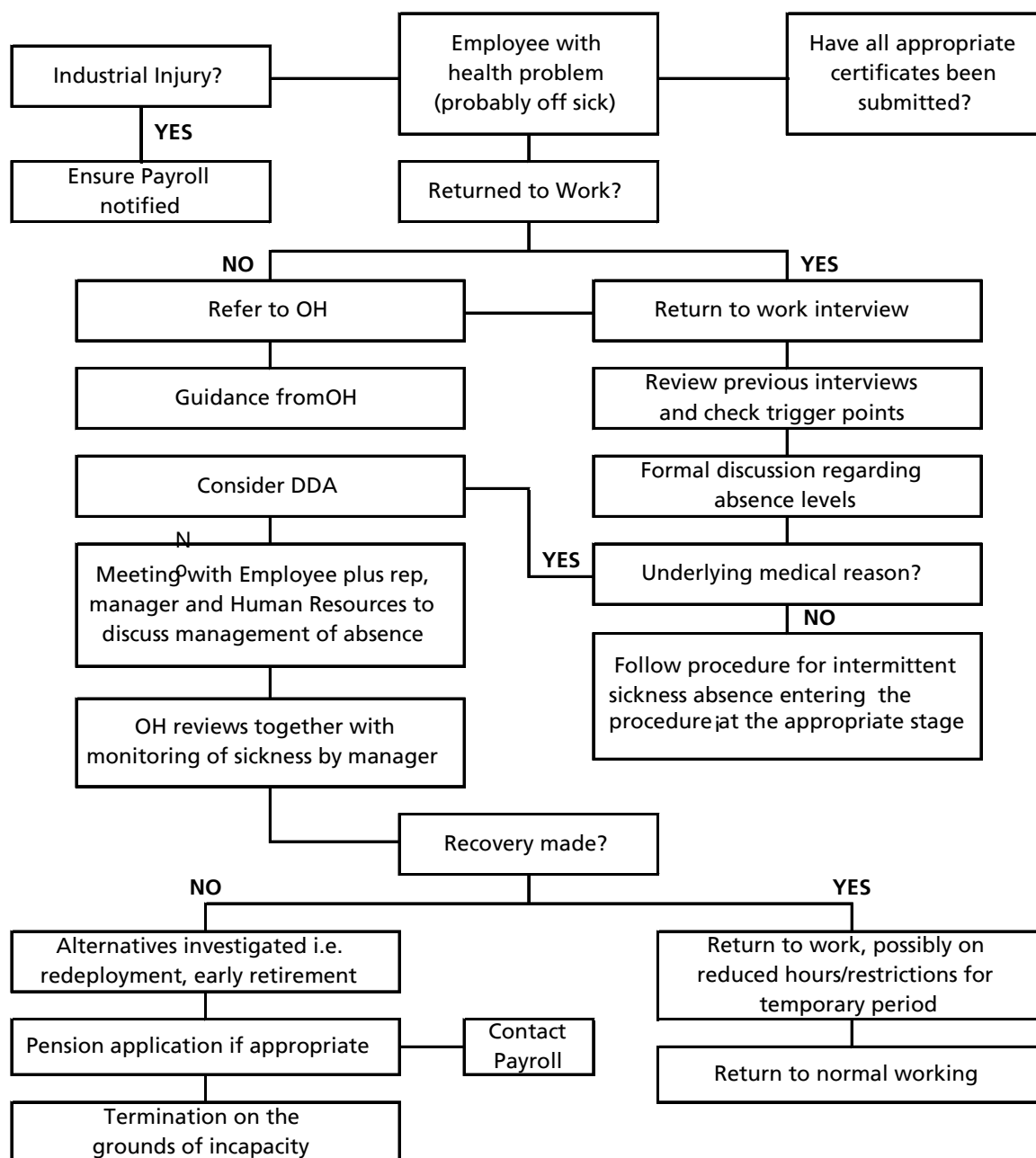
I have read and understood the contents of this letter.  
I acknowledge that there are no redeployment opportunities available at this time and that no reasonable adjustments can be made. I understand the Trust will endeavour to seek redeployment throughout my notice period and discuss them with me.

Signed: .....

