

# Sickness Management Procedure

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## Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V2	December 2017	Clare Hammond, HR Manager	Periodic review	Minor adjustments in main body Changes to pay terms and conditions in Appendix G as per pay agreement
V2.1	December 2017	Clare Hammond, HR Manager	Periodic Review	Minor adjustments to Appendix B Sickness Reporting Form
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## Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

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Operational HR		March 2023
WPPG		April 2023

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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## 1. Introduction

The Trust recognises that the health and well-being of staff is vital for ensuring that it can provide effective patient care and continually improve the quality of services for patients. The Trust approach to staff health and well-being is centred on prevention, promotion of positive health and, where sickness occurs, enabling staff to return to work safely as soon as is appropriate.

Our People Strategy ([People Strategy \(esht.nhs.uk\)](https://www.esht.nhs.uk)), which is based on the NHS People Plan ([NHS England » NHS People Plan](#)), prioritises a culture that supports and grows our people.

Looking after our people means creating a positive, engaging working environment and keeping colleagues safe and healthy – both physically and psychologically. It is everyone's responsibility to contribute to an inclusive culture where all colleagues feel that they are treated according to trust values and demonstrate those values in our own compassionate behaviour, to inspire each one of us to thrive and develop to our full potential.

## 2. Purpose

The purpose of this policy is to provide clear guidance to managers and staff in managing sickness absence so that they are aware of their obligations and responsibilities in relation to attendance, health, and wellbeing.

### 2.1. Rationale

The Trust aims to strike a reasonable balance between the needs of our services and of employees who are absent from work because of sickness. It recognises that staff should be supported when they are unable to work because of their health or other reasons. The Trust's ability to deliver cost effective patient care is adversely affected when staff are absent, and therefore the Trust has a responsibility to follow appropriate and reasonable measures when dealing with absence, including sickness absence.

### 2.2. Principles

- 2.2.1 Where employees are unable to attend work due to health issues, any absence will be managed sympathetically and sensitively.
- 2.2.2 Should an employee's health prevent them from providing a regular and reliable attendance at work the processes set out in this procedure will ensure support is given with an aim of considering the Trust's ability to support their ongoing employment.
- 2.2.3 When managing staff absence all those involved will be expected to adhere to strict rules of confidentiality as would be applied with the handling of medical records. Any breach of confidentiality by any part, will be dealt with potentially under the Trust's Disciplinary Procedure.
- 2.2.4 Should staff need to have their sickness absence managed formally, they will be required to attend any formal meetings as laid out within this policy. In that event staff will be given five working days' written notice and advised of their entitlement to be accompanied by either a colleague who is an employee of the Trust or represented by a full time or lay Trade Union officer.

2.2.5 If an employee fails to attend a formal meeting without notification the meeting will be reconvened within 10 working days, unless both parties agree otherwise. If the reconvened meeting is not attended by the employee or their nominated representative, it may proceed in their absence.

2.2.6 Working in any capacity whilst on sick leave or claiming sick pay when a staff member is fit to work is not permitted. This will be regarded as dishonest conduct and will be dealt with in line with the Trust's Disciplinary Procedure. In addition, if there are reasonable grounds to suspect abuse of the sick pay system, the Trust's Local Counter Fraud specialists (LCFS) may investigate and take action, in line with the Counter Fraud Policy.

### 2.3. Scope

This procedure applies to all staff employed by East Sussex Healthcare NHS Trust. For Medical staff, this policy should be applied in conjunction with the Maintaining High Professional Standards Policy.

## 3. Definitions

<b>Episode of sickness:</b>	Any period of absence due to sickness, regardless of duration including where linked should an early return be unsuccessful.
<b>Fit note:</b>	Is a medical certificate usually provided by the employees General Practitioner and is used for periods of sickness of eight+ calendar days.
<b>'Open' fit note:</b>	A fit note which specifies a period to refrain from work but does not specify a return date.
<b>'Closed' fit note:</b>	A fit note which specifies an exact return to work date Fit notes may indicate workplace adjustments.
<b>Self-certification:</b>	Absence of between one – seven calendar days
<b>Working days:</b>	Monday-Friday
<b>Frequent Sickness Absence:</b>	Any occurrence of sickness absence will be considered as frequent. Absence from the eighth calendar day must be covered by a Fit Note
<b>Long-Term Sickness Absence:</b>	Any one occurrence of sickness absence which lasts 28 days or more, which may be due to an underlying health condition/Disability.
<b>Formal Review / Meeting:</b>	A review meeting held at any Stage of Frequent or Long-term absence.
<b>6 / 12 month rolling period:</b>	The 6 /12-month period immediately before each episode of sickness absence

<b>Reasonable adjustments:</b>	Adjustments made to working arrangements or physical aspects of the workplace, due to a health condition or disability, to ensure staff are not put at a disadvantage compared to other staff. This includes those who may require temporary adjustments in order for them to reintegrate back to work following absence or to avoid absence occurring.
<b>Statutory Sick Pay (SSP)</b>	is paid in accordance with rules determined by the Department for Work and Pensions
<b>Occupational Sick Pay</b>	is paid in accordance with NHS terms and conditions of employment.

#### **4. Accountabilities and Responsibilities**

##### **4.1 Chief Executive and Directors**

Chief Executive and Directors have ultimate responsibility for ensuring that the processes and procedures set out in this document are applied consistently.

##### **4.2 Line Managers' responsibilities**

Managers should act reasonably, fairly, consistently and, sympathetically in dealing with absence, through the needs of individuals' specific requirements to achieve good attendance and sustain service delivery. Obligations include:

- 4.2.1 Ensure they are fully conversant with this policy and linked policies.
- 4.2.2 Ensure all staff are aware of who they should report absence to, and the required procedure.
- 4.2.3 Ensure reported absences are documented using Sickness Reporting Form
- 4.2.4 Promote healthy work practices and take preventative actions to mitigate risks to health; this can be achieved through completion of relevant risk assessments.
- 4.2.5 Ensure that accurate records of all absences are recorded on ESR/ E-rostering promptly to assist discussions with the employee.
- 4.2.6 Maintain strict confidentiality of their employees' sickness absence, whilst not to the detriment of seeking out appropriate services with the intention of supporting their staff member. Unauthorised disclosure will be treated in the same manner as for any other medical record.
- 4.2.7 Conduct return to work discussions with employees on their return from a period of absence on the day of their return. This can be carried out by a designated colleague if the line manager is not available. The Sickness Reporting Form should be used to document this discussion and any necessary follow up action. This should be retained on the staff members confidential personal file.

- 4.2.8 Monitor attendance and maintain agreed regular contact with employees when they are absent in order to better support and facilitate their return to work.
- 4.2.9 Arrange a referral to Occupational Health using the Management Referral Form. Support the employee to either attend an appointment or help identify a confidential space for the employee to undertake an OH telephone assessment.
- 4.2.10 Where appropriate make reasonable adjustments for staff who require this to enable them to have access to work or support a reduction in sickness absence due to a disability or health condition. This may include, making physical changes to premises, providing equipment, or changing work patterns. Where adjustments are not feasible within the staff members substantive role or areas, redeployment on a temporary or permanent basis should be considered.  
  
With the agreement of the employee, complete a (Dis) Ability and Health passport to better understand and facilitate support and/or adjustments within the workplace. Further information can be found on the Trust's HR Solutions Extranet.
- 4.2.11 Contact the Local Counter Fraud Specialists for advice if there is a suspicion that an employee has taken sick leave dishonestly. Ensure you do not discuss your concerns with the colleague or others and seek additional support from HR.
- 4.2.12 Inform Temporary Workforce Services of decisions to place restrictions on bank working.
- 4.2.13 Participate in training on Sickness Management Procedures.

