

# ATTENDANCE MANAGEMENT POLICY

## MAY 2017

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4	HR Team, eMBED Health Consortium	Policy review. Changed from Absence to Attendance Management. Workforce changed to HR.	SLT SPF	

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## **1. POLICY STATEMENT**

- 1.1 NHS Hull Clinical Commissioning Group (CCG) recognises the contribution of its employees and is committed to providing good working conditions and health and safety standards.
- 1.2 The overall purpose of the policy is to set out CCG's approach to the management of attendance and absence within the workplace. The policy will also set out guidance to staff and managers about their responsibilities in relation to Attendance Management.
- 1.3 It is the responsibility of the CCG to protect the health and wellbeing of its employees and enable the best of its workforce; the Attendance Management Policy is intending to contribute to delivering this responsibility.
- 1.4 This policy and procedure will apply to all staff within the CCG. Managers should ensure that new employees have clear sickness absence principles set and that their attendance is reviewed regularly.

## **2. PRINCIPLES**

- 2.1 This policy and procedure enables managers to address sickness absence issues, both short and long-term, in a fair, consistent and equitable manner. It is recognised however that all cases must be dealt with on an individual basis because of differing circumstances therefore this policy and procedure gives an outline of the principles to be observed.
- 2.2 It should be noted that all other types of absence should be dealt with in accordance with the appropriate policy, i.e. maternity, adoption, career break, stress policy etc. Line managers should consider, and take due account of, individual circumstances and all relevant factors before action is taken e.g. maternity related absence, stress, disability related absence, work related factors. Specialist HR advice should also be sought at an early stage of the process.
- 2.3 Early intervention can help employers to solve or manage and maintain attendance and levels of motivation. Employees who are absent are also more likely to return to work quickly if they feel there is a supportive and understanding environment to come back to.
- 2.4 Absence for planned elective medical treatment, which is for cosmetic reasons alone, must be taken as annual leave and not sick leave. Where planned medical treatment has both a cosmetic and health improvement purpose, absence should be reported as sick leave. Managers should seek advice from the HR team if there is any uncertainty around the basis of any cosmetic treatment.
- 2.5 Confidentiality will be maintained in all aspects of absence management and records will be kept in line with the Data Protection Act.
- 2.6 Managers will be fully trained in policies and procedures relating to absence. All new

staff will be made aware during their induction.

- 2.7 Regular punctual attendance is an implied term in employee contracts and individuals are responsible for achieving and maintaining good attendance or highlighting any issues with their Line Manager, which may affect their ability to do so.
- 2.7 Short-term absenteeism refers to a series of illnesses, often unconnected, which result in frequent, short periods of absence. The appropriateness of referral to the CCG's Occupational Health Provider will be discussed between the individual, their line manager and a HR representative.
- 2.8 It is acknowledged that occasions do arise when people are away from work on a long-term basis as a result of chronic or acute ill health. Although each case will be dealt with on an individual basis this policy outlines certain principles that will always be observed.
- 2.9 In dealing with any sickness absence cases managers must be mindful of obligations that they and the CCG may have under the Equality Act 2010. In identifying whether or not an employee is covered by the Act advice will be sought from appropriate medical professionals.
- 2.10 Advice should be taken from the HR Team at all formal stages of this procedure to ensure the consistent application of this procedure throughout the CCG.
- 2.11 Employees may be accompanied by a trade union representative or workplace colleague in all formal discussions with management about their absence.

### **3. IMPACT ANALYSIS**

#### **3.1 Equality**

In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation.

In developing this policy, an Equality Impact Analysis has been undertaken and is attached at Appendix 1. As a result of performing the analysis, it is evident that a risk of discrimination exists and this risk may be removed or reduced by implementing the actions detailed within Section 6 '*Action Planning*' of the equality impact assessment.

#### **3.2 Bribery Act 2010**

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed.

The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

The Bribery Act does not apply to this policy.

#### **4. MONITORING & REVIEW**

4.1 Regular reports on absence levels will be provided to the CCG by the HR team as part of the Quarterly Workforce Report which enables the Senior Leadership Team to monitor monthly absence levels and full time equivalent days lost.

4.2 The policy and procedure will be reviewed periodically by the HR Team in conjunction with operational managers and trade union representatives. Where review is necessary due to legislative change, this will happen immediately.

#### **5. RESPONSIBILITIES**

##### **5.1 Manager responsibilities**

Line managers have an important role to play in the management of absence. The key responsibilities for managers include:

- Ensure that they are familiar with the Absence Management Policy and procedure and their obligations in relation to the management of the policy.
- Communicate appropriately and in a timely manner with absent staff.
- Dealing with any actions in a timely manner when dealing with absence from work, balancing the needs of the individual with those of the service.
- Maintain accurate and up to date records of all absences, reasons for absence and outcomes from discussions.
- Hold return to work meetings after each individual episode of sickness.
- Maintain confidentiality at all times.
- Attend any CCG training provided on policy updates.
- Identify a 'nominated deputy' for staff to report sickness absence to during periods of annual leave/out of the office/non-working time and communicate this to staff.

