

MANAGING SICKNESS ABSENCE POLICY

Policy reference – LCCGPHR04

This policy applies to all employees of NHS Leeds North, Leeds South and East and Leeds West Clinical Commissioning Groups.

SUMMARY	This policy outlines the organisations grievance procedure.
AUTHOR	eMBED Health Consortium HR Team
VERSION	V2
EFFECTIVE DATE	November 2017
APPLIES TO	All employees
APPROVAL BODY	Remuneration and Nomination Committees in Common
RELATED DOCUMENTS	All HR policies
REVIEW DATE	November 2021

VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
1.1	04/11/13	Hannah Morris	draft	Consultation with Trade Unions via the Leeds Area Social Partnership Forum
1.2	09/01/14	Hannah Morris	final	GR
2.0	15/05/17	Liz Beecroft	final	

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1. PURPOSE

- 1.1 The Organisation recognises the importance of balancing the health needs of employees against the needs of the organisation, and is committed to providing excellent working conditions and appropriate support to achieve that balance.
- 1.2 Encouraging employees to attend work, and supporting them back into the workplace is known to maintain employee health and wellbeing, and improve organisational effectiveness.
- 1.3 The overall purpose of the policy is to set out the Organisation's approach to the management of sickness absence within the workplace. Reasonable adjustments will be considered and implemented for employees with a disability so they are not disadvantaged by this procedure. This document also sets out guidance to employees and managers about their responsibilities in relation to Sickness Absence Management.
- 1.4 This procedure should be read in conjunction with the Sickness Absence section contained within Agenda For Change terms and conditions.

2. SCOPE

- 2.1 This procedure will apply to all employees.

3. EQUALITY STATEMENT

- 3.1 In applying this policy, the organisation 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 addition to offending background, trade union membership, or any other personal characteristic. A single Equality Impact Assessment is used for all policies and procedures.

4. ACCOUNTABILITY

- 4.1 The Chief Officer is accountable for this policy.

5. IMPLEMENTATION AND MONITORING

- 5.1 The Finance Activity and Performance Committee is responsible for formal approval and monitoring compliance with this policy. Following ratification the policy will be disseminated to staff via the intranet.
- 5.2 The policy and procedure will be reviewed periodically by the Senior Management Team in conjunction with Human Resource and Trade Union representatives where applicable. Where review is necessary due to legislative change, this will happen sooner.

6 RESPONSIBILITIES

6.1 Good working relations are vital for the organisation to operate successfully and provide services. There is a joint responsibility for management, trade unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations.

6.2 Employees

6.2.1 It is the responsibility of employees to ensure that they:

- Ensure regular attendance at work.
- Report absences promptly to their line manager, or 'nominated deputy' – usually on the morning of the first day of absence.
- Communicate appropriately with their manager when absent from work.
- Co-operate fully in the use of these procedures.
- Attend an appointment with a medical practitioner nominated by the organisation, where appropriate.
- Comply with sick pay scheme.
- Attend review meetings, and return to work meetings with appropriate manager when discussing periods of absence or planning return to work, reasonable adjustments or alternative employment.
- Submit GP Fit notes or self-certification forms as required in line with this policy

6.3 Line Managers

6.3.1 It is the responsibility of line managers to ensure that they:

- Are familiar with this policy and their obligations in relation to the management of the policy.
- Communicate appropriately and in a timely manner with absent employees.
- Deal with any actions in a timely manner, balancing the needs of the individual with those of the organisation.
- Maintain and retain accurate records of all absences in line with the data protection act.
- Conduct effective return to work meetings after each individual episode of sickness.
- Maintain appropriate levels of confidentiality at all times.
- Make Occupational Health referrals as appropriate.
- Attend any training provided on policy updates, and/or legislation.
- 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.

6.4 Human Resources Team

6.4.1 The Human Resource representative will provide advice and support on all aspects of this policy to ensure application and support.