### **4.3 Employee's responsibilities**

- 4.3.1 Ensure they understand the content of this policy and co-operate fully with absence procedures.
- 4.3.2 Take appropriate care of their own health, safety and well-being and access the range of support and resources available to them via the Trust.
- 4.3.3 Offer regular and reliable attendance at work in accordance with their contracted hours and in a fit state to carry out their duties.
- 4.3.4 Report their absence on the first day to their manager or designated person within their department in accordance with agreed departmental procedures. This should be directly, in person, by telephone and not by other electronic means such as email or text message
- 4.3.5 If the absence is due to an incident at work the employee should inform the line manager and complete an incident form at the time of the injury



- 4.3.6 Report fitness to return to work as soon as it is known to their Line Manager or designated person within their department, whether they are expected to attend work on that day or whether it is a rostered day off. Failure to do so may result in an increase in absence calculations.
- 4.3.7 Participate in Return-to-Work discussions and sign the Sickness Reporting Form.
- 4.3.8 Comply with sickness certification arrangements. Failure to provide the correct documentation in a timely fashion may jeopardise entitlement to sick pay
- 4.3.9 Attend review / contact meetings with their Manager in line with the provisions of this procedure
- 4.3.10 Keep in regular contact with their manager, and discuss Fit Note adjustments and return to work plans as appropriate
- 4.3.11 Attend Occupational Health appointments as requested. Should employees choose not to engage with Occupational Health, it will not be possible to manage any absence with due regard to their health needs.
- 4.3.12 Cooperate with regards to possible implementation of any adjustments to job duties hours or working conditions resulting from recommendations made by a medical practitioner or the Occupational Health Department. Notwithstanding the fact that a Fit Note is not binding on the Trust
- 4.3.13 Employees must not carry out any work while on sick leave unless specifically authorised by the Trust, this includes, but is not exclusive to, any employment outside of the Trust; self-employment and voluntary work.
- 4.3.14 Take responsibility to help their own recovery, and not undertake any activity whilst absent from work through sickness which could hinder their recovery and subsequent return to work, e.g. taking part in sports or other activities which may aggravate their illness. However, it is acknowledged that undertaking of some activity whilst absent can aid recovery from sickness. Staff can gain advice from Occupational Health if they are uncertain about this.
- 4.3.15 Inform their line manager if they are making plans to travel abroad whilst on sick leave. Consideration will then be taken regarding the appropriateness of the planned travel based on medical evidence provided their GP.
- 4.3.16 Do not Bank work or any hours in addition to contracted hours is not permitted during period of sick leave, when or a phased return or advised whilst under a formal absence process.

#### **4.4 Human Resources Department**

- 4.4.1 HR Business Partners and HR Solutions will help ensure that this policy is understood and implemented consistently by managers, staff and trade union representatives. They will also advise on specific cases, particularly where formal action is taken.

- 4.4.2 The HR Information Team will produce monthly sickness absence reports listing those employees who have triggered a review under this procedure to Departments / Clinical Units and line managers.
- 4.4.3 HR Business Partners will analyse sickness absence reports to enable trends/hot spots to be identified within particular departments.
- 4.4.4 Where appropriate HR Advisors may make home visits to staff with their line manager, e.g., to explain sick pay entitlements or ill health retirement provisions.
- 4.4.5 General HR guidance and template documents can be accessed on the Trust's HR Solutions Extranet.

#### **4.5 Occupational Health Service**

- 4.5.1 Occupational Health (OH) provide specialist advice and guidance to staff and managers on receipt of a referral, and to liaise with employees GPs or Medical Specialists to provide an informed, comprehensive assessment of the employee's fitness for work. It should be noted that contact with GPs or Medical Specialists can only be undertaken with written consent from the employee. Any such reports when received remain within the employees confidential Occupational Health record for which only the staff member and Occupational Health personnel have access.
- 4.5.2 OH will manage referrals and advise staff and line managers of appointments made.
- 4.5.3 OH will advise managers of any non-attendance / cancellations or postponements of appointments.
- 4.5.4 Following an OH consultation with the staff member and pending their consent, OH will provide line managers with a written report. This report will advise on the employee's likelihood of returning to work, timescales and highlight any adjustments which need to be considered to facilitate a return to work or otherwise.
- 4.5.5 Should employees choose not to engage with Occupational Health or decline their consent for an OH report to be shared with their manager, gain access to a GP or specialist report, it will not be possible to manage their absence with due regard to their health needs.

### **5. Procedures and Actions to Follow**

#### **Notification of Absence**

##### **5.1 Reporting Absence**

- 5.1.1 Employees must report absence in line with the departmental arrangements but no later than within one hour of their start time or as soon as possible on the first day they are unfit for work to their line manager or designated person within their department. Early notification is preferable to enable arrangements to be made to cover shifts or duties.

5.1.2 All absences must be reported via telephone. Text messaging, emails or using social networking sites are not acceptable methods for reporting any absence. If unable to report personally employees must ask a responsible person to do this on their behalf. They will then be contacted by their line manager or designated person. Any delay may affect entitlement to sick pay.

5.1.3 When reporting absence, the employee should inform their line manager of the following:

- Absence reason
- Likely length of absence
- Details of any work-related issues that may be impacting on or have caused their absence, so that their line manager can consider appropriate support and action where required.

This information must be recorded on the Sickness Reporting Form.

5.1.4 If an employee goes home or is sent home from work because they are unwell before completing 50% of their working day, this will be recorded as a whole day's sickness absence. If sent home after completing 50% of their working day this will be recorded as half day sickness.

It should be noted that absences of this nature may mount up and require careful monitoring as this may be indicative of a staff members health impacting on work or demonstrate a pattern of absence. A discussion between the staff member and their manager is advised to explore further.

## **5.2 Subsequent sick days**

5.2.1 The manager should agree with the employee the frequency and nature of updates, taking into account the nature of the absence and whether it is medically certificated or not. The employee should thereafter update their manager as agreed.

5.2.2 If the absence continues the employee must maintain the agreed regular verbal contact with their manager or designated contact to keep them informed of their progress.

## **5.3 Certification**

5.3.1 Certification for the first seven calendar days of each absence (this includes all non-workdays) is recorded on the Sickness Reporting Form which must be signed by the employee at their return-to-work meeting.

5.3.2 Employees who are absent due to sickness beyond seven calendar days are required to submit Statements of Fitness for Work (Fit Notes) which cover all days of absence beyond the seventh calendar day.

5.3.3 On an individual basis, in response to a sickness pattern already highlighted to the employee by their line manager, the Trust reserves the right to call for medical certificates for absences less than seven calendar

days. If a cost is incurred the Trust will reimburse the employee on the production of a receipt.

- 5.3.4 Failure to submit a medical certificate or to follow the correct reporting procedures could result in the withdrawal of sick pay. Repeated failure to submit medical certificates or follow the correct reporting procedure is considered a disciplinary matter.

#### **5.4 Statement of Fitness to Work (Fit notes)**

- 5.4.1 Statement of Fitness for Work or Fit Note is a medical certificate which states the reason for the sickness absence and that the employee is either “unfit for work” or “may be fit for work”.

- 5.4.2 If the Fit Note indicates that the employee “may be fit for work” it will indicate the length of time for the recommended adjustments which are designed to help facilitate the employee’s return to work. The line manager should meet with the employee to discuss how the adjustment may be facilitated. Adjustments could be:

- a phased return
- amended job duties.
- temporary work placement (not necessarily within own department)
- altered hours of work
- workplace adaptations

- 5.4.3 If a phased return, restricted hours/duties or workplace adaptations are agreed this should not normally exceed four weeks. In cases where the employee’s required adjustments cannot be accommodated the Fit Note should be regarded as if the doctor had advised “not fit for work”.

- 5.4.4 An employee can return to work at any time they feel able to (including before the end of the Fit Note) without going back to see their doctor. However, employees must confirm that they are fit to undertake their contractual duties. For those who hold a professional qualification, they must confirm that they are fit to practice in line with their governing body. Should an employee return to work prior to the end of their fit note expiring and/or without medical assessment, their line manager must complete a risk assessment prior to the employee’s return to work to establish that returning the employee to the workplace would not pose a serious threat to the health & safety of that employee or to that of their colleagues, visitors or the general public.

Depending on the seriousness of the condition, a line manager may take further advice from Occupational Health on an employee’s ability to return to work. In the event that the manager cannot accommodate the employee’s immediate return to work, the manager should explain the reasons for this decision and provide a plan of action which may include temporary redeployment to another area or role. In such instances, further support from HR and OH can be identified.

- 5.4.5 Where the absence extends over a longer period the medical certificate should provide continuous certification of absence, with no gaps between. Failure to submit medical certificates may result in loss of pay.

Continuing certificates should be forwarded with three calendar days of expiry of the previous statement.

- 5.4.6 If an employee is in hospital or receiving medical treatment from any other provider; they should provide their manager with a discharge certificate where able and as soon as possible.
- 5.4.7 It is an employee's responsibility to ensure that a medical certificate can be verified i.e., that it includes the surgery stamp which shows clearly the name, job title, address and telephone number of the person signing it. Employees should under no circumstances alter or amend the medical certificate. If there is any doubt by the manager of the authenticity of the medical certificate, managers should discuss their concerns with the HR Business Partner.

