# Document Control

## Title

**Sickness Absence Management Policy**

## Author

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<thead>
<tr>
<th>Author</th>
<th>Author’s job title</th>
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## Directorate

Personnel & Development

## Department

HR

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- Equality & Diversity Lead
- Staff-Side

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1. Introduction

Northern Devon Healthcare NHS Trust recognises that the health and welfare of its staff is of the utmost importance.

Although the overall target should be 100% attendance, it is recognised that some absence due to sickness is inevitable and sickness absence needs to be dealt with in a sympathetic and understanding way on a case-by-case basis.

This is a merged policy reflecting the incorporation of community services in Exeter, East and Mid Devon with Northern Devon Healthcare NHS Trust in April 2011 and applies to all Employees of Northern Devon Healthcare NHS Trust. Nothing contained within it is intended to contravene or reduce any statutory or contractual sickness entitlements.

Quick reference flowcharts for the Sickness Absence Process detailed in Sections 10 to 13 are available within Appendixes 1 and 2.

2. Purpose

The policy applies to all Trust staff. The purpose is to maximise attendance and operational effectiveness, ensure consistency of approach and reduce costs to the organisation in respect of sickness absence.

This policy does not differentiate between genuine and non-genuine sickness absence, as the underlying assumption, unless there is evidence to the contrary is that sickness absence reported by any employee is genuine. Therefore all sickness absence falls within the scope of this policy.

The aims of this policy are as follows:-

- to implement and maintain a system for monitoring and managing absence
- to ensure that a fair and consistent approach is operated throughout the organisation when reviewing and managing absence
- to provide support and assistance wherever possible to employees
- to assist line managers in developing strategies to reduce absence rates or maintain low rates
- to identify any environmental and work-related problems which may be contributing to high levels of sickness absence
- to assist the organisation in ensuring that it meets its legal obligations

**Note:** For the purposes of logging employee absence all days of the week are to be included.
For the purposes of the procedural timescales within this Policy, where the expression ‘working day’ refers to Monday through Friday and does not include Saturdays or Sundays, this relates only to documentation to be issued prior to or following meetings/hearings.

3. **Roles and Responsibilities**

Northern Devon Healthcare NHS Trust has responsibility for ensuring that all employees are given the appropriate support to deal with health problems and will encourage staff to obtain help and advice. The Trust will always aim to provide a healthy and safe working environment.

To help prevent absences, support staff and keep people healthy at work, the Trust will encourage physical activity; promote mental well-being initiatives along with providing healthy working conditions and guidance for various health issues such as smoking cessation and obesity prevention etc.

3.1. **Role & responsibilities of the Chief Executive**

The Chief Executive has the overall responsibility for all matters of Human Resources and ensuring that all mechanisms are in place for the overall implementation, monitoring and revision of this Policy. The Chief Executive has nominated the Director of Workforce and Organisational Development as lead for all Human Resources matters.

3.2. **Role & Responsibilities of Human Resources Department / HR Operations Team**

The Human Resources Department/HR Operations Team are responsible for:

- Offering advice in relation to sickness absence to both managers and employees. This will include the provision of data, advice and support in the application of the policy including guidance to enable managers to take appropriate action.
- Advising managers on the procedure that should be followed, depending on whether the issue is persistent “Short Term” or “Long Term” absence.
- Supporting line managers and Trade Union representatives in developing sickness absence management plans for employees who require support.
- Identifying service areas where sickness absence is above the Trust’s target and working with line managers to implement a corrective action plan.
- Providing training for managers in the management of sickness absence.
• Monitoring trends in sickness absence across the Trust; highlighting any issues to appropriate committee/forums i.e. Health and Safety Committee, Partnership Forum, Local Consultative Committees and Directorate Meetings.
• Working in partnership with the Occupational Health Service to promote a culture of “Health and Wellbeing”
• Ensuring managers consider all relevant HR policies and procedures when managing an employee’s absence including the Trust’s Domestic Violence & Abuse Policy, Managing People with a Disability Policy etc. (this list is not exhaustive).
• Monitoring line manager adherence to process and where necessary refer those not complying to the relevant Divisional General Manager or Director to consider appropriate performance management actions.
• Ensuring the sickness absence policy remains fit for purpose and recommending changes where necessary.

3.3. Role & Responsibilities of Occupational Health

The Occupational Health Service is responsible for:

• Providing a preventative and advisory service to employees and line managers which supports and enables the proactive management of all sickness cases
• Offering confidential support and advice in relation to sickness absence and medical issues to both managers and employees in need of physical and/or mental health assessment, support and guidance about their health and fitness for work
• Ensuring that the employee’s right to view any correspondence/report is exercised prior to forwarding to the line manager and Human Resources representative.
• Following an Occupational Health Management Referral, producing and sending an “Occupational Health Report” to the line manager so subsequent discussion can take place
• Taking a Trust wide lead in promoting “Health and Wellbeing” initiatives and good practice throughout the Trust
• Providing counselling or psychological therapy to members of staff who are experiencing psychological difficulties
• Providing critical incident debriefing (see Supporting Staff Policy)

3.4. Role & Responsibilities of Line Managers

Line managers are responsible for:

• The health, safety and welfare of their staff whilst at work under the Health and Safety at Work Act 1974
• Ensuring they fully understand and remain competent in carrying out the Trust’s Sickness Absence Processes as set out in this and associated Policies.
• Ensuring staff are made aware of the procedure for reporting absences and that employees are aware of their own responsibilities as part of this policy.
• Keeping comprehensive, timely and accurate records of each employee’s absence to enable them to identify sickness absence patterns at an early stage. And recording outcomes on personal files. (See Absence Record Form in Toolkit).
• Maintaining records as to whether the employee has worked a bank/NHSP shift in the week prior to their absence or have a bank/NHSP shift booked for the week after their absence ends (see Sections 20 & 21).
• Taking appropriate action to ensure that absence levels are managed.
• Ensuring that every member of staff is informed of the standards expected and is aware of the consequences of not reporting sickness absence i.e. that loss of pay and/or disciplinary action may result.
• Sensitively highlighting sickness absence statistics at departmental meetings to emphasise how absence affects the department and the service.
• Maintaining contact and holding meetings with employees off sick to keep them informed of developments within the Trust and the team.
• Monitoring the sick pay entitlements of employees who are off sick, informing them when their pay is due to decrease to half pay and nil pay. This information must be given prior to the change in sick pay.
• Conducting ‘Return to Work’ discussions (See Section 10.1 and Record of Absence and Return to Work Discussion Form in the Toolkit) on each occasion of sickness absence.
• Recognising potential health problems at an early stage identifying additional sources of advice/help for employees with health problems.
• Referring employees to Occupational Health whenever necessary or appropriate, and ensuring that this is discussed with the employee prior to referral.
• Taking affirmative action to resolve long term absence through phased return, reasonable adjustments, alternative employment arrangements including flexible working arrangements and/or redeployment etc. early retirement on the grounds of ill health or termination of employment on the grounds of capability due to ill health, where appropriate.
• Ensuring that decisions about an employee on long term absence are made and implemented prior to the expiry of their sick pay entitlement;
• Actively managing sickness absence to support the Trust in achieving its target (at the time of publication this is 3.0%).
• Providing assurance to Human Resources that they are proactively managing sickness absence within their department in line with this policy.
• Ensuring consideration is given to how attendance is managed and to make any reasonable adjustment(s) for employees qualifying under the Equality Act 2010 as having a disability.
• Working with employees, Occupational Health, Human Resources and Trade Union Representatives to identify appropriate ways to support the employee to remain in work or return to work at the earliest opportunity by taking early action.
• Updating payroll/E-Roster/Electronic Staff Record (ESR) as appropriate and in a timely manner, ensuring that absence commencement and return to work dates are entered with the correct absence reason and code (see Absence Codes on Payroll Department Section of Bob which are regularly revised).

3.5. Role & Responsibilities of Employees

Employees are responsible for:

• Their attendance at work
• Taking appropriate actions to ensure good health and wellbeing are maintained and ensuring that they take appropriate steps to remedy any health problem to enable them to return to work as soon as possible.
• Reporting absence to their line manager in a timely manner
• Keeping their line manager informed as to progress and their intentions to return to work. Notice of intention to return to work must be given as soon as they are aware of the date they will be fit to return to work. Failure to do so may, at the line manager’s discretion, result in the employee being sent home without pay.
• Informing their line manager at an early stage if they have a health issue or disability which may affect their attending work on a regular basis. This will enable the line manager to ensure this is taken into consideration when managing absence.
• Informing their line manager if they have worked a bank/NHSP shift in the week prior to their absence or have a bank/NHSP shift booked for the week after their absence ends (see Sections 20 & 21).
• Notifying their manager if they intend to continue working for another employer whilst absent due to sick leave. See Section 22 for further details.
- Meeting with their line manager at a mutually agreed location to discuss their health and the management of their absence in line with the policy
- Attending any Occupational Health appointments and complying with advice given. Failure to attend Occupational Health appointments could result in decisions or actions being taken without full knowledge of the employee’s circumstances. It may also lead to the suspension of occupational sick pay

3.6. Role & Responsibilities of Trade Union Representatives

Trade Union Representatives are responsible for:-
- Working in partnership to promote effective attendance and case management
- Providing advice, guidance and support to the employee during this process and assisting members in preparing for meetings.
- Accompanying or representing members at specific management of absence discussions/interviews, including those which may result in the employee being issued with a warning or termination of their contract of employment due to ill health.

3.7. Confidentiality – Responsibility of All

All individuals involved in a sickness absence management issue or in any hearings or other associated processes have a duty and responsibility to treat all information provided or received in the strictest confidence.

4. Legal Framework

There is a legal framework, which guides absence management considerations with reference to the ‘duty of care’ placed upon every line manager under the Health and Safety at Work Act and the need to consider ‘reasonable adjustments’ for employees with a disability in order to comply with the Equality Act 2010. At the time of publication, the Trust is developing a Managing People with a Disability Policy which will provide further guidance.

‘Reasonable adjustments’ should include consideration of the following, albeit this list is not exhaustive:
- Rearranging working methods, giving another employee minor tasks that the employee can no longer undertake, providing practical aids or adaptations to equipment or premises and allowing the employee to work at different times or at different places from those with equivalent jobs. Occupational Health may provide guidance on this following a referral.
• All factors relevant to the case in question must be taken into consideration to enable the organisation to demonstrate that it has been reasonable.

The Access to Medical Reports Act stipulates that the organisation needs the consent of the employee to access medical records and under the auspices of both the Access to Medical Reports and the Data Protection Act the employee has a right to see any report about them.