##### **5.2 Employee Responsibilities**

Employees are expected to:

- Ensure regular attendance at work.
- Communicate appropriately with their manager when absent from work.
- Co-operate fully in the use of these procedures.
- Attend Occupational Health when required to do so as a contractual duty.
- Comply with the sick pay scheme.
- Meet with their manager for a Return to Work meeting following any sickness absence

- Attend review meetings with their Manager when discussing periods of absence or planning return to work, reasonable adjustments or alternative employment.
- Submit any GP fit notes or self certification as required in line with this policy.
- Inform their manager of any third party payment in relation to their sickness absence, i.e. compensation from a secondary employer or insurance company.

## 6. GENERAL POINTS

- 6.1 The CCG's procedure for managing absence must be followed by all employees. It is the responsibility of every employee to report any absence and only in exceptional cases should this procedure be carried out by someone else on their behalf.
- 6.2 If an employee knowingly gives any false information, or makes false statements about their sickness, it may be treated as misconduct and may result in disciplinary action being taken. In proven cases of gross misconduct it could lead to dismissal.
- 6.3 Any employee who unreasonably fails to comply with the CCG's Attendance Management policy and procedure may have their occupational sick pay withheld. Any decision to withhold sick pay must be made in conjunction with the HR Team. Advice may also be sought from Occupational Health .
- 6.4 The CCG has the right to dismiss employees whilst they are receiving sick pay entitlement. Any decision to dismiss on capability grounds will be subject to medical advice.
- 6.5 The CCG reserves the right to request a Doctor's Certificate for periods of absence of less than seven calendar days in cases of short-term persistent absence. However this should normally follow an Occupational Health referral where there is no medical reason for continued short-term persistent absence. Furthermore, this option should only be used for a finite period and should be reviewed on a regular basis. Finally, should the employee incur a cost in obtaining a Doctor's certificate, then this will be reimbursed by the CCG.

## 7. SCHEME OF DELEGATION

- 7.1 The scheme of delegation specific to the stages and actions of this policy are set out below.

Informal procedure	Line Manager or equivalent level manager from elsewhere within the CCG
Formal procedure	Line manager or equivalent level manager from elsewhere within the CCG or the line manager's direct manager if the line manager has been previously involved or implicated and support from HR Representative

Appeal following formal procedure	Line Managers manager or equivalent who has not previously been involved or implicated and support from HR Representative
Dismissal Hearings	Chaired by an individual reporting to a Director or equivalent plus one other manager and support from HR representative
Appeal against dismissal	Chaired by a Director plus one other manager and support from HR representative

## **8 INFECTIOUS AND CONTAGIOUS CONDITIONS**

- 8.1 Staff are expected to demonstrate a duty of care towards those they work alongside and this includes colleagues and patients.
- 8.2 Following an episode of diarrhoea and/ or vomiting staff must wait 48 hours symptom free before returning to work.

## **9. DISABILITY RELATED ABSENCE AND REASONABLE ADJUSTMENTS**

- 9.1 If an employee is disabled or becomes disabled during their employment, then the CCG is legally required under the Equality Act 2010 to make reasonable adjustments to enable the employee to continue working. The Act broadened the provisions of the Disability Discrimination Act of 1995, for public sector employees.
- 9.2 Advice must be sought from Occupational Health as to what they suggest are 'reasonable adjustments'. However it will be the line manager's decision as to whether those adjustments are also reasonable for the service. Any adjustments made must be discussed with the individual concerned.
- 9.3 The amendment to the Disability Act (now Equality Act 2010) also introduced the concept of positive action where a disabled member of staff (if they are as qualified) can be treated differently in order to ensure they remain in work. e.g. an internal disabled applicant, who has been displaced from their current role, may be considered favourably against an able bodied candidate.
- 9.4 Where there is a lack of understanding, on any part, if the absences are linked to a disability Occupational Health advice should be sought at the earliest opportunity. Occupational Health will be able to provide further support and guidance as to whether the health condition is likely to qualify as a disability under the Equality Act 2010.
- 9.5 Managers and employees are able to access additional external support services as appropriate such as Access to Work, Job Centre Plus and Mind.

## **10. ALCOHOL AND SUBSTANCE MISUSE**

- 10.1 Where an employee's absence is as a result of a suspected or admitted alcohol and/or substance misuse problem please refer to the CCG's Alcohol and Substance Misuse Policy.

## **11. MATERNITY RELATED ABSENCE**

Should an employee be absent from work due to pregnancy related sickness, these absences should be recorded separately and not counted towards absence triggers. However these should continue to be monitored. Please refer to the Maternity section within the Maternity, Paternity Adoption and Parental Leave Policy.

## **12. WORK LIFE BALANCE AND WORK RELATED STRESS**

Should an employee be absent from work due to work related stress, an Occupational Health appointment must be made for the individual and access to counselling/other support services discussed as appropriate. Please refer to the Managing Stress in the Workplace Policy.

Where staff are struggling to maintain an appropriate work life balance, the CCG has alternative policies to support this such as; Other Leave, Flexible Working and Flexi-time. These policies can be accessed on the CCG's website.