## **5.5 Bank Work / Temporary Workforce Services**

- 5.5.1 Following a period of frequent sickness absence a member of staff must not work any additional hours for a period of one week.
- 5.5.2 Employees whose sickness absence has triggered a review under frequent absence section of this procedure may be restricted from working additional shifts via the Temporary Workforce Service or additional hours for up to three months following the last episode of absence.
- 5.5.3 Staff who have been on long term sick leave will not be permitted to work additional shifts via Temporary Workforce Services or additional hours for a period of at least two weeks following return to ensure they are fully recovered from their absence. Managers reserve the right to temporarily stop an employee working bank shifts following a period of absence, should they have concerns that this may adversely affect their recovery.
- 5.5.4 Bank shifts or additional hours will also not be permitted during periods of a phased return or temporary work placement.
- 5.5.5 It is the responsibility of the line manager to inform Temporary Workforce Services of the decision to place restrictions on bank working.

## **5.6 False claims of sickness or working while off sick**

- 5.6.1 It is not normally permitted to work while off sick whether in a paid, unpaid, self-employed or voluntary capacity, even if permission has been given on previous occasions or when the employee was not off sick.
- 5.6.2 An employee who continues to work in a second job and/or wishes to work, while off sick, for therapeutic reasons or to aid recovery must seek authorisation from their line manager in advance on each occasion. The Trust would not expect you to work for another employer and should this happen, it would be unauthorised.
- 5.6.3 An employee who works while off sick without authorisation from their line manager or who is suspected of falsely claiming to be sick will be referred to the Counter Fraud Service for investigation under the Fraud Act 2006

and could lead to prosecution, a disciplinary sanction (including dismissal) and recovery of sick pay.

- 5.6.4 If the line manager suspects any breach of policy in connection with the above, they must contact the NHS Local Counter Fraud Specialist for advice before commencing an investigation and contact Human Resources. Contact details on the Counter Fraud Page of the Extranet.

## 5.7 Return to Work

- 5.7.1 An informal and where possible face-to-face return to work discussion between the manager and the employee should take place after each episode of absence including long term sickness. This discussion should take place on the day of return by Line Manager or designated person. In exceptional circumstances e.g., for staff based in small community units or due to working patterns, a face-to-face meeting is not possible, it is acceptable for this return-to-work discussion to be conducted over the telephone or Teams but only for those staff who are not on a formal absence review trigger.

- 5.7.2 The return-to-work meeting forms the basis of absence management and must be recorded by completing the Sickness Reporting Form.

- 5.7.3 At every return-to-work discussion the manager should:

- welcome the employee back to work.
- take time to listen to how they are feeling on returning to work and take consideration of their general well-being and re-orientation back to the workplace.
- ascertain with the employee they are fit to work.
- establish the precise reason for the absence; If stress is given as the reason an individual Stress Risk Assessment should be completed and reviewed with their Line Manager - [Stress resources \(esht.nhs.uk\)](https://esht.nhs.uk). This can be done in advance to support the return-to-work conversations.
- reiterate reporting procedures if these were not followed appropriately and record this in Part three of the Sickness Reporting Form.
- if appropriate, advise the employee if their attendance record is giving cause for concern, discuss any support that can be provided to help the employee to improve their attendance, and inform employee that a First / Second Review Meeting is to be arranged.
- complete part two of the Sickness Reporting Form which should be signed by both parties.
- update the employee on any relevant information, which may have occurred during their absence.

If there is an ongoing underlying health issue that is likely to impact on the employee's ability to work, they should be offered a referral to Occupational Health so that advice can be offered. In all cases staff should be encouraged to access the range of wellbeing resources available to them from both within and outside of the trust Where a staff member has accepted a referral to OH in relation to stress a copy of their individual stress risk assessment should be enclosed alongside their referral.

- 5.7.4 Thereafter the manager should update Health Roster/ESR and file the Sickness Reporting Form, together with a Fit Note (if appropriate) on the employee's staff file.

## **5.8 Occupational Health Referrals**

- 5.8.1 When managing sickness absence, line managers are expected to obtain advice on an employee's fitness to attend work.
- 5.8.2 The purpose of a management referral is to:
- establish the likely duration and prognosis for recovery.
  - establish whether an employee has an underlying medical condition.
  - gain advice to facilitate a timely return to work – for example, adjustments/phased return
- 5.8.3 Referrals are made using the Management Referral to Occupational Health Form. When managers refer staff to Occupational Health, they must ensure that the employee is fully aware of the reasons for the referral and outline any adjustments that have already been implemented.
- 5.8.4 Following the appointment the Occupational Health specialist, recommendations to both the employee and the manager will be outlined within a report.
- 5.8.5 The line manager will be provided with a written report once the staff member has consented to its release.
- 5.8.6 If an employee fails to attend appointments or engage with Occupational Health, their line manager will need to make any decisions in the absence of Occupational Health specialist advice. Non-attendance/late cancellation or postponements of Occupational Health appointments will be monitored and reported to the referring line manager as this may demonstrate a breach of the Trust's Disciplinary Procedure.
- 5.8.7 The Occupational Health clinician may need to consult with the employee's GP or other specialist practitioner. In such cases Occupational Health will request written consent from the employee prior to approaching their GP or specialist practitioner. If the employee declines to give consent any decision regarding management of their health in relation to work will be taken on the basis of the limited information available.

## **5.9 Management of frequent sickness absence**

### **5.9.1 Trigger points**

The trigger points for identifying when action must be taken regarding an employee's sickness absence record are detailed below. It is not the intention that they be used exclusively without reference to other information including: the employee's previous attendance record; change of personal circumstances; the reasons given for absence; length

of the absence; any long-term medical condition and any recent organisational changes.

5.9.2 Informal review triggers:  
A return-to-work meeting will be carried out after each episode of absence.

5.9.3 Formal review triggers:

- 2 episodes in 3 month or
- 4 in a rolling 12-month period
- Pattern of absence which significantly impact colleague's role or the service.

5.9.4 If an employee attempts to return to work, but is unsuccessful and it results in further absence, for the purposes of this procedure, this should be linked as one absence if within two days of return.

5.9.5 Where appropriate managers must refer to paragraph 5.29 Disability related sickness or paragraph 5.30 Pregnancy related sickness.

Where an underlying health condition is identified, you must refer to the Long-Term Sickness / Sickness relating to Disability or Underlying Health Condition below for further guidance on how to proceed.

## **5.10 Formal process for the management of frequent absence**

5.10.1 The formal part of the procedure will be initiated when one of the above trigger points has been reached. Managers will notify the employee in writing of a meeting to discuss their sickness absence record. The purpose and tone of the meeting should be positive and provide an opportunity to discuss the facts about the employee's absence; explain the Sickness Management Procedure, identify any support that can be provided; explain the impact the staff member's absence has on their colleagues and the service and ensure the employee is aware that an improvement in their record is required.

5.10.2 The manager should make it clear that they are not questioning whether the reasons for the absences are genuine, unless they have reasonable grounds for doing so.

5.10.3 There are three formal stages in managing frequent absence as outlined below.

## **5.11 First Review Meeting**

5.11.1 Where monitoring an employee's sickness absence record indicates this procedure has been triggered a First Review Meeting will be arranged. This meeting should take place in the presence of the manager and the employee.

The employee should be informed of the meeting in writing with five working days' notice and advised that s/he is entitled to be accompanied by either a colleague who is an employee of the Trust or represented by



a full time or lay Trade Union officer. Managers should obtain a template letter from the HR Solutions Extranet.

A copy of the Sickness Management Procedure is available via the HR Solutions Extranet and a copy of the Employee Responsibilities should be enclosed with the letter.

- 5.11.2 Should the circumstances of the individual case require it the manager can request to be accompanied by a Human Resources Representative.
- 5.11.3 At the formal meeting the manager will:
- a) present to the employee information relating to their absences, highlighting frequency, duration, cause and pattern.
  - b) discuss with the employee whether referral to Occupational Health would be beneficial at this point.
  - c) allow the employee to share their views on the situation and raise any concerns that may be impacting on their health e.g., personal issues, work related issues
  - d) discuss if any support can be provided to the employee to help them to improve their attendance – signposting and encouraging staff to access the range of wellbeing support available to them
  - e) explain the impact the absence is having on service delivery and the team
  - f) explain that if the employees' health prevents them from providing a regular and reliable attendance at work that their continued employment could be at risk, with one potential outcome being dismissal due to capability.
- 5.11.4 A letter outlining the key points covered in the meeting will be sent to the employee and will state the consequences if the employee does not improve their attendance i.e. that if their absence levels cause concern again within 6 months of their last sickness episode, i.e. two or more further absences the policy will be reapplied at Second Review of the procedure. Any absences in the 6-month monitoring period will be reviewed in consideration of individual circumstances including any absences due to a disability or pregnancy, before arranging a further formal meeting. Managers should obtain a template letter from the Extranet.