7. SCHEME OF DELEGATION

7.1 Each policy will contain a scheme of delegation specific to the stages and actions associated to the policy. All Schemes will adopt the levels as outlined below therefore ensuring consistency throughout all policies and clarity within the organisation

Informal procedure	Line Manager or equivalent level manager from elsewhere within the organisation
Formal procedure: First Stage Formal Meeting Second Stage Formal Meeting	Line manager or equivalent level manager from elsewhere within the organisation. Nb: It is reasonable that the same manager conduct first, second and third stage of this process
Formal Procedure: Final Review Meeting	Chaired by an appropriate member of the Senior Management Team or equivalent plus one other manager and a HR representative
Appeal against dismissal	Chaired by the Chief Officer or Chief Finance Officer plus one other member of the Senior Management Team and a HR representative

8. PRINCIPLES

8.1 Definitions

Persistent Short Term Absence	Short term sickness is identified as a series of absences, often unconnected, which results in persistent short term absences from the workplace.
Long Term Absence	Absences that are at least 28 calendar days

8.2 This 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 procedure gives an outline of the principles to be observed.

8.3 It should be noted that all other types of absence should be dealt with in accordance with the appropriate policy, e.g. maternity, adoption, employment break, 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.

8.4 Should an employee be absent from work due to pregnancy related sickness, these absences will not be counted towards absence triggers. However should continue to be monitored. Sickness absence triggers may also be adjusted for employees with a disability.

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.

- 8.5 Confidentiality will be maintained in all aspects of absence management and records will be kept in line with the Data Protection Act.
- 8.6 Guidance and support will be provided to line managers who implement and apply policies and procedures relating to absence. All new employees will be made aware of this policy during their induction.
- 8.7 The Organisation recognises that, on occasion, anyone may become unwell or subject to emergencies, however regular attendance at work is a contractual requirement.
- 8.8 The appropriateness of referral to the Organisation's Occupational Health Provider will be discussed between the individual, their line manager and a HR representative. A referral will be made in all cases of long term sickness absence, and where short term absences gives rise for concern a referral should also be considered.
- 8.9 It is acknowledged that on occasion people may be 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.
- 8.10 In dealing with any sickness absence cases, managers must be mindful of obligations that they and the Organisation 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.
- 8.11 Advice should be taken from Human Resources at all formal stages of this procedure to ensure the consistent application of this procedure throughout the Organisation.
- 8.12 Employees may be accompanied by a trade union representative or work colleague in all discussions with management about their absence.

9. GENERAL POINTS

- 9.1 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 (an example of this may include: absent on sick leave and working elsewhere).
- 9.2 Any employee who unreasonably fails to comply with the Organisation's Sickness Absence policy and procedure may have their occupational sick pay withheld. Any decision to withhold sick pay must be made in conjunction with advice from the HR representative. Advice may also be sought from the Organisations Occupational Health Provider.
- 9.3 The Organisation 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 after exhausting a formal procedure.

- 9.4 The Organisation 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 Organisation.

10. REPORTING ABSENCE

- 10.1 All employees must contact their line manager on the first day of absence as soon as is reasonably practicable or 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.
- 10.2 Employees must talk directly to their line manager. Alternative methods of communications such as text messages, e-mail or leaving messages with anybody else are not considered appropriate, unless there are exceptional circumstances. If the line manager is unavailable, then the employee should contact an alternative nominated manager. Alternative methods of communication can be agreed between the line manager and employee where the employee has a disability impacting on their ability to call.
- 10.3 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.
- 10.4 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.

- 10.5 In cases of continued absence, employees and line managers should agree appropriate levels, and methods of communication. As a minimum the employee must contact their line manager again on the fourth day of absence 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 medical certificates as a means of maintaining contact.

10.6 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

11. RECORDING SICKNESS ABSENCE

11.1 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.