## **13. REPORTING ABSENCE**

- 13.1 All employees must contact their line manager on the first day of absence as soon as is reasonably practicable and **within one hour** of their normal starting time. The employee must make this call. The only exception is where it is clearly not possible for employees to ring personally, such as admission to Hospital.
- 13.2 Employees must talk directly to their line manager. It is not acceptable to text, e-mail or leave messages with anybody else. This will establish an effective two-way dialogue to take place and to elicit the information required as set out in 1.4 below. If the line manager is unavailable, then the employee should contact the alternative nominated manager, as confirmed by the line manager.
- 13.3 If an employee does not have a telephone at home alternative arrangements for reporting sickness must be made. If an employee fails to attend work and does not notify their manager of their absence then the employee's next of kin may be contacted.
- 13.4 When reporting absence employees must give the following information:
- the reason for the absence (if known);
  - the expected length of absence (if known);
  - whether a visit will be made to their GP, and if so, the date of the appointment.

Where possible the manager should be advised of any outstanding work that may require urgent attention during the period of absence. This will enable managers to better plan and allocate work.

13.5 In cases of continued absence, employees must contact their line manager regularly to provide them with up to date information. Should the absence continue then the employee and the manager must decide upon the frequency of further/continued contact and the form that this will take. It is not sufficient to provide fit notes as a means of maintaining contact. It should be noted that failure to maintain contact as per the agreement with the line manager, may result in the payment of occupational sick pay being delayed or withheld. Any decision to take disciplinary action or to withhold or delay payment of occupational sick pay must be made in conjunction with a HR Representative.

### 13.6 **Evidence of incapacity for work**

13.7 For absences lasting seven calendar days or less, on the first day back at work, employees will be required to complete a Sickness Self-Certificate. This should include the reason for absence. The Certificate will be countersigned by a manager and subsequently will be kept in the employee's file.

13.8 If an absence exceeds seven calendar days a doctor's fit note must be submitted to the line manager, no later than the tenth day of absence, covering the absence from the eighth day. The fit note is normally retained by the line manager and the absence recorded on the appropriate staff absence record form.

13.9 If an absence continues beyond the period covered by the initial fit note, a further fit note must be submitted to give continuous cover for the period of absence. On return to work employees must complete the CCG's Sickness Self-Certificate in respect of the first seven days or less if not covered by a doctor's fit note.

13.10 Failure to submit consecutive fit notes in a timely manner may be considered in breach of the Attendance Management policy and may invoke the Disciplinary Procedure. Such periods of unauthorised absence could result in suspension of pay until the submission of a fit note (see 1.5 above).

13.11 If the doctor's fit note does not specify the period of absence covered, it will be taken as covering a period of seven calendar days only.

13.12 For reporting purposes, reports will show long-term absence as 28 calendar days or more.

### 13.13 **Statement of Fitness to Work (FiT Note)**

13.14 The statement of fitness to work, known as the 'fit note' was introduced in April 2010. It allows a doctor/GP to advise whether an employee is either:

- Fit to work
- Not fit to work
- May be fit to work (subject to conditions)

If the doctor/GP suggests that they 'May be fit to work' there are now a number of options open which may help to get the employee back to work:

- Phased return to work
- Amended duties
- Altered hours
- Workplace adaptations

13.15 Any such recommendations should be discussed and agreed with the individual and line manager prior to commencement of work at a return to work meeting.

13.16 If the recommendations made by the doctor/GP on the fit note cannot be accommodated, the medical note should be used as though the doctor/GP had advised 'Not fit to Work' for the duration of the note. This means the employee does not need to return to their doctor until the expiry of the note.

#### **14. EMPLOYEE OCCUPATIONAL SICK PAY ENTITLEMENTS**

14.1 The amount of paid sickness leave entitlement depends on length of service, as outlined below:

- During 1st year of service    One months' full pay and two months' half pay
- During 2nd year of service    Two months' full pay and two months' half pay
- During 3rd year of service    Four months' full pay and four months' half pay
- During 4th and 5th years of service    Five months' full pay and five months' half pay
- After 5th year of service    Six months' full pay and six months' half pay

14.2 The period during which sick pay is paid and the rate of sick pay for any period of absence is calculated by deducting from the employee's entitlement, on the first day of absence, the aggregate periods of paid sickness during the 12 months immediately preceding that day.

14.3 The definition of full pay will include regularly paid supplements, including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Sick pay is calculated on the basis of what the individual would have received had he/she been at work. This would be based on the previous three months at work or any other reference period that may be locally agreed. Local partnerships can use virtual rotas showing what hours the employee would have worked in a reference period had he or she been at work.

14.4 Full pay is inclusive of any statutory benefits. Half pay plus statutory sick pay will not exceed full pay.

14.5 For the purpose of calculating entitlement to sick pay, a previous period or periods of NHS service will be counted towards the employee's entitlement to sick leave with pay where there has been a break, or breaks, in service of 12 months or less.

14.6 In the event of employment coming to an end, entitlement to sick pay ceases from the last day of employment.

#### 14.7 **Occupational Sick Pay Conditions**

14.8 The conditions for sick pay are financial provisions indicating an entitlement to occupational sick pay and in no way indicate the amount of absence to which an employee is entitled.