5. **Reporting Sickness Absence**

When notified of a period of absence, the Line Manager must complete the Record of Absence and the Return to Work Discussion Form (see Toolkit).

Where an employee is too ill to contact their manager, it will be appropriate for someone else to make the call on their behalf, but the employee must arrange to speak with their manager as soon as possible. Employees should, where possible (unless previously agreed), refrain from sending a text message or e-mail notifying their manager of their absence. However, where this is the only practical communication method (or previously agreed method), the employee must ensure a contact telephone number is provided so that the manager may contact them as necessary.

When speaking to their manager, the employee must let their manager know the reason for their sickness absence and if possible, give an indication of how long he/ she is expecting to be absent. Employees should inform their manager of any outstanding work/deadlines that need to be covered in their absence including any meetings that they were due to attend. This will allow the manager to make appropriate arrangements to cover the employee’s sickness absence.

6. **Contact between Employer and Employee**

When contacting an employee who is off sick, care must be taken to ensure that any conversation is reasonable, sensitive, appropriate and not intrusive, with the aims of establishing how the employee is doing and whether any support is needed. The line manager should keep a record of this conversation on the Record of Absence and Return to Work Discussion Forms (see Section 10.1 and Toolkit).

Where an employee is off work with a stress related illness or other mental health condition, advice should be sought from the Occupational Health Service regarding the most appropriate way of making contact with the employee (see Appendix 3).
Where an employee, without reason, fails to report their absence, or fails to produce medical certificates on time, this may result in loss of pay. If, after further discussion there appears to be no justifiable reason for the non-compliance with the policy, disciplinary action may be taken.

If the employee is absent for a longer period longer than is originally communicated they must maintain either verbal or written communication with their manager. Such communication may include submission of medical certificates (see Section 25).

If an employee is not contactable or fails to make contact as agreed, the line manager will follow this up by telephone. The manager may seek advice from the Human Resources Department as to whether a family member or next of kin should be contacted.

7. Non Reporting of Absence

If the line manager and/or Human Resources Department are not able to establish contact with the employee, and after considering the points in Section 6 above, deem no further immediate intervention is required a letter should be sent to the employee at their home address expressing concern for their welfare, requiring them to make contact with their line manager and/or Human Resources Department by a specified date.

The employee will be informed that if communications from the Trust are not acknowledged, then the Trust will follow the ‘Absence without Authorisation” process which may result in occupational sick pay being withheld and disciplinary action being instigated (See Appendix 4 - Absence without Authorisation Flowchart).

A copy of the Sickness Absence Management Policy will be available on request.

8. Sickness Absence Reporting

Individual sickness absence records will be retained for each employee by line managers and by the Trust. These will usually detail the broad reasons for absences, the associated dates and whether they are self-certified or medically certified.

Employees are not automatically obliged to have their reason(s) for sickness absence recorded. Employees should be asked if they are willing to give the reason for their sickness absence and to have this recorded. The manager should explain to the employee why it is helpful. This will include:

The ability to better support the employee including any adjustments they may need now or in the future.
Building the picture of the reasons for sickness absence across the workforce as a whole to help inform the proactive “wellbeing” agenda.

Supporting the wider Health & Safety agenda ensuring organisational interventions are put in place where required.

Where the exact reason for absence is sensitive and the employee does not wish to disclose the specific details, a broader less specific reason can be recorded. For example a planned gynaecological operation or a vasectomy could be simply recorded as elective surgery etc.

Sickness records that identify individual employees must be treated in confidence. Access to them should normally be restricted to the employee’s line manager, the employee in question and those responsible for carrying out any stage of this procedure on a need to know basis.

Disability related sickness absence will be reviewed, in line with HR, on its own merits.

Line managers have a responsibility to accurately record sickness either directly on the Electronic Staff Record (ESR), if the manager is authorised for self service, or via the payroll department using the monthly Absence Returns Form, stating the reason for absence (see above) and appropriate absence code (see Absence Codes on Payroll Department pages of Bob which are regularly updated), along with the absence commencement date and return to work date, as soon as is reasonably practical.

8.1 Managing Pregnancy Related Sickness Absence

In determining how much sickness absence an employee has had, the Trust is not allowed to take into account

- Pregnancy related illness during pregnancy
- For women, time off for ante-natal appointments for their pregnancy (see Family Leave Policy)

Pregnant employees have a period during which they are protected against pregnancy and maternity discrimination. This starts when the employee becomes pregnant and ends when they go back to work after they have had their baby, if they are entitled to maternity leave. If the employee is not entitled to maternity leave the protected period ends two weeks after the end of the pregnancy. It is unlawful to dismiss an employee because of a pregnancy-related illness; it does not matter that the Trust would have dismissed someone else who had been off sick for the same amount of time.
If an employee is sick during pregnancy the Trust’s normal sickness processes and rules apply; the Trust is entitled to require the employee to provide medical evidence of her incapacity to work and to follow normal sickness absence procedures eg reporting their absence according to the department’s procedures. If the illness is pregnancy-related it should be recorded as such, it does not count towards the employee’s sickness record, must not be used for the purposes of attendance management and the employee cannot be dismissed for it. For this reason it is important for the employee’s doctor, or treating practitioner, to state specifically on their fit notes when an illness is pregnancy-related.

Therefore managers must ensure that they record any pregnancy-related sickness absence, but do so separately from other sick leave so that pregnancy-related sickness absence is not used as a reason for disciplinary action eg the issuing of warnings or, dismissal.

The Trust will not take into account any periods of pregnancy-related sickness absence when reviewing an employee’s sickness absence record and making decisions about whether or not an employee has triggered any Step, or failed to achieve any target set during any Step, of the Sickness Absence Management Policy.

Managers will meet with employees suffering with pregnancy-related sickness in order to ensure that appropriate support and advice is being provided and to carry out appropriate risk assessments.

8.2 Miscarriage:

Where an employee is off sick from work because they have had a miscarriage their sickness absence directly related to that miscarriage should be treated in the same way by the Trust as if they were off because of pregnancy-related illness.

9. Sickness Absence Occurring During a Shift

If more than 50% of the shift has been completed then that shift will be considered completed and will not be classed as an episode of sickness absence unless a health indicator of “three part days in a 12 month rolling year” is reached. Staff will not be required to make up the lost time but the line manager should make a note of the lost time on the Return to Work Discussion Form (see Toolkit) to enable them to monitor whether any patterns emerge.

After the third occasion of leaving a shift early, any subsequent occasions of only part of a shift being completed due to sickness will count as an episode of absence for both the targets and monitoring purposes.
If less than 50% of the shift has been completed then the shift will be classed as not completed and will be counted as an episode of sickness absence. This will not apply if the requirement to leave the shift early is agreed to be the result of a work related injury or work related acquired infection or illness (see Section 16).

These arrangements apply to both full and part-time members of staff.

10. Managing Absence Processes

10.1. Return to Work Meeting

It is Trust policy that line managers conduct discussions with employees on each occasion they return to work after an episode of sickness absence.

The aim of the meeting is to:-

- welcome the employee back to work
- clarify the nature and cause of absence (see Section 8 above)
- understand an employee’s fitness for work
- review an employee’s absence record in order to determine whether further action is required
- find out if any support is required by the employee with regard to their absence or return to work.

The Record of Absence and Return to Work Discussion Form (see Toolkit) should be completed during the informal meeting, signed by the employee and line manager and the employee should be provided with a copy for their reference with a further copy placed on the personal file.

If the illness is of a sensitive or personal nature, the employee may choose to discuss their medical condition with another manager from the service area/Division (e.g. a manager of the same gender).

Where an employee has been signed off with stress, depression or a psychological condition please follow the guidance contained within Section 14.

10.2. Health and Wellbeing Indicators

There are three strands of the Trust’s management procedures that are designed to support employees through ill health and to improve attendance. These are:
• Sickness absence management process for frequent episodes of sickness absence or high cumulative levels of absence. The health indicators for commencing this process are either 3 episodes of absence or a cumulative total equivalent to 2 working weeks or more in a rolling twelve-month period (see Section 11)
• Long term sickness absence management process for absences lasting over 28 calendar days (see Section 13)
• Stress related absence management process for absence of 1 week or more related to psychological factors (see Section 14)

11. Process for Managing Frequent Episodes / High Cumulative Levels of Sickness Absence

For the purposes of this policy the following health indicators identifies the need for management of absence is defined as:

- three or more occurrences in a rolling twelve-month period;
- a cumulative total of equivalent to 2 working weeks or more in a rolling twelve-month period
- where an employee is not performing their role to a satisfactory standard due solely or substantially to ill health

It is not acceptable for employees to be continually absent from work or to be at work but incapable of carrying out the role for which they are employed.

Managers should refer to the Sickness Absence Management Toolkit (on the Trust’s Intranet, Bob) for template letters to use when managing staff under the Sickness Absence process.

11.1. Steps for Managing Absence

Line managers can access advice and guidance on the application of the steps for managing sickness absence from the HR Operations Team. Although staff do not have the right of Trade Union representation at Step 1, they may of course seek advice and guidance from their Trade Union representative.

NOTE: Reference must be made at each Step to other appropriate HR / Trust Policies and Procedures including Managing Stress, Domestic/Sexual Violence & Abuse, Family Leave, Employing People with a Disability, Special Leave etc. (this list is not exhaustive).
11.1.1 Step 1 – A Health and Attendance Meeting with Line Manager

This meeting must be held as soon as possible following the employee’s return to work from the absence which triggered this Step of this Policy. This must be no later than 1 calendar month following this return to work. Where in exceptional circumstances this is not possible advice should be sought from HR.

The first “Health and Attendance” meeting should highlight concerns and clarify the reason for the absence(s) and whether there is any welfare or health aspect (including disability) on which the organisation can offer assistance or make a ‘reasonable adjustment’, which had not been previously raised at any “Return to Work” discussions.

Within this step, line managers should check the sickness records are accurate and whether there are any patterns or trends relating to the employee’s absence.

During this discussion the manager should use the ‘Health and Attendance Meeting form (Steps 1 and 2)’ in the Toolkit.

The line manager will set a clear standard for improvement and advise the employee that there will be a fixed 12 month period of monitoring; their sickness absence during this 12 month period (not their sickness over the rolling 12 months) will be counted towards absence targets which will be set as follows:

1. In the first six months “target period”: No more than two episodes of sickness absence totalling no more than four days. Or where there is only a single episode of sickness absence this must not exceed 1 working week.
2. In the second six months “monitoring period”: No more than two episodes of sickness absence totalling no more than four days. Or where there only a single episode of sickness absence this must not exceed 1 working week.