11.2 Both the duration and reason for sickness absence is recorded on the Electronic Staff Records (ESR) system via Employee Self Service and this is a CCG responsibility to complete. Length of absence recording is calendar days i.e. includes a period of absence which may fall over a weekend and/or bank holiday.

11.3 Illness over Weekends and Non – Working Days

11.4 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.

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

11.6 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.

11.7 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.

11.8 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.

12. EVIDENCE OF INCAPACITY FOR WORK

12.1 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 a confidential file.

- 12.2 If an absence exceeds seven calendar days a doctor's medical certificate must be submitted to the line manager, no later than the tenth day of absence, covering the absence from the eighth day. The medical certificate is normally retained by the line manager and the absence recorded on the appropriate staff absence record form.
- 12.3 If an absence continues beyond the period covered by the initial medical certificate, further medical certificates must be submitted to give continuous cover for the period of absence. On eventual return to work employees must complete the Organisation's Sickness Self-Certificate in respect of the first seven days or less not covered by a doctor's medical certificate.
- 12.4 Failure to submit consecutive medical certificates in a timely manner may be considered in breach of the Sickness Absence 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.
- 12.5 If the doctor's medical certificate does not specify the period of absence covered, it will be taken as covering a period of seven calendar days only.
- 12.6 For reporting purposes, reports will show long-term absence as at least 28 calendar days.

12.7 **Statement of Fitness to Work (FIT Note)**

12.7.1 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)

12.7.2 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

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

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.

- 12.7.3 Should an employee feel they are fit to return prior to the expiry of their FIT note they should discuss this with their line manager who may also seek HR advice. An employee does not need to be signed back to work by your GP.

13. EMPLOYEE OCCUPATIONAL SICK PAY ENTITLEMENTS

- 13.1 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

- 13.2 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.

- 13.3 Sick pay is based on basic pay only.

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

- 13.5 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.

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

- 13.7 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.

13.8 Occupational Sick Pay Conditions

- 13.8.1 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.

13.8.2 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.
- Employees with less than 5 years reckonable service – sick pay will be reinstated if the entitlement is exhausted and the Final Review meeting does not take place within 12 months of the start of their sickness absence.

13.8.3 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.

13.9 The period of full or half sick pay 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.

13.10 When an extension to sick pay is being considered for any reason this must first be discussed with a HR Representative.

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

13.12 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 12.1 above.

13.9 Temporary Injury Allowance

13.9.1 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 OHS or NHS Pensions.

13.9.2 Employees do not need to be members of the NHS Pension Scheme to apply for Temporary Injury Allowance. Temporary Injury Allowance will stop when the individual returns to work or leaves their employment.

14. SICKNESS DURING ANNUAL LEAVE

- 14.1 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 organisation/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.

For information, a serious interruption of annual leave would be deemed as four or more days of continuous illness.

- 14.2 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.
- 14.3 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 Organisation will reimburse the cost of such letters. In addition, the Organisation 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 medical certificate 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.
- 14.4 Where the request to continue with a pre-booked holiday is not supported by a medical practitioner, then annual leave should be taken.
- 14.5 Employees will not be entitled to an additional day off if they are sick on a statutory holiday.

15. RETURN TO WORK MEETINGS

- 15.1 Following each period of sickness absence, employees will 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.

- 15.2 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.
- 15.3 A fundamental purpose of this meeting is to allow the line manager the opportunity 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.
- 15.4 Notes and outcome of the meeting will be agreed and retained on file.

16. SHORT TERM ABSENCE

16.1 Informal

- 16.1.1 The Organisation 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 or reaches 3 occasions in a rolling 12 month period, managers will discuss this with employees at the return to work meeting explaining the informal procedure of this policy has been invoked 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.