14.9 If sick pay entitlement is exhausted before a Final Review Meeting takes place, and where the failure to undertake the Final Review is due to delay by the manager, sick pay will be reinstated at half pay as follows:

- Employees with more than 5 years reckonable service – sick pay will be reinstated if the entitlement is exhausted before the Final Review meeting takes place and is due to management delay.
- Employees with less than 5 years reckonable service – sick pay will be reinstated if the entitlement is exhausted before the Final Review meeting takes place (due to management delay) within 12 months of the start of their sickness absence.

14.10 Reinstatement of sick pay in these circumstances will continue until the Final Review meeting takes place. It is not retrospective for any period of zero pay in the preceding 12 months of service.

14.11 The period of full or half sick pay detailed in 1.15 may be extended:

- where there is the expectation of a return to work in the short term and an extension would materially support a return and/or assist recovery. Particular consideration will be given to those staff without full sick pay entitlements.
- where it is considered that individual circumstances mean that an extension will relieve anxiety and/or assist recovery.

When an extension to sick pay is being considered for any reason this must first be discussed with a member of the HR Team.

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

14.13 An employee who is absent as a result of an accident is not entitled to sick pay if damages are received from a third party. Under these circumstances the employee will be advanced a sum not exceeding the amount of sick pay payable under this scheme providing the employee repays the full amount of sickness allowance when damages are received. Once received, the absence will not be taken into account for the purposes of the scale set out in 1.15 above.

### 15. **RECORDING SICKNESS ABSENCE**

15.1 Absences must be reported and appropriately documented. Where an absence lasts

for more than ½ a day it will be reported as a full day for payroll purposes. For absences lasting less than ½ the planned work day it will not be reported to payroll but it will be recorded on the personal file and a return to work form must be completed. Where an absence is not reported and/or appropriately documented it will be considered to be unauthorised absence and may result in disciplinary action.

15.2 Both the duration of and reason for sickness absence is recorded on the Electronic Staff Records (ESR) system on a monthly basis. Length of absence recording is calendar i.e. includes a period of absence which may fall over a weekend and/or bank holiday.

### 15.3 **Illness over Weekends and Non – Working Days**

15.4 If staff illness starts, continues or ends over a weekend or non-working day this needs to be communicated to the employees' line manager during the return to work interview and within sickness self-certification forms. For example, an employee who is absent on a Friday, ill on Saturday and Sunday and then returns to work on the following Monday is absent for 3 days.

15.5 The non-working days and weekends will be counted towards sickness absence where the staff member is not physically able to attend work. The Attendance Management Policy is clear on this point referring to absence being calculated on “**calendar days**” not “**working days**”.

15.6 Line Managers must ensure that they include all dates of illness including weekends and non-working days where applicable when completing the absence reporting documentation.

15.7 Individuals and Managers are responsible for ensuring accurate information is supplied. The information submitted directly affects pay and missing or incorrect information can lead to an underpayment or overpayment occurring. Only absences that are at least half of the working day or longer should be reported on the return and recorded on ESR.

15.8 All absences should be recorded on personal files even if the length of the absence is less than half of the working day. The ordinary records such as Return to Work Documentation and Sickness Certification will be sufficient.

## 16. **SICKNESS DURING ANNUAL LEAVE**

16.1 If an employee falls sick during a period of annual leave either in this country or overseas, and the period of incapacity seriously interrupts the period of leave, then they may count the absence as sick leave provided they;

- Notify their line manager either in writing or by telephone at the earliest opportunity, in line with CCG/departmental procedures and no later than the fourth continuous day of illness; and
- Provide a statement by a qualified medical practitioner; the statement should

cover the period of the illness and the nature of the illness.

- 16.2 For information, a serious interruption of annual leave would be deemed as four or more days of continuous illness.
- 16.3 If an employee is absent on sick leave and has pre-booked annual leave then they must notify their manager as soon as possible of the nature of the leave, otherwise it will be assumed that the annual leave is being taken. If the employee intended to spend time at their normal place of residency then the leave may be credited back upon receipt of appropriate medical statements/Doctors notes.
- 16.4 If the employee intends to spend more than one night away from their normal place of residency whether it be overseas or in the UK, then the employee must provide a written statement from a medical practitioner advising that the holiday would be beneficial to their condition or recovery, and in no way would aggravate or cause detriment to the illness/injury. Where necessary, the CCG will reimburse the cost of such letters. In addition, the CCG may also choose to obtain a medical opinion from the Occupational Health Provider. If the leave is supported by a medical practitioner then the employee will have the option to continue with sick leave and have the annual leave credited back or take the time as annual leave, in which case sick pay, occupational and/or statutory as appropriate, will cease. If an employee is physically unable to return to work after a holiday they must submit a fit note which covers them from the day on which they were expected to return to work. Should the employee take the leave as sickness, then entitlements to sick pay both occupational and statutory will be in line with the normal eligibility rules.
- 16.5 Where the request to continue with a pre-booked holiday is not supported by a medical practitioner, then annual leave should be taken.
- 16.6 Employees will not be entitled to an additional day off if they are sick on a statutory holiday.