The twelve-month “target and monitoring” period will commence from the date of the Step 1 Health and Attendance meeting unless specifically agreed otherwise. Appropriate review dates will be set, as a minimum for the end of the six month “target period” and the end of the six month “monitoring period”.

NOTE, the standards above may be varied in extenuating circumstances (e.g. as a reasonable adjustment for a disability or
domestic violence/abuse), having sought advice from HR as every case will need to be considered on its own specific merits. Detailed notes must be made on the form, which both the manager and employee will sign and keep a copy of. Examples of extenuating circumstances could include:

**Extenuating Circumstances Example Scenario 1**

_Reasonable adjustment for a disability e.g. an employee who has developed epilepsy but where medication levels have not yet been optimised for maximum stability._

It is predicted that it could take a further 6 months to optimise the medication levels for stability. Therefore taking this extenuating circumstance into account the standard for improvement may be relaxed from a target of no more than two episodes of sickness absence totalling no more than four days (or a where there is only single episode of sickness absence that it must not exceed 1 working week in each six-month period) to, say, no more than four episodes of sickness absence totalling no more than four days (or where there is only a single episode of sickness absence it must not exceed 2 working weeks) in each six-month period.

**Extenuating Circumstances Example Scenario 2**

_Where an employee is not disabled but has a time limited curable illness that is predicted to result in additional periods of absence for a definable time period._

The illness is predicted to take 12 months to cure and will likely result in additional periods of absence but on an improving basis over the 12 month period. In this scenario it may be appropriate to set the standard for improvement over a 12 month period as follows: e.g. For the first 6-month period, no more than four episodes of sickness absence totalling no more than up to four days (or where there is only a single episode of sickness absence that it must not exceed 2 working weeks) and for the second 6-month period, no more than three episodes of sickness absence totalling no more than three days or where there is only a single episode of sickness absence it must not exceed 1.5 working weeks.

**Extenuating Circumstances Example Scenario 3**

_Where an employee has elective surgery planned within the review period._
A clear standard for improvement comprising of no more than two episodes of sickness absence totalling no more than 4 days (or where there is only a single episode of sickness absence it must not exceed 1 working week) in each six-month period is set but with agreement that the period of absence linked directly to the elective surgery and post-operative recovery is not included.

This list and the associated scenarios are intended to be illustrative and are not exhaustive. Advice must be sought from HR where there may be extenuating circumstances.

Where the employee does not achieve the attendance targets set by their line manager further discussion must be held with the employee and a decision made whether it is appropriate to make a referral (or re-referral) to Occupational Health. Alternatively the employee may complete the Pre-Referral Question Sheet (see Toolkit) to determine whether a referral is appropriate. Once the Occupational Health report is received (or the pre referral question sheet is completed indicating a referral is not appropriate), the “Health and Attendance” meeting at Step 2 should take place.

If by the review date at the end of the first six months, the “target period”, the employee’s absence record has improved to an acceptable level they should be commended on their improvement. The employee should be reminded that further monitoring will take place (the “monitoring period”) - such that:

- If they have more than two episodes of sickness absence totalling four or more days (or a single episode of sickness absence of 1 working week or more) in the six-month “monitoring period”, the process will recommence at Step 2.

If by the review date at the end of the six months “monitoring period” the employee’s absence record has maintained the improvement to an acceptable level they should be commended on their improvement. The employee should be advised that no further formal action will take place unless they once again breach the Trust’s standard health and wellbeing indicators where upon the process would recommence at Step 1. For this purpose the clock is reset from the date the employee successfully concludes their (second) six month Step 1 monitoring period.
11.1.2 Step 2 – 2nd Health and Attendance meeting

This meeting must be held as soon as possible following the employee’s return to work from the absence which triggered this Step of this Policy. This must be no later than 1 calendar month following this return to work. Where in exceptional circumstances this is not possible advice should be sought from HR.

Employees are encouraged to seek advice and/or support at this stage from a Trade Union Representative or workplace colleague who may accompany them to any meetings.

The manager should contact HR to discuss the case at this stage and HR will provide advice and may attend meetings, if required.

During this discussion the line manager should use the Health & Attendance Meeting Form (Steps 1 and 2), in the Toolkit. The aim is to try and prevent any further absence by identifying and addressing issues and considering support required as part of the return to work interview.

The line manager will set a further standard for improvement and advise the employee that there will be a further fixed 12 month period of monitoring; their sickness absence during this 12 month period (not their sickness over the rolling 12 months) will be counted towards absence targets which will be set as follows:

1. In the first six months “target period”: No more than one episode of sickness absence totalling no more than three working days.

2. In the second six months “monitoring period”: No more than one episode of sickness absence totalling no more than three working days.

However, again, this may be varied in extenuating circumstances (See 11.1.1 for examples) having sought advice from HR.

The twelve-month Step 2 target/monitoring period will commence from the date of the Step 2 Health and Attendance meeting unless specifically agreed otherwise. Appropriate review dates will be set, as a minimum for the end of the six
month “target period” and the end of the six month “monitoring period”.

Detailed notes must be made and confirmed in writing to the employee. The employee will be notified of the implications of not achieving the required standards including the fact that if the matter progresses to Step 3 then at that stage they could be issued with a Final Written Warning and if Step 4 is reached their employment could be terminated.

Where the employee does not achieve the attendance target set by their line manager during Step 2, a Health and Attendance Hearing at Step 3 will take place.

If by the review date at the end of the “target period” the employee’s absence record has improved to an acceptable level they should be commended on their improvement. The opportunity should be taken to reiterate the organisation’s approach to absence management. It should be confirmed that further formal monitoring will take place – the “monitoring period” – such that:

- If they have more than one episode of sickness absence (or a single episode of sickness absence totalling three or more working days) in the six month “monitoring period” the process will recommence at Step 3.

If by the review date at the end of the “monitoring period”, the employee’s absence record has improved to an acceptable level they should be commended on their improvement. The employee should be advised that no further formal action will take place unless they once again breach the Trust’s standard health and wellbeing indicators where upon the process would recommence at Step 1. For this purpose the clock is reset from the date the employee successfully concludes their (second) six month Step 2 monitoring period.

11.1.3 Step 3 – 3rd Health and Attendance Hearing (with senior manager, line manager and HR)

This hearing must be held as soon as possible following the employee’s return to work from the absence which triggered this Step of this Policy. This must be no later than 1 calendar month following this return to work. Where in exceptional circumstances this is not possible advice should be sought from HR.
Employees have the right to be accompanied at this hearing by a workplace colleague or Trade Union Representative.

The manager must contact HR who will be involved at this stage.

The manager’s line manager (or another manager of an equivalent level) will also be present to oversee proceedings, hear the case from both sides and determine whether a Final Written Warning on the grounds of ill health capability should be issued.

In preparation for the Step 3 hearing the Line Manager must, in liaison with HR, collate a management case for the manager overseeing the proceedings and the employee. This will include all relevant paperwork including medical certificates, return to work interview notes, Health and Attendance Meeting notes and Occupational Health or Medical letters/reports. This should be referenced in a report, which outlines the ill health concerns, which have resulted in the continued poor levels of attendance. The report must include the specific dates and monitoring targets that were set and when they were breached and must outline the supportive steps taken by the employee and the line manager/ Trust to seek an improvement. The pack must be distributed to all parties no less than 7 working days in advance of the hearing.

If the employee wishes to submit, prior to the hearing, any written response to the management pack for consideration at the hearing, this must be received at least 2 working days before the hearing. This information will be provided to the senior manager and to the presenting manager. Note, however that is not a requirement that the employee submits a written response.

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague.

Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities

During this hearing the manager should use the form Health and Attendance Hearing, from the Toolkit.
At this hearing the line manager along with HR will present to the senior manager the steps taken to date by the Trust to try and improve the employee’s health and attendance.

The employee will then have an opportunity to state their case.

It may be necessary to take a short adjournment to consider the information provided by both sides. The senior manager may seek advice from an HR representative (not involved in the presentation of the case) if required.

The senior manager will then determine whether a Final Written Warning should be issued and confirm their decision.

If issued with a Final Written Warning on the grounds of ill health capability, this will remain on the employee’s Personal File for 12 months at which point it will be struck through as spent but not removed from the personal file.

The employee has the right to appeal against the outcome of this process. To exercise this right, the employee must write to the Director of Workforce and Organisational Development within 10 working days of the date of the hearing, detailing the grounds of their appeal. The appeal will be held in line with the Trust’s Appeals Process as provided in Appendix 5. Appendix 6 confirms the Level of Authority for managers involved in chairing sickness absence hearings and Appeal Panels.

The line manager will then set a further standard for improvement as follows:

1. In the first six months “target period”: No more than one episode of sickness absence totalling no more than three working days
2. In the second six months “monitoring period”: No more than one episode of sickness absence totalling no more than three working days

The twelve month Step 3 target/monitoring period will commence from the date of the Step 3 Health and Attendance hearing unless specifically agreed otherwise.

In exceptional circumstances there is the facility to issue a Final Written Warning of shorter duration should the senior manager consider it appropriate to do so.

An example of where a Final Written Warning of shorter duration may be agreed is where there has been a delay in convening the hearing through no fault of the employee and no
sickness absence has occurred in the period between the employee returning to work and the hearing date. In these circumstances the senior manager may consider issuing a Final Written Warning of a shorter duration.

Appropriate review dates will be set, as a minimum for the end of the six month “target period” and the end of the six month “monitoring period”.

The employee should be advised that if this target is not met then the matter will proceed to the next step, which will be a Step 4 Hearing which may result in dismissal. Detailed notes must be made on the form. The Final Written Warning, right of appeal and expected standards must be confirmed in writing to the employee by letter normally within 5 working days and no longer than 7 working days from the Step 3 hearing unless an alternative agreed date is provided during the hearing.

If by the review date at the end of the “target period” the employee’s absence record has improved to an acceptable level they should be commended on their improvement. The opportunity should be taken to reiterate the organisation’s approach to absence management. It should be confirmed that further formal monitoring will take place – the “monitoring period” – such that:

- If they have more than one episode of sickness absence (or a single episode of sickness absence totalling three or more working days) in the six month “monitoring period” and/or within the period of the Final Written Warning the process will recommence at Step 4.