## **5.12 Second Review Meeting**

- 5.12.1 The employee should be given five working days' notice from receipt of letter of the meeting and advised that he/she is entitled to be accompanied by either a colleague who is an employee of the Trust or represented by a full time or lay Trade Union officer. A Human Resources Representative will also be present.
- 5.12.2 At the meeting the manager/matron will cover the points outlined above for the First Review Meeting. In addition, a referral to Occupational Health will be made if not already made.
- 5.12.3 A letter outlining the key points covered in the meeting will be sent to the employee and will state the consequences if their absence levels cause concern again within 12 months of their last sickness episode, i.e. four or more further absences the policy will be reapplied at Final Review of the

procedure and that their continued employment is at risk. Managers should obtain a template letter from the HR Solutions Extranet.

### **5.13 Final Review Meeting**

- 5.13.1 A referral to the Occupational Health Department should be made by the line manager to gain current advice and guidance for the employee. (Please refer to Occupational Health section within this policy for further details.) Information provided by Occupational Health must be taken into consideration prior to determining to progress to a Final Review Meeting in conjunction with advice from the HR Department. Due consideration must be given to any disability or pregnancy related illness. Should the employee decline to attend Occupational Health or not agree for the information from Occupational Health to be shared then a decision to proceed to a Final Review Meeting will be taken based on the information available.
- 5.13.2 The Final Review Meeting will be chaired by one independent senior manager supported by a professional member of the HR Department. Both the Line Manager and employee attend with all information sent to all parties prior to the meeting being held.
- 5.13.3 The employee should be given five working days' notice of the meeting and advised that s/he is entitled to be accompanied by either a colleague who is an employee of the Trust or represented by a full time or lay Trade Union officer. The letter should advise the employee that as a result of the meeting s/he may be dismissed with appropriate notice for reasons of capability.
- 5.13.4 At the meeting consideration will be given to:
- the employee's absence record, reasons for absence and any mitigating factors
  - the Occupational Health Report
  - whether there is adequate documentary evidence available to demonstrate that the Trust's procedure has been followed
  - the needs of the service and impact on work colleagues
- 5.13.5 The Senior Manager will then decide on the action to be taken, which may be dismissal with the appropriate period of notice on the grounds of the individual's inability to attend work on a regular basis and failure to maintain an acceptable level of attendance.
- 5.13.6 The employee will be informed of their right to appeal against a decision to terminate their contract.
- 5.13.7 A letter confirming the decision and outlining the key points covered in the meeting will be sent to the employee.

#### **5.14 Management of Long-Term Sickness / Sickness relating to Disability or Underlying Health Condition**

##### **General**

- 5.14.1 The aim of this procedure is to ensure that staff who are absent due to long term sickness (i.e. a period of 28 days or more) or those with an underlying health condition where their underlying health condition absence meets the frequent absence triggers. are dealt with fairly, consistently, and sensitively and are supported in making a return to work if and when they are fit and able to do so.
- 5.14.2 It is important that managers have referred their staff member to Occupational Health and obtained a report so that decisions can be made based on medical advice. This is to ensure that certain duties will not aggravate or regress the staff members health issue or injury, which had caused their incapacity for work.
- 5.14.3 The employee should be informed of formal meetings held under this procedure in writing, giving five working days' notice and advised that s/he is entitled to be accompanied by either a colleague who is an employee of the Trust or represented by a full time or lay Trade Union officer

#### **5.15 Occupational Health Advice**

- 5.15.1 In order to provide appropriate advice and support for employees on long term sickness absence managers must refer staff to Occupational Health.
- 5.15.2 Occupational Health will contact the employee to arrange an appointment; managers must ensure that the contact details are correct and include personal email addresses if the member of staff is on long term sick leave and has given their permission.
- 5.15.3 Occupational Health will provide a medical opinion on the employee's fitness for work and ability to attend any meetings required under this policy. They will advise the manager on whether the employee has an underlying condition affecting their ability to attend work; the likely length of absence, whether the illness or injury will be temporary or permanent, whether any adjustments to their hours or duties would facilitate an earlier return, whether in the light of the needs of the Trust and the demands of the occupation in question, the employee will be capable of regular and efficient service in their current role.
- 5.15.4 In the event of conflicting medical advice the employee or the Trust can request an independent medical opinion and the Occupational Health Department will obtain a report from the medical practitioner to be agreed by both parties.

#### **5.16 Keep in touch arrangements.**

- 5.16.1 It is essential that regular contact should be maintained. This is a joint responsibility, and the line manager and employee should agree early on the frequency and method of contact which should be maintained through the period of absence. Contact should be on a regular basis and at least

monthly. In exceptional circumstances, and where the employee agrees, this could include home visits. If appropriate the manager may wish to be accompanied by an HR representative or a work colleague.

- 5.16.2 Managers must provide themselves with up-to-date information and ensure that they are in a position to give employees the following advice:
- What action may need to be taken if the employee is unlikely to be able to return to work on health grounds.
- 5.16.3 Employees should be advised that even if they have exhausted their sick pay entitlement, they must continue to provide up to date Fit Notes, be available (health permitting) to attend meetings and adhere to Trust terms and conditions and policies and procedures.
- 5.16.4 Unauthorised Absence procedures are to be applied where an employee either fails to inform their manager of their absence OR ceases to maintain contact having initially reported their absence. Please refer to Disciplinary Procedures for further details.

### **5.17 Health & Wellbeing Meetings**

- 5.17.1 When an employee has been absent for more than 28 days (or it is known they will be), or meets the frequent absence trigger due to an underlying health condition, the manager should take the following action:
- arrange 4 weekly Health & Wellbeing meetings with the employee to discuss their absence and whether any support can be provided; this meeting should take place between the manager and the employee. Managers should complete Health & Wellbeing Record form available on HR Solutions Extranet.
  - Discuss referral to Occupational Health with the employee and complete the managers referral to Occupational Health as required.
- 5.17.2 The purpose of this meeting will be to:
- establish the prognosis and, if possible, when the employee will be fit to return to work
  - review what reasonable adjustments can be made to facilitate a return to work, in accordance with the Equality Act, including carrying out a risk assessment if appropriate
  - if appropriate, discuss phased return to work
- 5.17.3 Health & Wellbeing meetings are to be held for a maximum of 6 months. Where options of permanent redeployment, Ill Health Retirement or mutual agreement to dismiss are recommended or relevant, the employee should be moved to the formal First Ill Health Meeting.
- 5.17.4 A summary confirming the content and outcome of the meeting will be sent to the employee together with arrangements for the next contact. Managers should use form available on HR Solutions Extranet.

- 5.17.5 If prior to the next contact the employee is fit to return to work the meeting will be brought forward. Once staff are declared fit to return to work by a medical practitioner, they may return without further liaison with OH.

#### **5.18 First Ill Health Meeting (no later than 6 months from when absence commenced)**

- 5.18.1 If the long term sickness continues, or the frequent absences related to underlying health condition continues, the employee will be invited to meet formally with the manager and with HR present under First Ill Health Meeting stage, with a view to supporting the employee back to work and/or improving attendance levels. These formal meetings will be in addition to the arrangements agreed for keeping in touch. Prior to the formal meeting the manager should obtain updated information from Occupational Health if recent report not available including advice on whether a phased return could be considered. An invitation letter is available on extranet.

- 5.18.2 This meeting will follow a similar format to the Health & Wellbeing Meeting. The manager should give further consideration to any reasonable adjustments which could be made to the employee's current role which would enable them to return to work and/or improving attendance levels.

- 5.18.3 Workplace adjustments can be temporary or made on a permanent basis.

Adjustments, where they can reasonably be accommodated, might include:

- adjusting an individual's working hours
- allowing an employee to be absent from work for rehabilitation treatment
- enabling an employee to work in a more accessible area
- making alterations to premises
- providing new or modifying existing equipment
- modifying work furniture
- providing additional training
- modifying the duties of the role

- 5.18.4 A letter confirming the content and outcome of the meeting will be sent to the employee together with arrangements for the next contact. Managers should use the letter template available on HR Solutions Extranet.