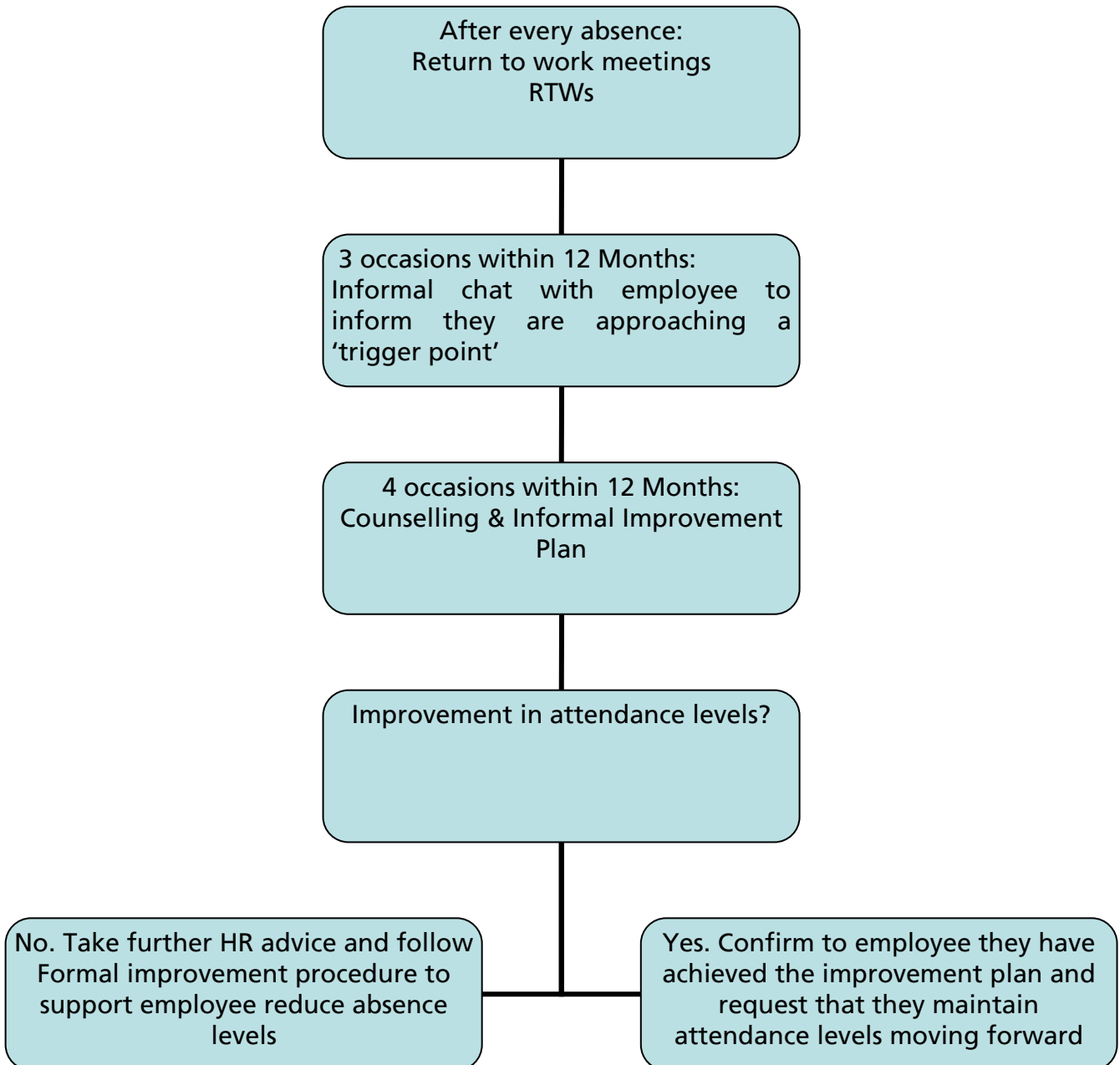
Name: .....  
(Please print)

Date: .....

**MANAGEMENT OF LONG TERM SICKNESS ABSENCE**



**SHORT TERM INTERMITTENT SICKNESS ABSENCE**



## MANAGING ATTENDANCE POLICY – KEY CHANGES

1. **Capability.** A change in the way 'genuine' sickness absence is managed so that Managers work with employees in a supportive way to reducing their absence levels as an issue of capability.
2. **RTW.** There is clear guidance on the need to complete Return to Work interviews at every stage and the benefits of this.
3. **Opportunity to improve.** Accordingly employees would have informal counselling and opportunity to improve before Formal Improvement Plans are put in place.
4. **Cautions.** Managers would provide reasonable support to employees to improve and issue advisory 'cautions' that sickness absence levels have become or remain unacceptable rather than disciplinary warnings and sanctions.
5. **Dismissal.** Making sure the Foundation Trust has considered all of the necessary issues and followed the procedure before deciding on a 'capability' dismissal and therefore minimising the risk at Employment Tribunal.
6. **Equality Act 2010 and Disability.** There is more guidance included on how to avoid unfairly dismissing an employee due to disability including a highlighting the need to consider reasonable adjustments.
7. **Representation.** A slight change of wording in lieu of ACAS wording re a 'companion' and making sure no representatives external to the Foundation Trust can 'prejudice' internal meetings.
8. **Equality Impact Assessment.** Has been undertaken and is included.
9. **Triggers.** Allows for trends to be picked up by limiting the number of opportunities employees have to improve within a 'reasonable' period of time. Clearly allowing Managers to fast track where necessary; this will impact upon absence figures in the Trust.
10. **Triggers.** Remain the same e.g. 4 or more episodes in any 12month period trigger the counselling and 'informal improvement plan' 5 or more episodes therefore trigger the Formal part of the policy.
11. **Flowcharts.** Informal / Formal Improvement Plan template included at Appendix 3 and Appendices 6 & 7 amended to reflect the new procedure.