If by the review date at the end of the “monitoring period”/end of the Final Written Warning period, the employee’s absence record has improved to an acceptable level they should be commended on their improvement. The employee should be advised that no further formal action will take place unless they once again breach the Trust’s standard health and wellbeing indicators where upon the process would recommence at Step 1. For this purpose the clock is reset from the date the employee successfully concludes their (second) six month Step 3 monitoring period/ end of the Final Written Warning period.
11.1.4 **Step 4 – 4th Health & Attendance Hearing**

In preparation for the Step 4 hearing (at which dismissal may be considered) the line manager must collate a management case for the panel and employee with all relevant paperwork including medical certificates, return to work interview notes, Health and Attendance Meeting notes, Occupational Health or Medical letters/reports and details of any Final Written Warning. This should be referenced in a report, which outlines the ill health concerns, which have resulted in the continued poor levels of attendance. The report must include the specific dates and monitoring targets that were set and when they were breached and must outline the supportive steps taken by the employee and the line manager/Trust to seek an improvement. The pack must be distributed to all parties no less than 7 working days in advance of the hearing.

If the employee wishes to submit, prior to the hearing, any written response to the management pack for consideration at the hearing by the panel, this must be received at least 2 working days before the hearing. This information will be provided to the panel and to the presenting manager. **Note,** however that is not a requirement that the employee submits a written response.

The line manager should ensure that up to date written medical advice is included within the management case. This may require a follow up referral to Occupational Health.

The employee must be informed by the line manager of the Step 4 Hearing in writing and be provided with a copy of the management case relating to their sickness absence.

The Panel for the Hearing will comprise of a Divisional General Manager, or equivalent, another appropriate manager and HR support to the panel (not previously involved in the case). Appendix 6 confirms the Level of Authority for managers involved in chairing Sickness Absence Hearings and Appeal Panels.

The employee must be given the opportunity to be accompanied by a Trade Union Representative or workplace colleague.

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague.
Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities

During the Step 4 Hearing the line manager should:

- present how the employee is failing to meet expectations in relation to their absence from work;
- outline the steps taken to manage the sickness absence of the employee;
- detail what support has been given to the employee to support them to achieve the required standards;
- confirm that the employee was aware of what was expected.

The employee and/or their Representative should:

- present any extenuating circumstances or underlying factors relating to their absence;
- present any information or evidence to suggest their absence has improved, or is going to improve;
- present any suggestions for further action/support that will assist the employee to improve their attendance.

The hearing panel will:

- review the absence record and presentations provided by both the employee and the line manager and make a judgement as to whether there has been a satisfactory improvement. This will be assessed by considering whether the absence level is less than the employee’s previous level of absence and by comparing against the Trust’s sickness target.
- adjourn to make a decision after hearing the case and determine whether:
  - the employee’s contract is terminated with due notice on the grounds of ill health capability, or;
  - the process reverts to an earlier step within the Absence Management Process.
consideration may be given to redeployment if this is likely to improve attendance and where a current vacancy is available.

- ensure that detailed notes are taken and the decision will be confirmed in writing to the employee normally within 5 working days and no longer than 7 working days of the Hearing unless an alternative agreed date is provided during the hearing.

11.1.5 Right of Appeal against Dismissal

The employee has the right to appeal against the dismissal. To exercise this right, the employee must write to the Director of Workforce and Organisational Development within 10 working days of the date of the hearing confirming the termination of employment. The appeal will be held in line with the Trust’s Appeals Process as set out in Appendix 5.

12. Progression within Sickness Absence Process

The process set out in Section 11 of this policy will be followed step by step. It is not possible to progress to a higher step until the previous step has been completed.

13. Managing Long-Term Absence

Long Term absence is defined as a single period of continuing absence of 28 or more calendar days.

Line managers should deal with Long Term sickness absence in a sensitive way. In the majority of cases employees will be able to return to their normal duties following Long Term absence. If at any stage within the Long Term Absence Process the employee returns to work then as their absence will have been over 2 working weeks in total they need to have a Step 1 Health and Attendance Meeting as per Section 11.1.1 (or relevant Step if attendance already being managed through the persistent short-term absence process). This meeting must be held as soon as possible following the employee’s return to work and no later than 1 calendar month following the return to work. Where in exceptional circumstances this is not possible advice should be sought from HR.

There may be occasions when it will not be possible for the employee to return to their normal duties following long term absence and line managers should be aware that they must consider either adjusting the employee’s duties or
offering suitable alternative employment within the Trust. This is of particular importance when the employee has a chronic illness, or a disability as defined within the Equality Act 2010. **Advice must be obtained from the Human Resources department and Occupational Health.**

13.1. **Long Term Absence Process**

The Long Term Sickness Process is outlined in a flow chart in Appendix 2.

**NOTE:** Reference must be made at each stage to other appropriate HR / Trust Policies and Procedures including Managing Stress, Domestic Violence & Abuse, Family Leave, Employing People with a Disability, Special Leave etc. (this list is not exhaustive).

When an employee has been absent over 28 days without a clear date for return, or it is known that they will be absent for over 28 days without a clear date for return, the manager must refer them to Occupational Health and inform the employee of this referral.

It is important that each case of long-term sickness **must** be managed on a case by case basis and with the best interests of both the employee and the service taken into consideration.

**13.1.1 Months 1 to 3**

The manager must maintain regular contact with the employee (at least once a month). If the employee is not able to travel to their place of work for meetings then alternative arrangements such as home visits or telephone discussions can be organised. A record of all contact must be kept. See the Long Term Sickness Meeting Agenda in the Toolkit for points to cover at Long Term Sickness Absence meetings.

The purpose of this contact will be to discuss the individual’s health situation and likely prognosis; to offer support; to ensure the employee is made aware of the Trust's Sickness Absence Policy steps and changes in sick pay as well as keeping the employee up to date with work.

If a return to work is anticipated within this period this can be discussed, agreed and recorded in a letter. See Section 16 for further details on phased return to work arrangements. Occupational Health reports and any relevant medical information should be discussed along with any recommendations or adjustments.
In preparation for the 4 month absence case conference meeting (see below) an up to date Occupational Health report should be sought to identify any changes in the employee’s health, any adjustments that would enable a return to work, the prognosis of their health and the likely return date.

13.1.2 **At 4 months - Absence/Case Conference Meeting**

A Case Conference Meeting should take place for all employees who have either:

- been absent for 4 months consecutively (or 4 months cumulatively, where the period of absence has been broken due to attempted return to work programme) or;
- where it has been identified that they will be unable to return to their contractual post, even though they may not yet have been absent for 4 months

Attendance at the case conference could comprise: the employee (if able), their line manager, their trade union representative or workplace colleague (if requested by the employee) and a representative from HR. Up to date Occupational Health advice must be available and a representative from Occupational Health may be requested to participate in the case conference if considered appropriate. A suggested agenda for the Case Conference Meeting is contained within the Sickness Absence Management Toolkit.

Where the employee is able to attend the case conference they will have the opportunity to be accompanied.

The purpose of the case conference is to discuss the employee’s sickness absence and to consider:

- Return to work within specified period of time based on Occupational Health evidence
- Any additional actions to enable the return to work
- Alternative working patterns, phased duties, hours or other adjustments required under Equality Act 2010
- Changes of any duties, if medical condition prevents continuing in current role
- Application for ill health retirement, if not previously considered
- Any options put forward by the individual
- Should return within 2 months be deemed unlikely, a final review meeting must be arranged unless the employee accepts that immediate termination on ill health is
appropriate (e.g. through an application for ill health retirement).

A plan detailing what actions need to be progressed, by whom and within what timescales should be agreed and a copy given to the individual.

In preparation for the 6 month final review meeting (see below) an up to date Occupational Health report should be sought to identify any changes in the employee’s health, any adjustments that would enable a return to work, the prognosis of their health and the likely return date.

13.1.3 At 6 months - Absence/ Final Review Meeting

If it is identified that the employee will be unable to return to their contracted post, or at the very latest when they have had five months of absence from work without a return date being finalised, the manager will arrange a final review meeting where a decision can be made on the appropriate way forward.

The employee must be informed in advance of the final review meeting date in writing (minimum 7 working days), reminding them of their right to representation and that termination of their contract on the grounds of ill health may occur. In exceptional circumstances, with the prior agreement of all parties, the meeting may proceed without the employee attending. Advice must be sought from HR.

A senior manager with the authority (or delegated authority) to dismiss will chair the meeting supported by an HR representative.

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague.

Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities.

The line manager will be asked to present orally, supported by a written report and documentation, the chronology of the employees absence, the Occupational Health and/or medical reports; the meetings that have taken place along with
information regarding any adjustments or redeployments considered or sought.

The employee or their representative will then be asked to talk through their treatment/recovery and prognosis.

The Chair must then consider:

- What, if any, reasonable adjustments could be implemented to support the employee returning to their contracted post.
- Redeployment – on the advice of Occupational Health, redeployment can be considered (to an existing vacancy) on the grounds of ill health. For more clarity on this process see the redeployment process/policy.
- Whether, based on Occupational Health advice, a postponement of a final decision is appropriate e.g. where between reaching the decision to set up the final review meeting and it being held the employee’s health has improved to the point where it is anticipated the employee will be able to return to work within a period usually no greater than 3 months.
- Termination of employment (as a last resort) - where an employee is not able to return to their substantive post, or be redeployed to another post then their employment will be terminated on the grounds of ill health capability. In order for this decision to be made, a final referral to Occupational Health must have been made following the Case Conference Meeting and prior to the Final Review Meeting to seek advice on up to date medical evidence, the prospect of a likely return to the substantive post, with or without adjustments, a phased return to work with, or without adjustments, redeployment and the possibility of a successful ill health retirement application.

The outcome of the Final Review Meeting and right of appeal must be confirmed in writing to the employee by letter normally within 5 working days and no longer than 7 working days of the Final Review Meeting unless an alternative agreed date is provided during the Meeting.

13.1.4 **Right of Appeal against Dismissal**

An employee may appeal against dismissal. To exercise this right, the employee must write to the Director of Workforce and Organisational Development within 10 working days of the date of the Final Review Meeting confirming the termination of
employment. The appeal will be held in line with the Appeals Process as set out in Appendix 5.

14. **Stress / Mental Wellbeing**

The Trust is committed to supporting employees with their mental wellbeing and has signed a Charter with Mindful Employer. Further guidance and support is available from Workways via www.mindfulemployer.net. Reasons for stress related absence may or may not be work related. However, establishing the causes early will enable appropriate support to be provided. The Trust has a Managing Work Related Stress Policy.

The process for assisting employees absent due to stress or other mental health reason such as anxiety, or depression is included as a flow chart at Appendix 3 and is as follows:

14.1. **Absent for more than 1 week due to stress, anxiety, depression or another psychological reason**

If an employee is signed off for more than 1 week due to stress, anxiety, depression or another psychological reason, in order to support the employee, they should be referred to Occupational Health immediately. The referral must be discussed with the employee before being made so that the employee is aware the referral is being made.