## **17. SHORT TERM ABSENCE**

- 17.1 The CCG operates an accurate method of recording and monitoring levels of absence. If the amount of time being taken off for illness is giving cause for concern, managers will discuss this with employees at the return to work meeting and provide them with a record of all absences from work. The individual will have the opportunity to explain any personal or work-related issues which may be a factor in the absence and the Manager will have the opportunity to consider how best to support an improvement in attendance.
- 17.2 To ensure the consistency of the application of the Attendance Management Policy, trigger points are used to monitor both short term and long term sickness. The triggers for short term absence are:
- Three occasions\* of absence in any 12 month period, or
  - 12 days^ absence in any 12 month period

Note:

\* An 'occasion' of absence as referred to above can be any number of days of one working day or more. This is on the basis of calendar days therefore all days where an employee is unable to work due to sickness will be included. For example, an employee who is absent on a Friday and remains unwell on Saturday and Sunday; and returns to work on the following Monday is absent for 3 calendar days

^ A 'day' of absence refers to working days.

Managers should discuss any issues with the HR team where they believe reasonable adjustments or discretion should be exercised in relation to sickness absence triggers.

- 17.3 Where an employee reaches a trigger, a formal attendance monitoring meeting will be held with the individual. The purpose of the meeting is to provide support and assistance to overcome any short – term issues, patterns or problems which are identified. At this stage an action plan of improvement will be set which will include targets. Failure to meet these targets set at each stage of the procedure (in accordance with Appendix 1 '*Stages of attendance management and improvement notification*') will result in progression to the next stage of the procedure. In applying this procedure, consideration should be given to any Occupational Health advice received, particularly in relation to any underlying or ongoing medical conditions.
- 17.4 Where an individual fails to maintain regular attendance deemed acceptable for the CCG, they will progress through the stages of the procedure. This process may, eventually result in dismissal if the individual fails to maintain an acceptable level of regular attendance as described in the Stages of Absence Management.
- 17.5 At any stage during this process, it may be appropriate for the manager or employee to seek advice from Occupational Health.
- 17.6 Employees are entitled to have a staff side representative or a work place colleague whom is not acting in a professional or legal capacity to accompany them to any of the formal stages of this procedure if they so wish.
- 17.7 If at any stage the employee achieves a better attendance record than is required by the triggers set in the Stages of Absence Management (or agreed otherwise), no action will be taken. The manager will continue to monitor the level of attendance or pattern of absence.

## **18. LONG TERM ABSENCE**

- 18.1 Long-term absence is classed as at least four weeks continuous absence. However it should be noted that for reporting purposes, reports will show long-term absence as 28 calendar days or more.
- 18.2 In all cases of Long-term absence, Occupational Health advice must be sought.

- 18.3 In cases of long-term absence line managers must arrange to conduct regular review meetings to discuss possible courses of action should the absence continue. These may include rehabilitation and return to work requirements, redeployment, ill-health retirement etc. The meetings should be recorded and notes sent to the employee concerned. Employees may be accompanied by a trade union representative or a workplace colleague not acting in a professional or legal capacity. The line manager may also be accompanied by a HR Representative. The frequency of such meetings will depend upon the circumstances of the individual case.
- 18.4 These meetings should be held at mutually convenient locations, with due regard made to the employee's circumstances. If an employee is too ill to travel, the line manager may arrange to conduct a home visit at a mutually convenient time, if the employee agrees. However it should be noted that, as part of the return to work process, it may be more relevant to hold the meetings at a business location, or a suitable alternative venue.
- 18.5 Review and decision dates should be arranged taking into consideration the individual's sick pay entitlements and there must be a review meeting before their sick pay ends.
- 18.6 Employees who fail to attend sickness review meetings may be subject to the various sanctions within this policy.

## 19. ONGOING MEDICAL CONDITIONS

- 19.1 In some situations an employee may have ongoing health related problems which may impact upon their ability to perform the duties of their role. The employee may still be in work, or have long term or short term absence. This will be addressed by any or all of the following three steps:
1. **Medical advice**, support and guidance to help determine the best course of action for the individual.
  2. **Reasonable Adjustments / redeployment** – consider what adjustments can be made to role including hours or lighter duties. Identify if there is any suitable alternative role the individual could undertake either on a permanent basis or Interim basis. (Refer to redeployment policy for additional information).
  3. **Final Review Panel**- if the individual's substantive post is not suitable due to their ill health and the above stages have been unsuccessful in supporting the employee to resume full duties, a final review hearing should be arranged.
- 19.2 Before any decision to terminate an employee on medical grounds the following must have been meaningfully considered:
- Rehabilitation
  - Phased return
  - A return to work with or without adjustments

- Redeployment with or without adjustments

## **20. OCCUPATIONAL HEALTH**

20.1 In cases of long-term absence, managers are expected to exercise discretion in referring such absences to Occupational Health and the following principles should be applied:

- Occupational Health can be consulted for advice when the likelihood of a return to work or cause of absence is not known.
- A member of staff should be referred to Occupational Health at an early stage in the absence if it is considered that a referral may benefit the employee or the CCG.
- Occupational Health is available to give both general and specific advice on the fitness of an employee for work, adjustments to the workplace where appropriate and likely return dates.
- An employee may request an Occupational Health referral, via their manager, for advice and support on the best way of seeking a return to work.

20.2 Where there is doubt regarding an employee's ability to return to work on a permanent basis advice must be sought from Occupational Health. Employees may be eligible to ill-health retirement benefits if they have two years continuous membership of the NHS Pension Scheme. Ill-health retirement should be discussed with the individual and the HR Team during the review meetings. Further information is available in the Retirement Policy.