16.2 Formal

- 16.2.2 To ensure the consistency with the application of the Sickness Absence Management Policy, trigger points are used to monitor short term sickness and long term sickness. The triggers for short term absence are:

- Four occasions of absence in any rolling 12 month period, or
 - Aggregated 28 days absence in any rolling 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
- 16.3 Where an employee reaches a trigger, a formal meeting will be held with the individual- please refer to section 7: Scheme of delegation and Appendix A, stages of the process

relating to managing short term sickness absence. The purpose of the meeting is to provide support and assistance to overcome any short term issues, patterns or problems which are identified in order to support and encourage improved attendance. At this stage an action plan of improvement will be set.

- 16.4 Where an individual fails to maintain regular attendance deemed acceptable for the organisation, they will progress through the stages identified in the scheme of delegation. This process may, eventually result in dismissal if the absence continues.
- 16.5 At any stage during this process, it may be appropriate to seek advice from an Organisation appointed medical practitioner.
- 16.6 Employees are entitled to have a trade union representative or work place colleague not acting in a professional capacity to accompany them to any of the formal stages of this procedure if they so wish.
- 16.7 If at any stage the employee achieves a better attendance record than the target, no action will be taken. The manager will however continue to monitor the level of attendance or pattern of absence and the employee may enter the policy at the previous stage if absence deteriorates again.
- 16.8 Prior to a final review meeting and potential dismissal scenario, advice must be sought from Human Resources.

17. LONG TERM ABSENCE

- 17.1 Long-term absence is classed as at least 28 calendar days.
- 17.2 In all cases of Long term absence, Occupational Health advice must be sought.
- 17.3 In cases of long-term absence line managers must arrange to conduct regular formal 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 as appropriate. 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. The line manager may also be accompanied. The commencement and frequency of such meetings will depend upon the circumstances of the individual case, but will normally be instigated as soon as possible after the first months absence.
- 17.4 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.
- 17.5 The purpose of the review meetings is to allow all parties to consider a range of options that may be available. These options could include, but aren't limited to:

- Possibility, and likelihood of return to work, and when
- Possibility of alternative employment
- Identifying and implementing 'reasonable adjustments'
- Ill Health retirement
- Termination of contract on the grounds of medical capability – the organisation would only ever consider this after exhausting all other options

17.6 Where employees fail to attend review meetings the manager may progress with the review in conjunction with the Human Resources representative considering information available and agreeing actions. All effort will be made to ensure the employee can attend the meeting where possible and notes of the meeting will be sent to the employee.

18. ONGOING MEDICAL CONDITIONS

18.1 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). Access to Work should be contacted where appropriate to explore further support available to maintain employment.
3. **Final Review Meeting-** 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, and final review meeting is the next stage (See appendix A)

18.2 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

19. OCCUPATIONAL HEALTH SERVICES

19.1 In cases of long-term absence, managers are expected to make a referral to the Occupational Health Service (or *Organisation Appointed Medical Advisor where a dedicated Occupational Health service is not available*) and the following principles should be applied:

- The Occupational Health Service can be consulted for advice when the likelihood

of a return to work or cause of absence is not known.

- A member of staff may be referred to the Occupational Health Service at an early stage in the absence if it is considered that a referral may benefit the employee or the Organisation.
- The Occupational Health Service 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.

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

19.3 Employees must make themselves available to attend Occupational Health referrals at an Occupational Health Office as a contractual obligation. However, due regard should be made to the accessibility of the location in relation to the nature of absence. Following the referral, Occupational Health provider will then provide a written report to management, a copy of which will also be sent to the individual. In all cases management will meet with the individual to discuss the content of the report.

19.4 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. and consent must be obtained from the employee concerned. 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.

19.5 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.

20. INFECTIOUS AND CONTAGIOUS CONDITIONS

20.1 Staff are expected to demonstrate a duty of care towards those they work alongside and this includes colleagues and patients.

20.2 Following an episode of diarrhoea and/ or vomiting staff must wait 48 hours before returning to work.

21. DISABILITY RELATED ABSENCE AND REASONABLE ADJUSTMENTS

21.1 If an employee is disabled or becomes disabled during their employment, then the organisation 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.