If the reason for absence is cited as “Stress” the manager should also send the employee the Stress Audit (See Sickness Absence Toolkit) and guidance for its completion. The manager should arrange to meet with the employee to discuss their stress audit ideally within 2 weeks of the start of their absence. At the meeting the stress audit should be discussed and any actions agreed and implemented within 1 week of the meeting. If it is not possible to agree an action plan the manager may seek further advice and guidance from HR. If the employee is absent for 28 days or more the long-term sickness process should be followed.

Where it is indicated that the line manager is perceived by the employee as a contributor to the cited “stress”, the line manager will arrange for an alternative manager to meet with the employee to discuss the stress audit (see the template letter in the Sickness Absence Toolkit).

If the employee’s absence triggers a Health and Attendance indicator then the Manager will need to hold a Health and Attendance meeting (at the applicable step) as per Section 11.1 as part of their return to work process.
15. **Referral to Occupational Health / Staff Physiotherapy Service**

Contact details for Occupational Health are available under the [Occupational Health pages](#) on Bob.

### 15.1. Management Referral to Occupational Health

- It is a condition of employment that the Trust has the right to refer staff, as required, for medical examination during the course of their employment;

- Referral to the Occupational Health Service must be discussed with the employee, either in person or by telephone, prior to the referral being completed and sent to the Occupational Health Service. A copy of the referral form will be provided to the employee by the manager;

- When considering the referral of an employee to the Occupational Health Service, the line manager may initially request the employee to complete the Pre Referral to Occupational Health Questions Sheet (see the Toolkit) to determine if a referral is appropriate and if it is, then complete the Occupational Health Management Referral Form in full (available within the Sickness Absence Toolkit and/or from Occupational Health pages on Bob).

- The Occupational Health Service may examine the employee and will normally investigate all possible reasons for the absence, taking into account psychological and personal factors;

- Medical information relating to employees may be obtained with the employee’s consent.

- Where alternative work is being sought for an employee due to medical fitness issues, the line manager of the post being considered as a potential redeployment option may be required to complete a “Redeployment Checklist” (see Sickness Absence Management Toolkit). The purpose of this form is to provide Occupational Health with essential information about the nature of the post to assist their assessment of its suitability.

- Where a manager makes the referral to Occupational Health for an employee the time to attend the appointment(s) will be classed as working time and the employee will not be expected to make up the time.
15.2. **Employee Self-Referral to the Counselling Service**

Employees may contact the Occupational Health Counselling Service directly for counselling support. This contact and any subsequent appointment(s) is/are confidential and there is no requirement for the line manager to receive a written report unless the employee wishes for that to happen. If the employee requires time off work to attend the staff counselling service they should follow the process for requesting time off for a medical appointment (see Section 19). They are not obliged to specify to their manager that they are attending the staff counselling service.

15.3. **Management Referral to the Counselling Service**

A manager may make a referral for an employee to the Counselling Service. In this situation as with a referral to the wider Occupational Health Service, the referral must be discussed with the employee, either in person or by telephone, prior to the referral being completed and sent to the Counselling Service.

Where a manager makes the referral to the Counselling Service for an employee the time to attend the initial (assessment) appointment will be classed as working time and the employee will not be expected to make up the time. **However**, if the employee requires time off work to attend the staff counselling service for follow up appointments, they should follow the process for requesting time off for a medical appointment (see Section 19).

15.4. **Management Referral to the Staff Physiotherapy Service**

Contact details for the Staff Physiotherapy Service are available on the Trust intranet. There are two separate Staff Physiotherapy Services for the North and East which are both currently managed through the North Devon Occupational Health Service.

A manager may make a referral for an employee to the Staff Physiotherapy Service. In this situation, as with a referral to the Occupational Health Service, the referral must be discussed with the employee, either in person or by telephone, prior to the referral form being completed and sent to North Devon’s Occupational Health Service office.

Where a manager makes the referral to the Staff Physiotherapy Service for an employee the time to attend the initial (assessment) appointment will be classed as working time and the employee will not be expected to make up the time. **However**, if the employee requires time off work to attend the Staff Physiotherapy Service for follow up
appointments, they should follow the process for requesting time off for a medical appointment (see Section 19).

16. **Planning the Return to Work including “Phased Return to Work”**

Line Managers should consider a range of options when planning a return to work including the possibility for the employee to:

- Return to their role on normal substantive hours (the need for any reasonable adjustments should be considered as necessary);
- Return to their role on a phased return to work (see below);
- Return to their role with either a substantive or temporary reduction in working hours (with pay adjustment);
- Application for retirement on the grounds of ill health (if applicable), ensuring that the Employee is directed to the Pensions Manager for advice;
- Whether, after Occupational Health advice, redeployment options need to be considered in line with the Trust’s policy/process relating to redeployment

Occupational Health may advise that an employee returns from Long Term sickness on a rehabilitation programme (phased return) that may involve reduced hours.

Normally the phased return to work period will be a maximum of 4 weeks. The Trust will contribute up to the equivalent of 2 weeks of the employee’s paid contract hours (in a rolling 12 month period) to support the shortfall in actual hours worked during the phased return to work period. **Please see the examples below which illustrate how this works in practice.**

**Example 1:** - A part time employee whose contract hours are 30 hours per week with a 4 week phased return to work programme as follows:-

- Week 1 – 10 hours worked
- Week 2 – 15 hours worked
- Week 3 – 20 hours worked
- Week 4 – 25 hours worked
- Week 5 – Normal contract hours worked

The total contract hours for this period = 120 hours. The actual hours worked = 70 hours. The deficit = 50 hours. The maximum contribution from the Trust would be 60 hours (i.e. 2 x 30 hours). As the deficit is within this the employee
will be paid their full contract hours and will not need to contribute any annual leave.

Example 2: - A full time employee (37.5 hours per week) with a 4 week phased return to work programme as follows:-

Week1 – 10 hours worked  
Week 2 – 10 hours worked  
Week 3 – 20 hours worked  
Week 4 – 25 hours worked  
Week 5 – Normal contract hours worked

The total contract hours for this period = 150 hours. The actual hours worked = 65 hours. The deficit = 85 hours. The maximum contribution from the Trust would be 75 hours (i.e. 2 x 37.5 hours). As the deficit exceeds this the employee would have to contribute 10 hours of annual leave to receive full pay or would have to take 10 hours unpaid leave over this period.

In some exceptional cases a phased return to work period exceeding 4 weeks may be appropriate. The maximum contribution from the Trust would still be the equivalent of 2 x the weekly contract hours increasing the likelihood of the employee having to contribute annual leave to maintain full contractual pay.

Where annual leave has been exhausted an employee may need to take unpaid leave or temporarily reduce their contract hours to support an extended phased return to work programme. A Change of Circumstances form will need to be submitted to payroll if unpaid leave is to be used or if there is to be a temporary reduction in contract hours.

In cases where the employee is in receipt of Injury Allowance (see Sections 9, 25.2 and 27) they will continue to receive this benefit if otherwise during the phased return to work period they would receive less than the injury allowance level of benefit.

17. Redeployment due to Ill Health

Where Occupational Health have advised that the employee will recover sufficiently to return to work but not to their substantive post then further information should be obtained, to ascertain what type of work the employee could undertake.

The line manager and a representative from the Human Resources Department should then arrange to meet with the employee and their workplace colleague or Trade Union representative (if required by the employee) to discuss the Occupational Health advice and possible alternative opportunities.
The Redeployment Policy/Process will be applied and the employee will be placed on the redeployment register to ensure that they receive priority consideration for suitable alternative employment.

18. **Termination of employment due to Ill Health**

Where Occupational Health have advised that the employee will be unable to return to work in any capacity in the reasonable near future, or when all other available options for redeployment have been exhausted, the issue of terminating employment must be considered. For further information please refer to Section 13.1.3.

19. **Attendance at General Practitioner (G.P) / Dentist / Hospital Appointments and follow-up Appointments booked through Occupational health**

**Routine Appointments**

Wherever possible General Practitioner (G.P.), Dentist, Hospital appointments, or any follow-up appointments booked through Occupational Health, including for the Staff Physiotherapy Service should be arranged outside of duty hours. However it is acknowledged that staff may need to attend such appointments during working hours, and are therefore encouraged to make such appointments at the start or end of their working day, or during their lunch break, to minimise disruption to service delivery.

Where appointments are arranged during working time, the employee must inform their line manager in advance and obtain approval to attend the appointment in work time.

Where appointments are attended during work time managers should apply flexibility in determining how the lost working time is managed. For example staff that accrue formal TOIL it can be deducted from that. Where staff don’t accrue formal TOIL but often work over their contract hours it can be recognised against this. Where staff don’t usually accrue TOIL or work over their contract hours arrangements can be made for the time to be worked back within an agreed period of time.

**Emergency Appointments**

The Trust appreciates that staff may have urgent medical or dental problems on occasion, which may require time off during working hours to attend an emergency appointment. Paid time off will be granted in these circumstances, on the understanding that permission must be obtained from the immediate line manager before the employee leaves the workplace to attend the medical or dental appointment for urgent treatment.
Minor Medical Procedures

In instances where a minor medical procedure may be involved and the employee is unable to resume work immediately following the medical appointment it may be necessary for the employee to self-certify or obtain a medical certificate for the whole episode as a period of sickness absence due to the length of time away from work.

Repeat Treatment

Where repeat treatment is required for an on-going condition covered by the Equality Act 2010 then further guidance should be sought by the employee from their line manager or HR.

For information regarding antenatal appointments and parental leave of all types, please refer to the Trust’s Family Leave & Pay Policy.

20. Overtime, Bank or NHSP work when under Sickness Absence Process (as described in Section 11.1)

Any employee who is being monitored under Step Two or higher of this policy (see 11.1.2) will not usually be permitted to work additional shifts/hours, including on the Trust’s bank or NHSP. In addition, a review of any secondary employment arrangements should be undertaken and a decision made as to whether those arrangements can continue under the circumstances.

21. Patterns of absence preceding or following additional work (overtime, Bank or NHSP) or annual leave

Where line managers identify a pattern of sickness absence prior to or following overtime/Bank or NHSP shifts or periods of planned leave, this should be raised with the employee to identify the concern and agree standards and improvement expected. Should the required improvement not occur then the line manager should consider whether this would be more appropriately dealt with as a conduct issue under the Trust’s Disciplinary Policy.