20.3 Employees must make themselves available to attend Occupational Health referrals as a contractual obligation (this may include home visits by an Occupational Health representative or the attendance at an Occupational Health Office). However, due regard should be made to the accessibility of the location in relation to the nature of absence. Following the referral, Occupational Health will then provide a written report to management, a copy of which will also be sent to the individual. In most cases management will meet with the individual to discuss the content of the report.

20.4 In some cases it may be more appropriate for Occupational Health to contact a third party for a medical opinion e.g. GP, Consultant etc. In such cases consent must be obtained from the employee concerned before accessing any third party medical records. In these cases, any information provided by a third party is always disclosed to Occupational Health and not to management. Occupational Health will then provide management with a written summary of information provided which is pertinent to the employee's ongoing employment. Employee consent is not required for the release of this report.

20.5 Occupational Health may recommend appropriate treatment, such as physiotherapy or cognitive behavioural therapy, in supporting staff to remain in work, or return to work, at the earliest opportunity.

## **21. MEDICAL SUSPENSION**

If a manager has concerns with regards to an employee and their ability to undertake

work without risk to themselves or others they may ask the employee to remain off duty on medical suspension until Occupational Health advice is sought. Alternative duties or place of work may also be considered at this point to support the employee as an alternative to suspension.

## **22. RETURNING TO WORK**

22.1 Wherever possible the CCG will aid a return to work on a permanent basis. To establish the most effective way of doing this the CCG may seek further medical advice.

22.2 This may include making reasonable adjustments to the employee's job, allowing a phased return to work, or by allowing the employee to return to work on a reduced or alternative hours basis.

### **22.3 Return to work meeting**

22.4 On their return to work, employees will be required to attend a return to work meeting with their line manager to discuss their absence. If the employee has been absent with a highly sensitive condition he/she may ask for a manager of the same gender to manage the absence. The return to work meeting is separate to an absence review meeting and will take place at an agreed time and in a private place.

22.5 The discussion should allow for an exchange of information and be as frank and as open as possible as this will prevent any misunderstandings concerning the nature of the absence. Managers should also take this opportunity to discuss any patterns or trends of absence that may emerge.

22.6 This will also enable the line manager to discuss any assistance, help, counselling or action on work-related issues that may be provided to enable an employee to return to work or prevent further absence occurring.

22.7 The manager will also remind the employee of required attendance levels and also where informal and formal stages of the policy will take effect.

22.8 Notes and outcome of the meeting will be agreed and retained on file.

### **22.9 Phased Return**

22.10 Where a phased return to work is recommended by Occupational Health, or a medical practitioner, the employee will be able to return to work on a part-time basis whilst receiving their full pay. This will be for a maximum period of four weeks, thereafter the employee must either substitute their annual leave for days not worked or receive payment only for the hours worked.

22.11 Where an employee requests a phased return to work themselves, they must take annual leave for days not worked or receive payment only for the hours worked.

### **22.12 Redeployment**

- 22.13 If medical opinion is that an employee is unfit to return to their former employment, the possibility of alternative employment must be considered. (Please refer to the Redeployment Policy).
- 22.14 Where an employee's pay reduces because of ill-health or injury, and they have the required membership of the NHS Pension Scheme, their membership at the higher rate of pay may be protected.

### **23. TEMPORARY INJURY ALLOWANCE**

- 23.1 Employees on sick leave, and receiving either reduced pay or no pay, as a result of an injury or illness that is wholly or mainly attributable to their NHS employment will be eligible to apply for Temporary Injury Allowance. Applications should be made by the employee to their line manager who will make the decision on whether payment should be made, in conjunction with a HR representative. Further guidance may be sought from Occupational Health Service or NHS Pensions.
- 23.2 Employees do not need to be members of the NHS Pension Scheme to apply for Temporary Injury Allowance.
- 23.3 Temporary Injury Allowance will stop when the individual returns to work or leaves their employment.

### **24. ILL HEALTH RETIREMENT**

- 24.1 Throughout the absence management process all options, such as rehabilitation, redeployment, part time working, job redesign etc must be considered in conjunction with the employee.
- 24.2 Where the medical opinion indicates that an employee is permanently unfit for any employment or for the duties of their current role, the individual has the option of applying for early retirement on the grounds of ill health, in line with the provisions of the NHS Pension Scheme. This option is only available to employees who have at least two years continuous, pensionable NHS employment.
- 24.3 If an application for ill-health retirement is made, this constitutes a mutual decision that the employee is unable to fulfil their contractual obligations due to their ill-health condition and therefore a termination date will be agreed between the individual and their line manager.
- 24.4 This option should be discussed with an individual in full at the appropriate time and as much information as possible will be provided to enable the employee to make an informed decision. For more information regarding this procedure please contact a member of the HR Team.

### **25. RESIGNATION**

- 25.1 At any time during the process an employee may choose to resign from their

employment. They are required to give their contractual notice and any outstanding accrued holiday entitlement will be paid in lieu.

- 25.2 Payment in lieu of notice may be agreed by the line manager in conjunction with a member of the The HR Team.