#### **5.19 Rehabilitation - Phased Return to Work Programme**

- 5.19.1 Where a member of staff who has been absent for more than 28 days is fit to return to work but not on full contractual hours or full range of duties the manager should consider their return to work on a phased return basis. This enables staff to work towards fulfilling all their duties and responsibilities within a defined and appropriate time period, where the employee may return on reduced hours, and then gradually increase their working hours back to the full contractual hours. This may include allowing an employee who has been on a prolonged period of sickness absence, to return to work sooner than they may otherwise have been able to.

- 5.19.2 It is important to note that a phased return to work is not always suitable or possible. Consideration will be given to a range of factors including, but not limited to: the length of and reason for the absence, proposed number of hours to be worked, type of work, support available and service requirements.

An absence of 28 days or more does not necessarily mean that an individual is automatically entitled to a phased return, phased returns should be considered when recommended by a medical professional GP via fit note or Occupational Health.

- 5.19.3 Where the Occupational Health Department advises that an employee can return to work on their full contractual hours undertaking only limited, restricted duties, the manager will need to assess the feasibility of accommodating any recommendations against the needs of the service.

- 5.19.4 A phased return to work may be agreed within the following parameters:

- a) that it will not be at less than 50% of the employee's contracted hours and may include shorter working shifts or fewer shifts and will be subject to the needs of the service.
- b) it will not usually last more than four weeks and during this period the employee will receive full pay
- c) one phased return of up to four weeks with full pay will be permitted in any rolling 12 month period, for any subsequent phased returns payment will reflect the reduced hours worked.
- d) here, exceptionally, extensions are agreed to the four week period then outstanding annual leave will be used to make up the shortfall in hours to cover the extended period.
- e) if OH advises that certain shifts should be restricted (such as nights), this will only be agreed for the period of the phased return to work. If the advice is to restrict these shifts indefinitely and if night working is a requirement of the job, consideration will be given as to whether this is a reasonable adjustment under the terms of the Equality Act 2010 or whether redeployment may need to be considered.
- f) the manager should regularly review the employee's progress during the assisted return period.
- g) any member of staff undergoing a phased return to work programme will not be permitted to work additional shifts/hours within their own department, or through Temporary Workforce Services or other employment.
- h) staff should not participate in any activities which could hinder their recovery.
- i) managers should ensure the employee is not required to deal with any backlog of work during the phased return that has been caused by the period of absence and take all reasonable steps to facilitate the employee's re-integration into the workplace.

## **5.20 Rehabilitation - Temporary Work Placements**

- 5.20.1 If a manager feels unable to support an assisted return to work for an employee for operational reasons, a temporary work placement should be considered by the manager in liaison with the Human Resources and Occupational Health Departments.
- 5.20.2 The Trust is committed to supporting staff in temporary work placements when they could return to work but are unfit for their substantive role. Initially a temporary role will be sought within their immediate work area. (e.g. non-clinical duties-audit etc.), if this is unavailable then the wider Department / Division will be asked to identify a suitable role.
- 5.20.3 The employee's existing rate of pay will be protected during the temporary placement and the funding for the role will be provided by the employee's substantive departmental budget. Such roles are designed to be strictly temporary and not usually last for more than three months and are restricted to one occasion in a 12 month period. It should be noted that no right to substantive alternative employment in the temporary role will be earned by undertaking the role on this basis.
- 5.20.4 In the interests of aiding the employee's recovery to their substantive role s/he will not be permitted to work additional shifts/ hours through the Temporary Workforce Service or other employment during the period of the temporary work placement.

## **5.21 Redeployment**

- 5.21.1 Permanent redeployment is appropriate where Occupational Health have advised that the employee is no longer able to perform their established role, or when a line manager is not able to accommodate adjustments that would enable the staff member to remain in their substantive role/area.
- 5.21.2 The employee, supported by their line manager and Human Resources will have a period of 12 weeks, from the date of notification, to secure a suitable alternative post into which they can be redeployed. OH can provide advice and guidance on the suitability of roles for the staff member taking into account their health needs.
- 5.21.3 The employee will be required to complete a Redeployment Application Form and their details will be passed to Recruitment and they will send an email link to the employee to register for vacancies.
- 5.21.4 The employee must actively seek a suitable alternative post; providing they fulfil the criteria outlined in the person specification. Once a post has been identified Human Resources can request clearance from the Occupational Health Department prior to commencing any new position to ensure the new role will be medically suitable for the employee and offer any further support.
- 5.21.5 Where an employee moves to a post on a lower grade or working fewer hours there will be no protection of salary or other conditions. The manager of the redeployed employee will regularly monitor and review their progress to ensure they are coping with the transition into the new

role and where necessary further referral to Occupational Health or Human Resources may be required.

- 5.21.6 In cases of either Rehabilitation or Redeployment it may be necessary for the manager to allow the individual to take reasonable time off for assessment, treatment, rehabilitation therapies or trial periods of up to four weeks work within another role. In this case the timeframe is paused and picked up at the point at which it was paused; however this would not exceed a total of twelve week. Managers should seek support from HR and Occupational Health in this situation.
- 5.21.7 If no suitable redeployment opportunities occur within the 12-week period the employee's employment with the Trust will be terminated on the grounds of capability. Contractual notice periods will run in parallel with the 12-week redeployment period. There should be regular communication during this process between the Manager and Employee to review progress to date.

## **5.22 III Health Retirement**

- 5.22.1 Employees who are members of the NHS Pension Scheme may be eligible to consider an application for an III Health Retirement Pension. Employees choosing this option will have their contract of employment terminated in line with Final III Health Meeting. The Pensions Agency will decide on the level of pension paid based on the medical status of the individual.
- 5.22.2 Employees whose employment has been terminated for reasons of III Health Retirement but do not have the recommendation of the Occupational Health Physician are able to make an application independent of the Trust supported by their GP and/or Specialist Consultant. Further information is available on HR Solutions Extranet within Ending Employment Including Retire and Return Procedure.

## **5.23 Dismissal on the grounds of capability**

- 5.23.1 Where an employee is no longer able to perform their role, or where Occupational Health are not able to advise when the employee is likely to be fit to return to work, or if the employee has refused suitable alternative employment or none is available, the employee will be advised that a dismissal on the grounds of capability is likely and that a Final III Health Meeting to consider the situation and decide on appropriate action will be convened.
- 5.23.2 The meeting must be held before the employee has had 12 months of continuous sickness absence. A letter confirming the meeting arrangements and the possible outcomes will be sent to the employee, preferably by recorded delivery if it cannot be delivered by hand.
- 5.23.3 The manager cannot move to a Final III Health Meeting unless all the options in the First III Health Meeting have been considered, and the employee has been advised in writing that dismissal is a potential outcome of the meeting.



## **5.24 Final Ill Health Meeting**

- 5.24.1 The employee will be invited in writing to a Final Ill Health Meeting, which will be chaired by an independent senior manager of the relevant Department / Division supported by a professional member of the HR Department.
- 5.24.2 The manager chairing the meeting will consider all the details of the case including:
- the length of the absence to date and the likely length of the continuing absence
  - any medical advice/prognosis on the individual
  - whether there is adequate documentary evidence available to demonstrate that the procedure has been followed
  - the effect of the continuing absence on the service and impact on work colleagues
  - NHS Terms and Conditions of Service relating to sick pay entitlement
- 5.24.3 If the decision is to terminate employment on the grounds of impaired capability due to ill health a date will be set at which the employee's contract will be terminated, if the employee is unable to return to work in their substantive post or is unable to find a suitable re-deployment opportunity, prior to that date.
- 5.24.4 The period of notice of termination of employment will be in accordance with the employee's contractual notice period.
- 5.24.5 During any period of notice the employee will receive full pay less sickness, invalidity or injury benefits receivable from the Department for Work and Pensions. This includes any period of notice during which the employee would normally be receiving half-sick pay, or where entitlement to occupational sick pay has expired at a date prior to notice being served.
- 5.24.6 The employee will have the right of appeal against a decision to terminate his/her contract.