22. Working and other activities whilst off sick

Whilst on sick leave employees will generally be regarded as unfit to undertake any work and the employee must not undertake (in any capacity) paid or unpaid/voluntary work, unless the Occupational Health Service have advised that to do so would be therapeutically beneficial to recovery and this has been agreed as acceptable by the line manager. As detailed below, if approval is not obtained it will be deemed to amount to fraud.
Where an employee is considering undertaking any paid or unpaid/voluntary work, whilst off sick, they must put this request in writing to their line manager for approval, prior to commencing the activity. Express permission must be granted by the manager in advance of undertaking any such activities. The line manager will take the necessary advice from Human Resources and Occupational Health prior to confirming whether this activity is acceptable. The line manager will then confirm this in writing to the employee, keeping a copy of the letter on the employee’s personal file.

It is recognised that there will be some situations where an individual is employed by both the Trust and another employer and that, particularly where the nature of the two employments is very different, the individual could be medically unfit for one role but fit to undertake the other. In this situation where an employee intends to take sick leave from the Trust but continue working for another employer, they must make their line manager aware of this so that there can be no misunderstanding. In turn the manager should refer the employee to Occupational Health for the situation to be assessed and to ensure that the individual continuing with their other employment whilst off sick from the Trust is not going to be prejudicial to their recovery and return to work for the Trust. Under no circumstances should the employee extend his/her working for the other employer in to hours they are contracted for the Trust. This will amount to fraud and will be referred to the NHS Counter Fraud Service and may ultimately lead to dismissal.

Similarly if an employee holds two or more different positions with the Trust, the Trust reserves the right if the individual is absent from one, and not the other(s) to obtain an Occupational Health assessment regarding the employee’s fitness to work in the various positions. Subject to medical advice, if fit for one role but not the other(s) the employee may be required to work additional hours (up to their total contract hours) in the post(s) they are medically fit to undertake.

Whilst on sick leave employees should not engage in any other activities such as sports and leisure activities that could suggest that the reason given for their absence is no longer incapacitating them from returning to work or could be interpreted as being prejudicial to their recovery. If there is any potential for confusion advice should be sought from Occupational Health as to whether the activities could be deemed to be therapeutically beneficial to recovery.

If employees are considered to be potentially fraudulently claiming sickness benefits from the Trust, the matter will be referred to the NHS Counter Fraud Service for investigation and action that can range from internal disciplinary action through to criminal prosecution.

23. **Medical Certificates and Documentation**

23.1. **Self-Certification**
- Employees who are absent through sickness for more than four consecutive calendar days and up to seven consecutive calendar days must complete a Trust Self Certification Form (see Toolkit), on the first day they return to work;

- Self-certificates will be retained on the employee’s personal file, but the self-certified absence must be recorded on time sheets and monthly returns.

23.2. Medical Certificates (MED3)/Fit Notes

- Employees who are absent through sickness for eight or more consecutive calendar days must be certified by a registered medical practitioner and submit the certificate to their line manager at the earliest opportunity. The medical certificate must be retained on the employee’s personal file;

- the medical certificate/Fit note aims to focus on what an employee may be able to do at work rather than what they cannot do. The certificate offers a new option - 'may be fit for work taking account of the following advice'. A General Practitioner may be able to suggest ways of helping an employee get back to work. This might mean discussing: a phased return to work, flexible working, amended duties and/or workplace adaptations. The General Practitioner will also provide general details of the functional effect of the employee's condition;

- if it is not practical to accommodate the adjustments detailed on the MED 3 (if for example the suggestions cannot be accommodated due to service needs), the employee will continue to be considered unfit until such time as the medical certificate expires and the employee is fit to resume their normal duties;

- if it is possible to temporarily accommodate adjustments on the MED 3 that involve only a limited amount of working, advice should be sought from HR as to how this should be managed in terms of pay;

- if the restrictions detailed on a Fit Note are likely to be permanent or long term it may be necessary to consider substantive reasonable adjustments including permanent reduction of contract hours, modifications to duties and/or redeployment;
employees must ensure that successive certificates are provided to ensure continuous cover. Line managers must monitor each case;

if upon returning to work, there is any concern regarding fitness for work the line manager may request an employee to attend Occupational Health. In the event that an employee wishes to return to work, but the organisation does not consider it appropriate for them to return at this time and prevents them from doing so, medical suspension may be initiated (See Section 26), or the employee may be moved to a temporary alternative role.

24. Sickness and Annual Leave

Where, due to “Long Term” sickness absence, staff have been unable to use their annual leave entitlement within a financial year advice should be sought from HR to ensure they receive their statutory annual leave entitlement which, at the time of publication, is 5.6 weeks (of contract hours).

24.1. Sickness Whilst on Annual Leave

Where an employee falls sick whilst on annual leave, the employee must report that sickness to their line manager in line with Section 5 – Reporting Sickness Absence. The annual leave days lost to sickness can only be reclaimed if the absence is covered by a medical certificate (not self-certification) and this is submitted as soon as the employee returns to work. Employees will not be entitled to an additional day off if they are sick on a Bank/Public holiday.

24.2. Annual Leave Whilst on Sickness Leave

annual leave will accrue for the duration of all paid sick leave

Employees on Long Term sick leave may go on holiday, including overseas holidays, during the period of sick leave if they have notified their line manager of this intention. Failure to do so may lead to disciplinary action. Advice should be sought from HR regarding how annual leave during a period of “Long Term” sick leave is managed and recorded;

there may be occasions where an employee on sickness absence takes a period of annual leave e.g. to assist with recovery. They should request annual leave following the normal process. For recording purposes, line managers should ensure that the employee’s record reflects that they have returned from sick leave, moved to annual leave for the approved period, and then back on to sick leave at the end of the annual leave period, if still appropriate;
• where, due to “Long Term” sickness absence, there is a risk that staff will not be able to use their accrued statutory (Working Time Regulations) annual leave entitlement within a financial year line managers should consider this risk and seek advice from HR to ensure the employee receives their statutory entitlement, as detailed within the Trust’s Annual Leave Policy;
• on returning to work, the employee will be required to take their annual leave in accordance with the Trust’s Policy relating to Annual Leave

24.3. **Sickness prior to childbirth and following the end of Maternity Leave**

Absence prior to the last four weeks before the expected week of childbirth, supported by a medical certificate of incapacity for work, or a self-certificate, shall be treated as sick leave in accordance with normal leave provisions.

For further details please refer to the Trust’s Family Leave & Pay Policy relating to Maternity Pay and Leave.

25. **Sick Pay**

25.1. **Occupational Sick Pay entitlements and exclusions**

Entitlements to Occupational Sick Pay are as detailed in contracts of employment and the Agenda for Change: NHS Terms and Conditions of Employment Handbook available on NHS Employers website.

Northern Devon Healthcare NHS Trust reserves the right to withhold the payment of sick pay, except for any statutory sick pay entitlement, where it is considered that the Employee has:

• undertaken actions which are considered to be prejudicial to their recovery;
• failed to co-operate with the organisation’s attempts to facilitate an early return to work;
• unreasonably refused to attend an appointment with the Occupational Health Service or has failed to attend an appointment made without just cause;
• unreasonably refused to undertake reasonable alternative duties identified to facilitate an early return to work

25.2. **Work related injury, disease or other health condition Injury Benefit Arrangements**

Where eligible employees are on authorised sickness absence or a phased return to work, with reduced pay or no pay, due to an injury, disease or other health condition sustained in the discharge of their
work duties they will be entitled to receive an Injury Allowance. The injury allowance will “top up” an employee’s income to 85% of normal pay, restricted to a period of up to 12 months per episode, subject to local absence management, return to work and rehabilitation arrangements. The allowance is limited to the period of the employment contract only.

25.3. Agenda for Change - Pay allowances during sickness:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Full pay</th>
<th>Half pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>During 1st year</td>
<td>1 month</td>
<td>2 months</td>
</tr>
<tr>
<td>During 2nd year</td>
<td>2 months</td>
<td>2 months</td>
</tr>
<tr>
<td>During 3rd year</td>
<td>4 months</td>
<td>4 months</td>
</tr>
<tr>
<td>During 4th &amp; 5th years</td>
<td>5 months</td>
<td>5 months</td>
</tr>
<tr>
<td>Over 5 years</td>
<td>6 months</td>
<td>6 months</td>
</tr>
</tbody>
</table>

Full pay is inclusive of any statutory benefits so as not to make sick pay greater than normal working pay. The combined addition of statutory sick pay to half pay must not exceed full pay.

Pay during sickness absence will be paid at basic salary level (not including any allowance or payments linked to working patterns or additional commitments). This provision will not apply to staff paid on spine points 1-8 of AfC (who will receive sick pay based on their average earnings), or to those whose absence is due to a work related injury (see Injury Allowance, Section 25.2).

Late submission of medical certificates or claim forms may result in an employee losing some or all of their payments, as retrospective payments will not be made by the Department of Work and Pensions.

Where there is evidence to suggest that an employee has been fraudulently claiming sick pay, this will be considered sufficient grounds for disciplinary action up to and including summary dismissal. Where cases are proven it is the Trust’s policy to prosecute.

Any suspicions of fraud should be initially referred to the Trust’s officer responsible for Counter Fraud who will determine if the matter needs to be escalated to any related agencies such as the NHS Counter Fraud Service or the Department of Work and Pensions Counter Fraud Team. The employee should not be approached until this has been done.

For further information please contact the Human Resources Operations Team.

26. Medical Suspension

It may be necessary to consider suspending an employee on medical grounds.
When line managers have a concern that an employee is not fit for duty due to ill health they may wish to send them home whilst they arrange for an Occupational Health review.

It is not appropriate for line managers to medically assess staff themselves. Occupational Health will be responsible for deciding whether the employee is fit to return to work following medical suspension.

Medical suspension will be on full basic pay.

The purpose of considering suspension of an employee on medical grounds is to ensure that the Trust exercises its duty of care to the employee under the Health & Safety at Work Act 1974 and its Regulations and Approved Codes of Practice.

Instances when suspension of an employee on medical grounds might be appropriate would include:

- when the job could be prejudicial to the health of the employee
- when the job could have some other adverse effect upon the employee;
- when the health of others could have an adverse effect upon the employee
- when the employee is a new or expectant mother and the continuation in their role could cause harm to themselves or to their baby
- when the mental health condition of the employee is an impairment to undertaking their duties
- when a line manager considers that an employee may not be fully recovered from a previous medical condition
- when an employee’s health could have an adverse effect upon other employees, patients and/or members of the public
- when an employee, although not ill themselves, has been in contact with another person who has a contagious disease
- during the 48-hour exclusion period after an employee has been absent as a result of a contagious disease as referenced in the Trust’s Infection Control Policy & Procedures

27. Injuries, Infections and Diseases at Work

If absence is suspected to have been caused by an injury sustained at work and results in absence of seven days, the line manager must notify the Trust’s Risk Department in order that the Health and Safety Executive can be informed.
Where an employee has been requested to stay away from the workplace following a period of diarrhoea and vomiting or another infection for which advice has been sought from the infection control department, the employee should be recorded as being sick for the period of sickness absence and then on paid medical suspension for the 48 hour exclusion period afterwards where they were requested to stay away from the workplace.