## **26. DISMISSAL ON THE GROUNDS OF CAPABILITY**

- 26.1 Before dismissal is considered, all other options as outlined above must have been discussed with the employee during the regular meetings that have taken place throughout the absence. Managers must be satisfied that all relevant information has been obtained and all relevant facts investigated. Documentation supporting this must be provided to the employee. In cases of long-term sickness, managers must also be mindful of the cessation of occupational sick pay entitlements in conjunction with the long-term prognosis.

In cases of short-term absence, managers must also consider the potential loss of specialist knowledge/experienced member of staff, the cost of replacing the employee, whether or not any flexible working arrangements could be agreed etc.

- 26.2 Should the dismissal of an employee be identified at any stage in the process as the only appropriate option (i.e. all other options as outlined above have been investigated and found to be inappropriate) a Final Review Hearing will be convened. This will be chaired by the appropriate manager with the authority to dismiss and will be attended by the employee in question, their line manager and a HR Team representative.
- 26.3 Prior to this meeting the employee will receive a copy of the report, detailing the case history to date and considerations taken into account (e.g. Equality Act, implications, suitable alternative employment, ill health retirement) together with all other relevant documents, made to the person authorised to dismiss.
- 26.4 At this meeting the employee will have the opportunity to present their case and submit supporting evidence. They have the right to be accompanied by a trade union representative or workplace colleague. The employee has the right to appeal this decision.
- 26.5 Following the meeting the employee will be given a letter confirming the reason for dismissal, the date of dismissal, their right to appeal, details of any payment in lieu of contractual notice and any other outstanding payments to which they are entitled e.g. annual leave.

## **27. APPEAL**

- 27.1 Employees may appeal against any decision made under this procedure by writing to the appropriate Manager, within 10 working days of any action being taken. An appeal may be made on grounds of fact or exceptionality. In making the case on grounds of exceptionality, an employee needs to satisfy the panel that their mitigation is sufficiently unique, relevant and compelling.

27.2 Where there is an appeal against a dismissal, employees should address their appeal to the Chief Officer within 10 days of receipt of the letter.

27.3 The CCG will endeavour to hold an appeal within four weeks of receipt of the appeal notification.

#### 27.4 **Appeal Process**

10 working days' notice will be given of the meeting arrangements. Five working days prior to the hearing the dismissing manager who issued the warning will submit statement of case explaining the circumstances leading to the decision, and their appeal. Copies of these documents should be available to the other party and the panel members.

At the appeal hearing the following procedure should be adopted:

- Chair will lead introductions, ensure everyone agrees the purpose and nature of the meeting and has received all documentation being considered. If the employee is not accompanied by a companion the chair must ensure they were aware they were entitled to bring a companion.
- The manager will present an explanation of the case and circumstances that lead to the decision. The employee and/or their companion will have an opportunity to ask questions. Then the panel will then have an opportunity to ask questions.
- The employee and/or their companion will present the case supporting the appeal. The manager, then the panel will have the opportunity to ask questions.
- Both the manager and the employee will have an opportunity to sum up their cases. No new information should be put forwarded at this stage.
- An adjournment will be held for the panel to reach a decision.
- Usually the decision of the panel will be presented on the day. It will be confirmed in writing within 5 working days.

There is no further internal right of appeal.

## 28. Stages of Absence Management and Improvement Notification.

	<b>Period of Absence</b>	<b>Improvement Target</b>	<b>Action</b>	<b>Decision</b>
<b>Informal Advisory Stage</b>  (Employee advised at return to work meeting)	Following 2 occasions in any 12 month period, employees will be reminded of formal process below.	Maintain attendance or next occasion of absence during the 12 month period will trigger progress to formal Stage 1.	Employee reminded of absences during Return to Work Meeting. It may not be possible to invoke informal stage if the employee has 12 days absence in 1 occasion.	Noted on Return to Work Form and support discussed to maintain attendance.
<b>Stage 1 Formal Notification</b>	If the employee has had 3 occasions in 12 months or 12 days absence in any 12 month period they will be issued with Stage 1 notification. Letter to employee sent with 5 working days notice	During the next 12 months, If the employee has a further 3 occasions or 10 days absence in total, they will progress to Stage 2	Attendance meeting: Review absence record and reasons for absence. Agree standard of attendance and support if necessary. Possible OH referral if needed Review period agreed	Decision in writing within 5 working days, copy kept on personal file  Will remain on file for 12 months  Right of appeal
<b>Stage 2 First Written Warning</b>	From the date of the Stage 1 meeting. If the employee has had 3 further occasions or 10 further days absence in total, they will progress to Stage 2. Letter to employee sent with 5 working days notice	During the next 12 months, If the employee has a further 3 occasions or 10 days absence in total, they will progress to Stage 3	Attendance meeting: Review absence record and reasons for absence. Agree standard of attendance and support if necessary. Refer to Occupational Health Review period agreed	Decision in writing within 5 working days, copy kept on personal file  Will remain on file for 12 months  Right of appeal
<b>Stage 3 Final Written Warning</b>	From the date of the Stage 2 meeting. If the employee has a further 3 occasions or 10 further days absence in total during, they will progress to	During the next 12 months, If the employee has a further 3 occasions or 10 days absence in total, they will progress to Stage 4, final review panel	Attendance meeting: Review absence record, reasons for absence and medical advice. Agree standard of attendance and support if necessary. Possible consider	Decision in writing within 5 working days, copy kept on personal file  Will remain on file for 2 years  Right of appeal