- 21.2 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
- 21.3 The amendment to the Disability Act (now Equality Act 2010) also introduced the concept of positive discrimination where a disabled member of staff 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.
- 21.4 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

Managers and employees are able to access additional external support services as appropriate such as Access to Work, Job Centre Plus and Mind.

22. SUBSTANCE MISUSE

- 22.1 Where an employees absence is as a result of a suspected or admitted substance misuse problem, please refer to the Organisations Alcohol and Drugs Policy.

23. 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.

24. RETURNING TO WORK

- 24.1 Wherever possible the Organisation will aid a return to work on a permanent basis. To establish the most effective way of doing this the Organisation may seek further medical advice.
- 24.2 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.

24.3 Phased Return

- 24.3.1 Where a phased return to work is recommended by the Occupational Health provider, 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.

24.3.2 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.

24.4 Redeployment

24.4.1 If medical opinion is that an employee is unfit to return to their role, the possibility of alternative employment must be considered. (Please refer to the Redeployment Policy).

24.4.2 Where an employee's pay reduces because of ill-health or injury, and they have the required membership of the NHS Pension Scheme, or the New NHS Pension Scheme, their membership at the higher rate of pay may be protected.

25. ILL HEALTH RETIREMENT

25.1 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.

25.2 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.

25.3 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.

25.4 This option should be discussed with the 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 Human Resources.

26. RESIGNATION

26.1 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.

In most cases an employee would be paid their normal pay during the notice period, if they are incapable of work due to sickness and injury. However if the employee's contractual notice period is at least one week longer than their minimum statutory entitlement then it would not apply.

26.2 Payment in lieu of notice may be agreed by the line manager in conjunction with a

member of the The HR Team.

27. DISMISSAL ON THE GROUNDS OF CAPABILITY

- 27.1 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.
- 27.2 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 any flexible working arrangements could be accommodated in order to retain the skill and knowledge in the organisation.
- 27.3 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 Meeting will be convened. This will be chaired in line with the scheme of delegation and will be attended by the employee in question, their line manager and a Human Resources representative.
- 27.4 Prior to this meeting the employee will receive a copy of the report, detailing the case history to date and considerations taken into account (eg Equality Act, implications, suitable alternative employment, ill health retirement) together with all other relevant documents, made to the person authorised to dismiss.
- 27.5 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 work colleague. The employee has the right to appeal this decision within 10 working days of the date of the letter. 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. 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. The organisation CCG will endeavour to hold an appeal within four weeks of receipt of the appeal notification.
- 27.6 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 eg annual leave.
- 27.7 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.

28. 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.

Stages of the process relating to managing short term sickness absence

	Period of absence	Improvement target	Action	Decision
First Stage Formal Review Meeting	If the employee has had 4 occasions, or aggregated 28 days absence in any rolling 12 month period they will be required to attend a formal review meeting.	During the next 6 months, if the employee has a further absence(s) and this is a cause for concern, they will progress to the next stage.	Formal meeting: Review absence record and reasons for absence. Agree standard of attendance and support if necessary. Possible OH referral if needed	Decision in writing, copy kept on personnel file.
Second Stage Formal Review Meeting	From the date of the first stage meeting, if the employee has a further absence(s) and this is a cause for concern, they will be required to attend a second stage formal meeting	During the next 6 months, if the employee has a further absence(s) and this is a cause for concern, they will progress to the next stage	Formal meeting: Review absence record, reasons for absence and medical advice. Agree standard of attendance and support if necessary. Refer to Occupational Health	Decision in writing, copy kept on personnel file.
Final Review Meeting	From the date of the second stage meeting, if the employee has a further absence(s) and this is a cause for concern, they will be required to attend a Final Review Meeting.	If the employee if not dismissed then revoke a new improvement target at the Second Stage Formal Review Meeting	Final review meeting: Review absence record, actions taken to support improvement and any supporting medical advice. Alternatives to dismissal will be discussed including redeployment.	Decision in writing, copy kept on personnel file. Possible outcome- Dismissal Right of appeal