All incident and accident forms must be completed as near to the incident/accident date as possible, and the employee should be referred to the Occupational Health Service for their injury to be confirmed as work related.

Injuries, infections or disease or other health conditions sustained in the discharge of an employee's duties must be recorded as sickness but line managers should ensure it is indicated on the Electronic Staff Record (ESR) and/or the relevant Payroll Department documentation, as being work related.

In aggregating periods of absence due to illness when monitoring sickness absence consideration will be given to injuries, infections or diseases sustained at work.

28. **Planned Sickness Absence**

For planned sickness absence, such as surgery, chemotherapy or convalescence, a discussion can be held with the employee, prior to commencing their period of sickness absence. This will allow the employee to be fully involved in the planned Return to Work Programme.

29. **Road Traffic Accidents and sickness as a result of a Third Party**

Road traffic accidents (RTA) and sickness as a result of a Third Party are covered within the Agenda for Change: NHS Terms and Conditions of Employment Handbook and the Medical and Dental Handbook. RTA’s must be recorded as sickness but line managers should ensure it is indicated on the Electronic Staff Record (ESR) and/or the relevant Payroll Department documentation, to show Third Party involvement. The employee is required to ensure that any sickness benefits/payments paid by the Trust is recovered from the Third Party and repaid to the Trust.
30. **Treatment for Non-Medical Reasons**

Staff planning to be absent from work to undertake any treatment for non-medical reasons (e.g. cosmetic surgery) will be referred to Occupational Health for advice. Unless it is confirmed that such treatment will be beneficial to the employee’s health and wellbeing by their General Practitioner and this is confirmed by Occupational Health, the absence (for the treatment and post-operative recovery period) will be unpaid and therefore the line manager should discuss with the employee whether they wish to take the time as Annual Leave.

31. **Surgery and Treatment for Gender Reassignment**

Staff undergoing gender reassignment will be referred to Occupational Health. Absence ‘because of gender reassignment’ will not be treated less favourably than if it was sickness related absence, or some other cause, with which reasonable comparison could be made. For further information please refer to the Special Leave Policy.

32. **Reasonable adjustments**

Employers have a responsibility to ensure that they make reasonable adjustments in the workplace or to the duties of a post to ensure that an individual with a disability is not at a disadvantage in comparison with employees who are not disabled. The Trust is developing a Managing People with Disabilities Policy which provides further guidance.

Where the employee may be eligible to access support from the Government “Access to Work Scheme”, it is the responsibility of the employee to make the application as this needs to be made by the individual rather than the employer. However support and assistance in doing this can be gained from the line manager or HR.

Whilst it is always the hope that the individual will be able to resume their normal duties with or without such adjustments, if this is not the case, following advice from occupational health and HR, termination of employment on the grounds of ill health may need to be considered.

33. **Ill Health Retirement**

If an employee makes an application for ill health retirement (whether successful or not) this will be deemed to be a ‘mutual resignation’ as the employee is effectively stating that they are unfit to perform their job, as per their contract of employment.
In the event this occurs the employee will be deemed as having mutually resigned with notice from the date of the ill health retirement application being submitted to the NHS Pensions Agency and they will no longer be employed by the Trust at the end of the notice period regardless of whether their ill-health retirement application is approved.

34. Training Requirements

All managers will undertake sickness absence management training provided through the HR Department.

35. Monitoring Compliance with and the Effectiveness of the Policy

35.1. Process for Monitoring Compliance and Effectiveness

Monitoring compliance with this policy will be the responsibility of Managers and Directors, in relation to the staff they line manage.

It is also their responsibility to ensure absence of their staff is monitored using the monthly Electronic Staff Record (ESR) Reports and that any shortfalls are addressed with the Employees on a one to one basis. The Human Resources Department will provide advice and support for ongoing issues and any difficulties experienced by the Line Managers of the employees.

The organisational overview of Sickness Absence is managed by the Human Resources Director reporting to the Executive Directors Group on an annual basis or in any exceptional circumstances. Exception reports are taken the Trust Board.

The Human Resources Department will monitor the overall compliance with the policy by undertaking an audit every 3 years to ensure the procedures laid down in the policy have been followed. Any incidents of non-compliance will be fed back to the individual Line Managers to ensure the correct procedures are used in all cases.

Where non-compliance is identified, support and advice will be provided by the Human Resources Team to improve practice.

35.2. Standards/Key Performance Indicators

Key performance indicators comprise:

The Trust will set target levels for sickness absence. At the date of publication the target is a sickness absence level no higher than 3% (calculated over a rolling 12 month period).
Where non-compliance is identified, support and advice will be provided to improve practice.

36. **Equality Impact Assessment**

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<td>Inclusion of specific guidance in Section 31 on Surgery and Treatment for Gender reassignment</td>
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<td>Human Rights (rights to privacy, dignity, liberty and non-degrading treatment)</td>
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<td>Marriage and civil partnership</td>
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37. **References**

*Agenda for Change: NHS Terms and Conditions of Employment Handbook*
38. Associated Documentation

- Annual Leave Policy
- Capability Policy
- Employing People with a Disability
- Domestic Violence & Abuse Policy for Staff
- Drug & Alcohol Use & Misuse Policy
- Equal Opportunities Policy
- Flexible Working Policy
- Special Leave Policy
- Family Leave & Pay Policy (replaces Maternity Leave & Pay Policy and incorporates Paternity, Adoption, Parental Leave etc)
- Redeployment of staff Procedure
- Management of Work Related Stress Policy
- Disciplinary Policy
Appendix 1 – Absence Management Process Flowchart

**Step 1**
Health & Attendance Meeting 1 with Line Manager
Seek to understand health issues & concerns
Discuss what actions by employee or manager would help improve attendance
Inform employee of the Short Term Absence Management process
*Set 1st 6-month monitoring target of no more than 2 episodes of sickness absence totalling no more than 4 working days or where there is only a single episode this must not exceed 1 working week in 6 months

**Step 2**
Health & Attendance Meeting 2 with Line Manager
- Discuss Occupational Health report & any adjustments required
- *Set Step 2 target of no more than 1 episode of no more than 3 working days in 6 months
- Inform employee of implications of exceeding the monitoring

Exceeds Step 2 Target - +
- Manager refers to Occ. Health (inform employee of this)

Meets requirements of target= No escalation to Step 2 at this stage but formal monitoring will continue for a 2nd 6 month period. If absence exceeds 2 episodes of up to 4 working days in total or a single episode of 1 week or more in this period, the absence management process will escalate to Step 2.

**Step 3**
Step 3 Hearing with Senior Manager, Line Manager & HR Representative & TU Representative or workplace colleague
- Discuss Occupational Health report & adjustments
- Inform of implications of further poor attendance
- Issue Final Written Warning for 12 months with right of appeal
- Inform if further poor attendance = Step 4 possible dismissal hearing*
- *Set 3rd monitoring target of no more than 1 episode no more than 3 working days in 6 months

Exceeds 3rd Final Written Warning monitoring period –
- Refer again to Occ. Health for up to date advice
- Meet employee to inform next stage and check dates
- Prepare documents & write management report for Step 4 Hearing

Meets requirements of Step 3 Target = No escalation to Step 4 at this stage but formal monitoring will continue for a 2nd 6 month period/duration of Final Written Warning. If absence exceeds 1 episode (or 1 episode exceeds 3 working days) in this period, absence management will escalate to Step 3.

Meets requirements of Step 3 Target = No escalation to Step 4 at this stage but formal monitoring will continue for a 2nd 6 month period/duration of Final Written Warning. If absence exceeds 1 episode (or 1 episode exceeds 3 working days) in this period, absence management will escalate to Step 4.

**Step 4**
Step 4 Hearing at which employee may be dismissed on grounds of ill health capability:
- Formal Capability Hearing with authorised Manager (equivalent to DGM & above), another manager and another HR Rep
- Hearing: Presentation of case by line manager; Presentation of case by individual; Panel make a decision
- Employee has the right to be accompanied by a TU Representative or Workplace Colleague
- If the decision is to dismiss the employee has the right of appeal

* - Monitoring periods/ targets can be varied dependant on conditions and Occupational Health advice + - An employee can opt out of an Occupational health referral at Step 1 however if they exceed their target and escalate to Step 2 a referral to OH must be actioned by the manager. - Managers to check on pay situation
Appendix 2 - Long Term Sickness Absence Flow Chart

Long Term Sickness of 28 calendar days

Between 1 and 3 month’s absence
- Line manager to maintain regular contact the employee
- Refer to Occupational Health (OH); manager to agree/inform employee of this referral
- Where possible meet with employee on at least a monthly basis

Return to work
- A phased programme may be recommended by OH for up to 4 weeks (or longer in exceptional circumstances)
- Confirm any phased return in writing
- Move to Step 1 (or applicable level) of the Sickness Absence Management Process to set target

Redeployment on the grounds of ill health
- Refer to the Redeployment Policy/Process
- A vacancy will need to exist for redeployment
- Redeployment options may be sought for up to a maximum 3 months (in line with employees contractual notice period)
- A 4 week trial to determine if post is suitable

Prior to Case Conference Meeting at 4 months:
- Ensure up to date report available from Occupational Health
- Check the position with occupational sick pay

At 4 months absence - Hold Case Conference Meeting
- Inform employee in advance of meeting in writing and their right to be accompanied
- Line Manager, Employee and TU Rep/ work colleague (if required by the employee) and an HR Representative to be present together with up to date advice from Occupational Health
- Consider any reasonable adjustments that could be implemented to support the employee to return to work
- Discuss whether redeployment is an option and the type of role required
- If Occupational Health state a return is possible within 2 months, confirm any phased return arrangements
- If return to work is not likely within 2 months discuss other possible actions such as: ill health retirement and giving notice on grounds of ill health capability

At 5/6 months – Hold Final Review Meeting:
- Inform employee in advance of meeting in writing:
  - the purpose of the meeting and their right to be accompanied by a TU Representative or Workplace Colleague.
  - that their employment may be terminated on the basis of ill health (if appropriate) ie that they may be given notice on the grounds of ill health capability
  - that if they apply for ill health retirement the appropriate notice period will be applied and will normally be paid in lieu
- Authorised Manager (equivalent to DGM/Cluster Manager & above or manager with delegated authority) and another HR Representative to be present
- If employment is terminated the employee has right of Appeal