	the Stage 3. Letter to employee sent with 5 working days notice		alternatives if necessary, adjustments Review period agreed	
<b>Stage 4 Final Review Panel</b>	During the next 12 months, if the employee has a further 3 occasions or 10 further days absence in total, in any 12 month period, they will progress to Stage 4, final review panel. Letter to employee sent with 5 working days notice	If the employee hasn't met the improvement notification issued at Stage 3 consider review or reissuing of improvement targets	Final Review hearing: Individual is invited to attend Hearing in front of impartial panel. Including Line Manager/ Director / HR. Review absence record, actions taken to date to support improvement and any supporting medical advice. Any alternatives' to dismissal will be discussed including redeployment	Decision in writing within 5 working days, copy kept on personal file  Possible outcome Dismissal  Right of appeal

\*Please note:

Note:

\* An 'occasion' of absence as referred to above can be any number of days of one working day or more.

^ A 'day' of absence refers to working days.

**Illness over Weekends and Non – Working Days**

If staff illness starts, continues or ends over a weekend or non-working day this needs to be communicated to the employees' line manager during the return to work interview and within sickness self-certification forms. For example, an employee who is absent on a Friday, ill on Saturday and Sunday and then returns to work on the following Monday is absent for 3 days.

The non-working days and weekends will be counted towards sickness absence where the staff member is not physically able to attend work. The Attendance Management Policy is clear on this point referring to absence being calculated on "**calendar days**" not "**working days**".

Line Managers must ensure that they include all dates of illness including weekends and non-working days where applicable when completing the absence reporting documentation.

## Appendix 1 SELF CERTIFICATION OF SICKNESS ABSENCE FORM

This form must be completed for any sickness absence of up to 7 calendar days in a row, including weekends and/or bank holidays. Absence lasting 8 calendar days or more require you to submit a Fit Note (fitness to work certificate) .

<b>Surname</b> _____	<b>First Name</b> _____
<b>Payroll Number</b> _____	<b>Department</b> _____

<b>About Your Sickness</b>	
<b>Date you became unfit for work</b>	_____
<b>Date fit for work</b>	_____
<b>Reasons for absence</b>	
<b>Notification made to (name)</b>	<b>Date</b>
_____	_____

<b>Have you consulted a GP or visited a hospital?</b>	Yes / No
<b>Have you been prescribed medication?</b>	Yes / No
<b>Were you issued with Fitness to Work Certificate?</b>	Yes / No

<b>Was the absence a result of an accident at work or as a result of industrial disease?</b>	Yes / No
<b>If yes, please give details</b>	
<b>Have you reported the accident?</b>	Yes / No
<b>Please provide any additional information</b>	
<b>Was the absence as a result of an accident outside work?</b>	Yes / No

<b>I declare that the information given is correct. I understand that giving false information could result in the loss of sick pay benefits and/or disciplinary action and/or action by the Department of Work and Pensions</b>	
<b>Employees Signature</b>	_____
<b>Date</b>	_____

**Appendix 2 RETURN TO WORK MEETING DISCUSSION FORM**

<b>Employee Name</b>	_____
<b>Job Title</b>	_____
<b>Return to Work Manager Name</b>	_____
<b>Return to Work Manager Job Title</b>	_____

<b>Absence Start Date</b>	_____	<b>Return to Work Date</b>	_____
<b>Reason for Absence:</b> _____			
<b>Are you fully recovered</b>	<b>Yes / No</b>	<b>Fit to return date</b>	_____
<b>If not fit and fully recovered, why not:</b> _____			
<b>Have you completed a self certification form? Yes / No</b>			
<b>Total Number of Days Sick (to include weekends and/or bank holidays)</b>	_____	<b>Number of days sick in last 12 months</b>	_____
<b>Has the Employee Hit any Sickness Absence Trigger Points?</b>	Yes / No		
<b>Will the Employee be referred to a Formal Attendance Meeting</b>	Yes / No /		
	<b>Formal Stage on next occasion</b>		
<b>Comments:</b> _____			

<b>Are you fit to be back at work?</b>	Yes / No
Is this subject to any reasonable adjustments (inc. phased return) If yes, please detail in 'Additional Comments' below.	Yes / No
<b>Were the correct reporting procedures followed?</b>	Yes / No
<b>Are there any problems relating to your illness/injury that may affect your ability to perform your job?</b>	Yes / No
<b>Have you suffered from a condition which is likely to re-occur?</b>	Yes / No
<b>Do you need further Occupational Health support? (where appropriate)</b>	Yes / No
<b>Did you attend hospital /clinic or GP surgery?</b>	Yes / No
<b>Are you taking any medication?</b>	Yes / No
<b>Are there any follow up appointments required?</b>	Yes / No
<b>Is Occupational Health aware of your sickness/injury?</b>	Yes / No
<b>Is there any further support that can be provided now or in the future?</b>	Yes / No

<b>Additional Comments</b>
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<b>Employee Signature</b>	_____	<b>Date</b>	_____
<b>RTW Manager Signature</b>	_____	<b>Date</b>	_____