*Please note – Triggers should be pro rata for part time employees and calculated on contractual days

Equality Impact Assessment

Title of policy	Managing Sickness Absence Policy	
Names and roles of people completing the assessment	Liz Beecroft, Interim Senior HR Advisor	
Date assessment started/completed	10/07/2017	

1. Outline	
Give a brief summary of the policy	This policy outlines the organisations formal short term and long term sickness absence triggers. Management and staff are informed of their responsibilities in reporting/managing sickness absence. Informal and formal stages of the procedure are set out to manage absence and references are made to support services such as occupational health.
What outcomes do you want to achieve	For the policy to comply with statutory requirements, NHS Litigation Authority Standards and best practice.

2. Analysis of impact			
This is the core of the assessment, using the information above detail the actual or likely impact on protected groups, with consideration of the general duty to; eliminate unlawful discrimination; advance equality of opportunity; foster good relations			
	Are there any likely impacts? Are any groups going to be affected differently? Please describe.	Are these negative or positive?	What action will be taken to address any negative impacts or enhance positive ones?
Age	No		
Carers	Yes	Negative	Staff with caring responsibilities (often women) may be recorded as sick (potential negative impact) and should be reminded that Special Leave Policies are available to deal with urgent domestic issues. Line manager should take account of other policies before taking action
Disability	Yes	Negative	The policy is not clear how disability- related absence should be recorded. However, there is reference to disability-related absence where managers are required to take account of such circumstances.

			<p>Any negative impact can be reduced with the close involvement of HR and Occupational Health professionals who can consider advice accompanying the Equality Act 2010.</p> <p>Positive impact: The policy advises managers to discuss any issues with the HR team where they believe reasonable adjustments or discretion should be exercised in relation to sickness absence triggers.</p>
Sex	No		
Race	No		
Religion or belief	No		
Sexual orientation	No		
Gender reassignment	Yes	Negative	The policy does not specify arrangements for absence connected to medical processes related to transgender issues and that any employee diagnosed with Gender Dysphoria or Gender Identity Disorder this will be covered by the normal arrangements of this policy.
Pregnancy and maternity	No		
Marriage and civil partnership	No		
Other relevant group	No		
<p>If any negative/positive impacts were identified are they valid, legal and/or justifiable? Please detail.</p>		<p>There are negative impacts identified within Carers and Gender Reassignment which are justifiable and considered as a potential impact.</p> <p>The policy is applicable to all employees and adheres to the NHS Litigation Authority Standards, statutory requirements and best practice. Makes all</p>	

	reasonable provision to ensure equity of access to all employees. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic
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4. Monitoring, Review and Publication

<p>How will you review/monitor the impact and effectiveness of your actions</p>	<p>The policy takes account for individual circumstances and makes reasonable adjustment for staff with disabilities. Disability related absences can be mitigated with the close involvement of HR and Occupational Health professionals who can consider advice accompanying the Equality Act 2010.</p> <p>Absence for staff with disabilities is identified as part of monthly reported and support given to line managers. The policy does not specify arrangements for absence connected to medical processes related to transgender issues and that any employee diagnosed with Gender Dysphoria or Gender Identity Disorder will be covered by the disability discrimination provisions of the Equality Act 2010. The HR function should be included in the management of all such cases to ensure that decisions are made in accordance with the Equality Act provisions.</p>		
<p>Lead Officer</p>	<p>Liz Beecroft</p>	<p>Review date:</p>	<p>10/07/17</p>

5. Sign off

<p>Lead Officer</p>			
<p>Director</p>	<p>Dawn Jarvis</p>	<p>Date approved:</p>	<p>22/11/17</p>