## **5.25 Terminal illness**

- 5.25.1 Where an employee is suffering from a terminal illness the Trust would aim, as far as possible, to accommodate the employee's wishes and would try to provide the most financially beneficial arrangements for the employee and/or his/her relatives.
- 5.25.2 In all cases of terminal illness, employees should be referred to the Pensions Officer as soon as possible to enable calculations and options to be identified.
- 5.25.3 Options include:
- that the employee continues to work fully or in a reduced capacity;
  - that, if the employee is eligible, they could make an application for ill-health retirement or, where life expectancy is 12 months or less, their

incapacity pension could be commuted so that the value of their benefits is paid as a single lump sum

## 5.26 Medical Suspension

5.26.1 There may be occasions when a manager believes that it would not be appropriate or advisable for an employee to remain on duty. Examples may include:

- A health and/or safety problem
- If a manager doubts an employee's ability to perform the full range of their duties

5.26.2 The manager will normally advise the individual to take sick leave, certified by a Sickness Reporting Form or GP Fit Note as appropriate. If the individual does not agree to this, or if there is the possibility that the GP will not provide a Fit Note, then the manager will suspend the relevant employee on medical grounds on full pay.

The suspension will continue until the individual is fit to return to work, which will be established through Occupational Health often in collaboration with the employee's GP, specialist or external specialist services. Occupational Health. Suspension will be confirmed in writing by the line manager.

## 5.27 Annual leave and sickness

5.27.1 If an employee falls sick during their annual leave, they are required to inform their manager using the normal reporting arrangements on the first day of sickness. The employee will be deemed to be on sick leave from that day and will be reallocated the period of annual leave. The employee will be required to produce either a self-certificate for an absence lasting up to seven days or a medical certificate from the eighth day onwards.

5.27.2 If the employee recovers from their illness during the period that was annual leave, they must notify their manager, and take the rest of the period as annual leave.

5.27.3 This does not apply to designated public holidays, which will be taken as a public holiday, irrespective of whether the employee is ill. Employees are not entitled to any additional time off if sick on a public holiday that they would otherwise have been required to work as part of their basic week. Please note any colleagues required to use a proportion of annual leave to support public holidays will have the element of annual leave reallocated.

5.27.4 If an employee is away from work due to sickness during a period of pre-booked annual leave and they still wish to go on holiday, they should do so only after obtaining the appropriate medical advice. They will be required to inform their manager.

5.27.5 In order to take paid annual leave following a period of sick leave, an employee must be signed as medically fit to return to work. Therefore, they must take annual leave to go on holiday only if their GP has signed

them fit to return to work and they are planning to return to work after their holiday.

- 5.27.6 Where sickness has prevented an employee from taking statutory annual leave entitlements within a leave year, it may be carried over into the following year, and arrangements made for it to be taken as soon as possible. However, it cannot be carried forward into a further leave year. Such leave may be used to facilitate a phased return to work.
- 5.27.7 For any sickness on days where annual leave has been requested but declined a medical certificate could be requested where an ongoing pattern is identified.

## 5.28 Incident reporting

All injuries, however minor, occurring whilst the employee is on duty, must be reported to their manager at the time or at the earliest possible opportunity thereafter and recorded on an incident report form in line with the [Incident Reporting and Management Policy](#). The manager should discuss and consider with the employee whether any support is needed in line with the [Supporting Staff involved in Incidents, Complaints or Claims Procedure](#).

## 5.29 Disability related sickness

- 5.29.1 An employee who is protected under the Equality Act and is absent with a disability related illness must follow the normal absence reporting procedure and provide medical certification as would be required for non-disability related illness. Their line manager will carry out a return to work interview after a period of absence and explore whether any support can be provided or to consider any adjustments that could be made to help the employee.
- 5.29.2 The legal definition of disability is defined at s.6 of the Equality Act as 'a physical or mental impairment that has a substantial and long term adverse effect on the ability to carry out normal day to day activities'. This definition is wide ranging and covers mobility difficulties e.g., wheelchair users, sight or hearing impairments; learning disabilities; long-term conditions such as depression, diabetes or sickle-cell anaemia and certain illnesses such as cancer. HIV and MS are automatically covered by the Act.
- 5.29.3 For employees with a disability or a long-term health condition, their sickness absence may have nothing to do with their disability. However, if their sickness absence is related to a disability, the Trust has a duty under the Equality Act 2010 to make reasonable adjustments.
- 5.29.4 Reasonable adjustments may include: adapted equipment, physical changes to the environment, changes to working hours, location, shift pattern, or time off for treatment or appointments and further to advice from Occupational Health regarding the individuals underlying medical condition. Managers will then move the employee to the Long Term Sickness process within the Sickness Management Procedure.
- 5.29.5 Any request to change working arrangements (i.e., working hours/times) which may constitute a reasonable adjustment; must be made by

submitting a flexible working request in accordance with the Work Life Balance and Special Leave Policy.

- 5.29.6 Disability-related absences will be recorded as sickness absence on the Part three of the Sickness Reporting Form any reasonable adjustments will also be recorded and flagged as disability-related (in order that disability and non-disability related absences can be identified separately). All absences will be paid according to the employee's sickness entitlement, which remains unchanged.
- 5.29.7 In instances where the employee's attendance (whether disability related or not) is unsatisfactory and/or s/he is unable to return to work following long term sickness absence, and where no reasonable adjustments or redeployment are possible, it may be necessary to consider terminating the employee's employment.
- 5.29.8 The (Dis)Ability and Health passport is for all employees who may have a long-term health condition, mental health condition, neurodiversity, or disability/ learning disability or difficulty, to help them access the support or reasonable adjustments they may need to accommodate them within the workplace.

The aim of the passport is to support employees to manage their health at work and remove obstacles in communicating their condition in the workplace, as they change roles, departments or Trusts throughout their NHS career.

### **5.30 Pregnancy related sickness**

- 5.30.1 A pregnant employee absent with a pregnancy-related illness must follow the normal absence reporting procedure and provide medical certification as would be required for non-pregnancy related illness. Their line manager will carry out a return to work interview after a period of absence and explore whether any support can be provided or to consider any adjustments that could be made to help the employee.
- 5.30.2 Non-pregnancy related sickness absence will be recorded separately in the normal way.

Pregnancy related illness will also be recorded and although it will be included when reviewing the employee's sickness absence record, it will not be used within the formal stages of this procedure.
- 5.30.3 Occupational Health advice may be sought to clarify pregnancy related absence; especially if absences are frequent; and/or where a pregnant employee requests a change of working pattern outside normal working arrangements, during her pregnancy.
- 5.30.4 If the employee is off work with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave will be deemed to have commenced.
- 5.30.5 Third party accident-related sickness absence

An employee who is absent as a result of an accident where damages may be received from a third party, will be paid Occupational Sick Pay. It is a requirement of receiving this payment that the employee signs a form of undertaking to include, as special damages, a claim for the full extent of such advance payments in any claim for damages made against a third party and to refund to the Trust the amount of damages received in respect of such advance payments.

### **5.31 Stress**

If an employee informs their manager they are suffering from stress, whether absent from work or not, the manager should arrange to have a conversation with the staff member to ascertain what support may be required particularly within the workplace.

The staff member should be encouraged to complete an individual Stress Risk Assessment, Stress resources ([esht.nhs.uk](http://esht.nhs.uk)) (as found on the Occupational Health page of the extranet) and then discuss the findings with their manager or appropriate person so that actions can be taken to either eliminate, reduce or escalate, work related stressors.

Please refer to the Trusts Psychological Wellbeing & Safety policy for more details

### **5.32 Substance misuse**

Where sickness absence is known or suspected of being related to drugs, alcohol or other substance misuse, the [Substance Misuse Policy](#) should be used in conjunction with this procedure.

### **5.33 Appeals against dismissal**

5.33.1 An employee may appeal against a decision to dismiss under this procedure, and this must be made in writing, stating the grounds of appeal, to the Director of Human Resources, within 10 working days of receipt of written confirmation of the decision.

5.33.2 Grounds for the appeal may be one or more of the following:

- The action of dismissal is too severe in relation to the incapability
- There is an allegation of bias
- Misrepresentation of facts affecting the reason(s) for dismissal
- The procedure was not fairly followed

5.33.3 If redeployment is accepted as an alternative to dismissal, there will be no right of appeal.

5.33.4 Where an employee lodges an appeal a hearing should be arranged normally within five weeks of receipt if possible and in any event without unreasonable delay. Where the hearing date is not fixed by mutual agreement the appellant shall be given at least 10 working days' notice of the date of the hearing. The member of staff may be represented at the appeal by either a colleague who is an employee of the Trust or represented by a full time or lay Trade Union officer.

- 5.33.5 Appeals against termination of contract will be heard by an equal or more senior manager. The appeal manager will determine whether a full hearing, with all witnesses, is required or whether the appeal need focus only on specific points of contention. The appeal manager will have the discretion to uphold or revoke the decision to terminate the contract.
- 5.33.6 A professional member of the Human Resources Department will be appointed to serve as Secretary to the Appeal Manager. The role includes ensuring the administrative aspects of the hearing are carried out and to advise the Appeal Manager on relevant employment law and good practice.
- 5.33.7 Appeal documentation must be submitted to the Secretary to the Appeal Manager at least five working days before the hearing so that both management and staff side cases may be exchanged and circulated to all parties.
- 5.33.8 If there is any new evidence from either side, which has come to light since the final meeting this will be considered at the appeal hearing, the detail of this with any supporting documentation must be provided with the statement of case, so that it can be sent to all parties in advance.
- 5.33.9 The Appeal Manager may, at its discretion recall both parties and announce its decision or it may announce that parties will be notified of the decision at a later date. In either event the appellant and their representative will be notified in writing of the decision of the Appeal Manager within five working days, if possible, of the decision being made.
- 5.33.10 Failure of the appellant to attend the hearing without adequate reason will result in the appeal being deemed to have been withdrawn and the original dismissal decision will stand.

## **6. Equality and Human Rights Statement**

An Equality and Human Rights Impact Assessment has been carried out and is documented in [Appendix A](#).

## **7. Training**

Please refer to the Induction and Mandatory training policy and the Training Needs Analysis.

On-line guidance of the policies referred to in this policy can be found via the HR Solutions Extranet Page.

## **8. Data protection**

- 8.1 When managing employees under the Sickness Management Procedure, the Trust processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which the Trust commences action under the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their performance. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's Data Protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary Procedure.

9. Monitoring Compliance with the Document

**Monitoring Table**

<b>Element to be Monitored</b>	<b>Lead</b>	<b>Tool for Monitoring</b>	<b>Frequency</b>	<b>Responsible Individual/Group/Committee for review of results/report</b>	<b>Responsible individual/group/committee for acting on recommendations/action plan</b>	<b>Responsible individual/group/committee for ensuring action plan/lessons learnt are Implemented</b>
Sickness absence data	Workforce Information Team	Health Roster/ESR Reports	Monthly	Divisional Lead	Divisional Lead/HR Business Partners	HR Senior Team
Sickness absence documentation	HR Adviser	Staff Files/ER Tracker	During review process	HR Business Partner	Divisional Lead/HR Business Partner	HR Senior Team
Sick Pay	Payroll Manager	ESR input	As required	Payroll Team Leader	Deputy DOF	DOF
Sickness absence levels	Workforce Information Team	Workforce Reports	Monthly	Trust Board	Director of HR	Director of HR

## 10. References

NHS Terms and Conditions of Service Handbook  
NHS Pensions Agency: [www.nhsbsa.nhs.uk/pensions](http://www.nhsbsa.nhs.uk/pensions)



## Appendix A: Equality and Health Inequalities Impact Assessment (EHIA) template

Undertaking EHIA helps us to make sure that our services and policies do not inadvertently benefit some groups more than others, ensuring that we meet everyone's needs, and our legal and professional duties.

This is important because:

- Assessing the potential for services and policies to impact differently on some groups compared with others is a legal requirement.
- People who find it harder to access healthcare services are more likely to present later when their disease may be more progressed, have poorer outcomes from treatment, and need more services than other groups who have better access.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

These are called 'protected characteristics'. The Act requires that public sector organisations meet specific equality duties in respect of these protected characteristics. This is known as the public sector equality duty.

### Public Sector Equality Duty

Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

Public bodies must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations.

### Armed Forces Covenant Duty

The new Covenant Duty raises awareness of how Service life can impact on the Armed Forces community, and how disadvantages can arise due to Service when members of that community seek to access key local services. The Duty requires organisations to pay due regard to the Covenant principles when exercising functions in healthcare. "Due regard" means that we need to consciously consider the unique obligations and sacrifices made by the Armed Forces; that it is desirable to remove disadvantages faced by the Armed Forces community; and that special provision may be justified in some circumstances.

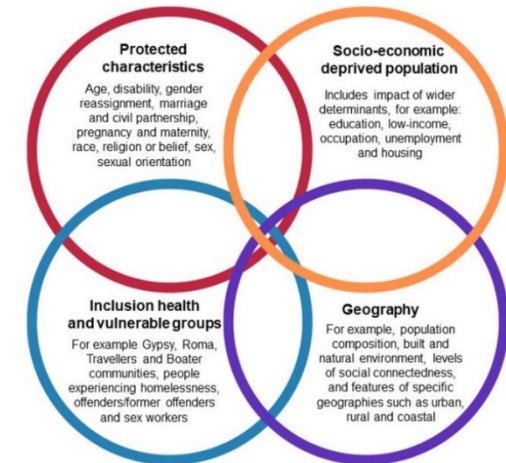
### Health Inequalities Duties- Equity for all

In addition to our legal duties in relation to Protected Characteristics, the Health and Social Care Act and other legislation, NHS Planning Guidance and sector specific recommendations require the NHS to have regard to the need to address health inequalities (or differences in access to or outcomes from healthcare) and take specific action to address them.

Figure 1 shows the different population groups, factors associated with where we live, or our individual circumstances, which separately, or when combined, influence access to and outcomes from health care.

Getting equal outcomes may require different inputs (or services). In completing an EHIA its important to think about whether a one size fits all approach will generate the same good outcomes for everyone, or whether we might need to make some tweaks or adjustments to enable everyone to benefit equally. The health tree diagram shows that unless we think about the needs of different people, equal services might generate unequal outcomes.

### Factors associated with poorer health outcomes (PHE 2021)<sup>1</sup>

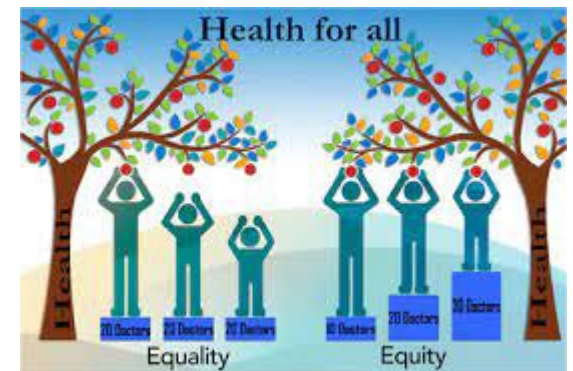


### The Health Tree<sup>1</sup>

The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Trust must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the Trust is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy/process is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EHIA in itself does not meet the requirements of the equality and health inequalities duties. All the requirements above must be fulfilled or the EHIA (and any decision based on it) may be open to challenge. Properly used, an EHIA can be a tool to help us comply with our equality and health



the

<sup>1</sup> [https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution\\_fig2\\_323266914](https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution_fig2_323266914)

inequalities duty and as a record that to demonstrate that we have done so. It is advised that you complete the short EHIA training session on MyLearn before completing this EHIA.

### SECTION A ADMINISTRATIVE INFORMATION

This form is a central part of how the Trust makes sure and can demonstrate to others that we are meeting our legal duties; and how we can assure ourselves that all patients will get the best outcome for them from our services.

<p>A completed copy of this form must be provided to the decision-makers in relation to your proposal. The decision-makers must consider the results of this assessment when they make their decision about your proposal. <b>Function/policy/service name and number:</b></p>	<p>Sickness Management Procedure</p>		
<p><b>Main aims and intended outcomes of the function/policy/service and summary of the changes you are making (if existing policy/service):</b></p>	<p>The Trust recognises that the health and well-being of staff is vital for ensuring that it can provide effective patient care and continually improve the quality of services for patients. The Trust approach to staff health and well-being is centred on prevention, promotion of positive health and, where sickness occurs, enabling staff to return to work safely as soon as is appropriate. The purpose of this policy is to provide clear guidance to managers and staff in managing sickness absence so that they are aware of their obligations and responsibilities in relation to attendance, health and wellbeing</p>		
<p><b>How will the function/policy/service change be put into practice?</b></p>	<p>Through promotion on Trust Extranet, training sessions, people panels and coaching of managers</p>		
<p><b>Who will be affected/benefit from the policy?</b></p>	<p>This procedure applies to all staff employed by East Sussex Healthcare NHS Trust. For Medical staff, this policy should be applied in conjunction with the Maintaining High Professional Standards Policy</p>		
<p><b>State type of policy/service</b></p>	<p>Policy <input checked="" type="checkbox"/></p>	<p>Service <input type="checkbox"/></p>	
	<p>Business Case <input type="checkbox"/></p>	<p>Function <input type="checkbox"/></p>	<p>Existing</p>
<p><b>Is an EHIA required?</b> NB :Most policies/functions will require an EA with few exceptions such as routine procedures</p>	<p>Yes <input checked="" type="checkbox"/></p>		
	<p>No <input type="checkbox"/> (If no state reasons)</p>		
<p><b>Accountable Director:</b> (Job Title)</p>	<p>Deputy Chief Executive and Chief People Officer</p>		
<p><b>Assessment Carried out by:</b></p>	<p>Name: HR Business Partner</p>		
<p><b>Contact Details:</b></p>	<p>Julie.hales@nhs.net</p>		
<p><b>Date Completed:</b></p>	<p>13 February 2024</p>		

## SECTION B ANALYSIS AND EVIDENCE

### Analysis of the potential impact – Equality and Health Inequalities Duties

For this section you will need to think about all the different groups of people who are more likely to experience poorer access or have poorer outcomes from health and care services. For each group please describe in the first column the potential impact you have identified, in the second column explain how you have arrived at this conclusion and what information you used to identify the potential impact, and in the third column say what you are going to do to prevent it from happening, or which elements of a service or policy specifically address the potential impact. Key things to remember.

- Everyone has protected characteristics but some groups who share one or more protected characteristics may be more likely to have poorer outcomes or access compared with others – and it is this potential that the EHIA process seeks to identify and address.
- The information included here should be proportionate to the type and size of the policy/service/change.
- An update to a policy should demonstrate that you have considered the potential for the policy to impact differently on different groups and taken steps to address that.
- A minor policy update is likely to need to be much less comprehensive than an EHIA for a major service change.
- You will need to know information about who uses or could use your service/policy will apply to (the population). You can use information about current patients or staff, and about the general population the Trust serves.

### 3. PROTECTED CHARACTERISTICS - Main **potential** positive or negative impact of the proposal for protected characteristic groups summarised

Please write in the box below a brief summary of the main potential impact (positive or negative) Please state **N/A if your proposal will not impact adversely or positively on the protected characteristic groups listed below, but make sure you include information on how you know there will be no impact.**

The Trust approach to staff health and well-being is centred on prevention, promotion of positive health and, where sickness occurs, enabling staff to return to work safely as soon as is appropriate. This policy takes into account the need for understanding and supporting underlying health conditions which may require absence from work.

<b>Protected characteristic groups</b>	<b>Summary explanation of the <i>potential</i> positive or adverse impact of your proposal</b>	<b>How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback</b>	<b>Action that will be taken to address the potential for negative impact.</b>
<b>Age:</b> older people; middle years; early years; children and young people.	Ensuring all appropriate care and support is given to staff experiencing sickness absence	Local data, staff survey and Deep dive analysis	Monitoring of absence data and data relating to case management to ensure any disparity is justified. Access for employees to occupational health and fast tracked appointments.
<b>Disability:</b> physical, sensory and learning impairment; mental health condition; long-term conditions.	Positive – changing LTS absence support, to understanding the need for longer periods of recovery/support. Offering 5 x Health & Wellbeing meetings prior to first formal Stage 1 review being held.	Local data, staff survey and Deep dive analysis; The Workforce Disability Equality Standard, set out by NHS England details the positive association between increased disability equality and workplace experience for disabled individuals	Reasonable adjustments offered at every stage of the process and in respect to adjustments for work
<b>Gender Reassignment and/or people who identify as Transgender</b>	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act,
<b>Marriage &amp; Civil Partnership:</b> people married or in a civil partnership.	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	
<b>Pregnancy and Maternity:</b> before and after childbirth and who are breastfeeding.	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis;  There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Pregnancy sickness related absence is referred to within the policy.

Protected characteristic groups	Summary explanation of the <i>potential</i> positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
<b>Race:</b>	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	
<b>Religion and belief:</b> people with different religions/faiths or beliefs, or none.	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	
<b>Sex:</b>	Procedure will allow colleagues to follow a fair, consistent and transparent process	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Gender specific illness may fall under the definition of disability under the Equality Act, whereby reasonable adjustments will become applicable, including to the application of formal stages of the policy.
<b>Sexual orientation</b>	This policy has a positive impact on staff no matter what their sexual orientation is	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	
<b>Veterans/Armed Forces Communities</b>	Procedure will allow colleagues to follow a fair, consistent and transparent process and	Local data, staff survey and Deep dive analysis; There is strong evidence that where an NHS workforce is representative of all protected	

Protected characteristic groups	Summary explanation of the <i>potential</i> positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
	ensures 'due regard' is considered for veterans and the armed forces community	characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	

**4. HEALTH INEQUALITIES -Potential positive or adverse impact for people who experience health inequalities summarised**

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). **If the policy/procedure is unrelated to patients, this sections does not require completion.**

Please state none if you have assessed that there is not an impact, but please make sure you complete the 'how do you know this' column to demonstrate that you have considered the potential for impact. **If you identify the potential for impact for one or more of these groups please complete the full assessment in Appendix A**

Groups who face health inequalities <sup>2</sup>	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
<p><b>This includes all groups of people who may have poorer access to or outcomes from healthcare services. It includes:</b>                      People who have experienced the care system; carers; homeless people; people involved in the</p>			



Groups who face health inequalities <sup>2</sup>	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
criminal justice system; people who experience substance misuse or addiction; people who experience income or other deprivation; people with poor health literacy; people living in rural areas with limited access to services; refugees or asylum seekers; people in or who have been in the armed force; other groups who you identify as potentially having poorer access and outcomes.			

## SECTION C ENGAGEMENT

### 5. Engagement and consultation

a. Talking to patients, families and local communities can be a rich source of information to inform health care services. If you are making substantial changes it's likely that you'll have to undertake specific engagement with patients. For smaller changes and policies you may have undertaken some engagement with patient groups, gained insight from routine sources e.g. patient surveys, PALS or Complaints information or information from Healthwatch, you may also have looked at relevant engagement that others have undertaken in the Trust, or locally

Have any engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes	No
-----	----

b. If yes, please ensure all stakeholders are listed in the consultation table at the beginning of the policy.

## SECTION D SUMMARY OF FINDINGS

Reflecting on all of the information included in your review-



**6. EQUALITY DUTIES: Is your assessment that your proposal will support compliance with the Public Sector Equality Duty?** Please add an x to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?			
The proposal may support?			
Uncertain whether the proposal will support?			

**7. HEALTH INEQUALITIES: Is your assessment that your proposal will support reducing health inequalities faced by patients?** Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?		
The proposal may support?		
Uncertain if the proposal will support?		

**8. Outstanding key issues/questions that may require further consultation, research or additional evidence.** Please list your top 3 in order of priority or state N/A

Key issue or question to be answered	Type of consultation, research or other evidence that would address the issue and/or answer the question
1	
2	
3	

**9. EHIA sign-off: (this section must be signed)**

<b>Person completing the EHIA:</b>	HR Business Partner	<b>Date: 13/2/2024</b>
<b>Line Manager of person completing:</b>	Deputy Chief Executive and Chief People Officer	<b>Date: 13/2/2024</b>

**Appendix A**

Breakdown of Groups who are more likely to experience health inequalities:

Groups who face health inequalities <sup>3</sup>	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
<b>Looked after children and young people</b>			
<b>Carers of patients</b>			
<b>Homeless people.</b> People on the street; staying temporarily with friends /family; in hostels or B&Bs.			
<b>People involved in the criminal justice system:</b> offenders in prison/on probation, ex-offenders.			
<b>People with addictions and/or substance misuse issues</b>			
<b>People or families on a low income</b>			
<b>People with poor literacy or health Literacy:</b> (e.g. poor understanding of health services poor language skills).			
<b>People living in deprived areas</b>			
<b>People living in remote, rural and island locations</b>			

Groups who face health inequalities <sup>3</sup>	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback)	Action that will be taken to address the potential for negative impact.
Refugees, asylum seekers or those experiencing modern slavery			
People who have served in the Armed Forces			
Other groups experiencing health inequalities (please describe)			

Appendix B – EHIA Resources

Sources of Information on the East Sussex population and sources of community or patient insight.

Population Data

[State of the County 2021 Focus on East Sussex](#)

[East Sussex JSNA](#)

[Community Insight](#)

[Further Reading on Equality and Health Inequalities](#)

[Training](#)