* - Monitoring periods/ targets can be varied dependant on conditions and Occupational Health advice+ Redeployment Policy/Process – Seek work for 3 months. If no suitable work and not able to return to contracted post progress to Final Review Meeting.
Appendix 3 - Stress Related Absence Flowchart

Employee certified absent for more than one week due to Stress, Psychological, Anxiety, Depression or other related Mental Illnesses

**IF reason for absence is “Stress”** the manager should also immediately send the employee the Stress Audit* document & organise a meeting to discuss it, ideally within 2 weeks

Hold meeting with employee within 2 weeks; to understand reasons for stress*, reasons for absence and to discuss appropriate support plan to enable a timely return to work

Support plan implemented (by week 3 of absence) and circulated to Employee, Occupational Health, HR and Manager. The aim will be a timely return to work

Continued absence beyond 28 days

**Return to work (set applicable target as per policy)**

**Treatment/ Support/ Enablers**
- GP Referral to specialist
- Occupational Health Counselling
- Depression/ anxiety group
- Stress Management Policy
- Recommended adjustments to work/ workplace modifications, etc...
- Redeployment
- Mediation
- Phased return to work program
- Resilience/ Self-care course

Formal Occupational Health referral to Occupational Health Doctor

Follow Long Term Sickness Policy (Months 1-3)

Follow Long Term Sickness Policy with 4 month Case Management Conference to consider options

If health allows a return

Follow Long Term Sickness Policy with 5/6 month Final Review Meeting

Ill health retirement/ Giving Notice of termination on grounds of ill health

Manager immediately refers employee to Occupational Health counsellor.

Occupational Health Counsellor triages referrals and where necessary meets with employee, ideally within 2 weeks of start of absence, to understand reasons for absence and to discuss appropriate support plan to enable a timely return to work

1. The presence and severity of psychological symptoms, e.g. depression, anxiety, insomnia,
2. The employee’s experience of work/working relationships and whether work is a contributing factor to sickness absence.
3. The employee’s non-work circumstances and the extent to which such circumstances contribute to sickness absence.
4. The employee’s physical health and whether such issues are related to psychological symptoms and contribute to sickness absence.

* Reasons may be due to Personal circumstances, Work related i.e. Relationship Issues; Workload, Communication etc.
Appendix 4 – Unauthorised Absence Flowchart

Applies where an employee either fails to inform their manager of their absence OR ceases to maintain contact having initially reported their absence.

Manager attempts to contact the employee by telephone, ideally leaving a voice mail message for them to return the call.

If no contact received within 24 hours manager to repeat attempt to contact by phone, inform their HR Representative and then follow-up with a letter to the employee’s home address (see Managers Toolkit for sample letter). Letter to express concern for employee’s welfare and requirement for them to make contact with their line manager/HR by a specified date. A copy of this flowchart should be enclosed. A copy of this letter should also be emailed to the employee’s nhs.net account and if known their personal email account.

If no response received by the specified date, manager to discuss approach with their HR Representative. Consideration should be given to previous absence history, reason (if known) for absence (e.g. mental health issues); and whether Occupational Health input should be sought. If there are significant concerns regarding the employee’s wellbeing then consideration should be given regarding attempting to contact them via next of kin or work colleagues. In exceptional circumstances a home visit or involvement of the police may be deemed appropriate.

If after 48 hours of the specified date no contact has been made a further letter should be sent to the employee (by post and email) advising them of the attempts the Trust has made to contact them and that their absence is now being classed as unauthorised absence and therefore will be unpaid. As the absence is unauthorised this matter is now considered a misconduct issue which could result in disciplinary action being taken if/when they return to work. The request for contact by a specified date should be repeated and employee informed that if no contact is made the Trust will be left with no option but to commence proceedings to terminate the individual’s employment contract. A copy of this flowchart should be enclosed. (See Managers Toolkit for sample letter)

If no contact is made by the specified date a further letter will be sent to the employee (by post and email) confirming the process the Trust will follow regarding the termination of their contract of employment and the timescales that will apply.

A dismissal level hearing to be convened and decision taken regarding termination of employment. Letter to be issued to employee confirming decision, right of appeal and if applicable confirmation of last day of employment and any annual leave entitlement to be paid. Termination form submitted to Payroll.

Appeal Hearing (if appeal lodged)
Appendix 5 – Appeal Procedure

1 Lodging an Appeal

1.1 All appeals must be lodged in writing to the Director of Workforce and Organisational Development and be received within 10 working days of the date of the meeting/hearing where the decision under appeal was notified unless a longer timeframe is agreed at the original meeting/hearing.

All appeals must also be copied to the manager who made the initial decision.

In the exceptional circumstances where the outcome of a sickness absence management process is not given at the meeting/hearing and is only notified in writing then the deadline shall be 10 working days from the date of the letter/communication containing the outcome of the sickness absence management meeting/hearing.

The date by which the written notice of appeal must be lodged with the Director of Workforce and Organisational Development should be stated in the letter confirming the outcome of the disciplinary process.

1.2 The written appeal must include a clear and detailed statement of the issues such as:-

- Whether the procedure was followed correctly
- Whether the action taken or outcome reached was fair and reasonable, e.g. in the case of sickness absence, the level of sanction being applied against an individual
- Whether the action taken or outcome reached was within the band of reasonable responses

The written appeal should include the employee’s desired outcome.

1.3 Any evidence from the employee in support of their appeal must be provided at least 7 working days before the appeal hearing. If the management side wish to make a written response to the information provided by the employee this must be submitted no later than 2 working days prior to the hearing.

2 Responding to an Appeal

2.1 The Director of Workforce and Organisational Development will acknowledge receipt of the appeal and will put in place arrangements for the appeal hearing to be held.

2.2 All appeals lodged will be heard as soon as possible, ideally within 28 working days from the date that the appeal notification is received, unless an extension to this period is agreed by both parties. As far as reasonably practicable, appeals against dismissal will take precedence.

3 Right to be accompanied

3.1 The employee has the right to be accompanied by either a trade union representative or a workplace colleague at the appeal hearing.

3.2 The manager who made the initial decision (the Trust’s representative at the appeal) may be accompanied by an HR Representative.
4 Constitution of the Appeal Panel

4.1 Appeals relating to a decision to dismiss will be heard by an appeal panel Chaired by an Executive Director or Non-Executive Director accompanied by a manager with the designated authority to dismiss e.g. a DGM, Community Services Manager or equivalent level manager. Appendix 6 confirms the Level of Authority for managers involved in Hearings and Appeal Panels. An HR Representative will also attend to provide procedural advice.

4.2 In the case of the Chief Executive Officer being the dismissing manager the appeal panel should comprise of two Board members one of whom will be the Chair of the Trust.

4.3 All other appeals will be heard by a manager more senior to the manager who made the initial decision. The senior manager will act as Chair.

5 Appeal Hearing Procedure

All Appeal Hearings will be undertaken in accordance with the following process:-

5.1 General provisions:

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague though ideally one person should carry out both roles.

Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities.

The Trust may at its discretion choose to make a digital audio recording of the proceedings at the Hearing. Alternatively notes will be taken and this may include a note-taker being present at the Hearing.

5.2 Introductions:

The Chair of the Panel will:

- introduce the panel and then ask the employee and management sides to introduce themselves
- confirm the Hearing is being held in accordance with the Trust’s Sickness Absence Policy
- summarise the steps below
- explain any housekeeping issues
- check that both sides are in possession of all paperwork pertinent to the case
- summarise the grounds of appeal to set the scene

5.3 The Case in support of the Employee:

- The employee or their representative shall put their appeal case to the Hearing Panel, in the presence of the Trust’s representative i.e. management side. The employee may call witnesses in support of their case.
- The Trust’s representative shall have the opportunity to ask questions of the employee, their representative and any witnesses.
- In circumstances where the Trust’s representative wishes to ask questions of any witnesses, these should be directed through the Chair of the Panel. This is to avoid the witness feeling harassed or intimidated by cross questioning. It is for the Chair of the Panel to decide whether questions can be allowed.
The Hearing Panel shall have the opportunity to ask questions of the employee, their representative and any witnesses.

The employee will have the opportunity to ask their witnesses further questions on any matter that has been raised in this stage of the hearing.

Witnesses for the case in support of the employee will be present only when required to be and shall withdraw immediately afterwards. However, if necessary, they must be readily available for recall until the Hearing is concluded.

5.4 The Case in support of the Trust

The Trust’s representative will present the Trust’s management case to the Hearing Panel, in the presence of the employee and their representative, and may call witnesses.

The employee or their representative will have the opportunity to ask questions of the Trust's representative and any witnesses they have called.

In circumstances where the employee and/or their representative wish to ask questions of any witnesses, these should be directed through the Chair of the Panel. This is to avoid the witness feeling harassed or intimidated by cross questioning. It is for the Chair of the Panel to decide whether questions can be allowed.

The Hearing Panel will have the opportunity to ask questions of the Trust’s representative and any witnesses.

The Trust’s representative will have the opportunity to ask their witness further questions on any matter that has been raised in this stage and the stage above.

Witnesses for the case in support of the Trust will be present only when required to be and shall withdraw immediately afterwards. However, if necessary, they must be readily available for recall until the Hearing is concluded.

5.6 Summing Up

The Trust’s representative will have the opportunity to sum up their case if they so wish.

The employee or their representative will have the opportunity to summarise their case or speak last.

Neither party may introduce any new evidence/information at this stage.

5.7 Adjournments

Either side may request an adjournment during the appeal hearing and should do so if time is needed to gather thoughts or if things take an unexpected turn. Permission should be sought through the Chair who will give timescales for adjourning and reconvening.

The Hearing Panel may at their discretion adjourn the Hearing in order that further evidence may be produced by either party, or adjourn for any other reason.

During an adjournment, the employee, their representative, the Trust’s representative and all witness shall withdraw.

5.8 Reaching a decision:

Nothing stated above will prevent the Hearing Panel from seeking amplification on any statement made or from asking questions to ascertain whether statements will be supported by evidence.

Where it is identified that insufficient evidence has been submitted to support the case, or that a decision cannot be made due to lack of material evidence, then the Hearing
Panel have the right to suspend a decision until appropriate evidence is provided. In such circumstances, the hearing will be reconvened at the earliest opportunity or the final decision will be communicated in writing.

- The Hearing Panel will deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.

- Where possible decisions will be made on the day of the Hearing and will be communicated to both parties by recall. Where this is impractical the Hearing Panel has discretion to make alternative arrangements (e.g. re-convene at a later date or inform outcome by telephone, email or letter).

- Written confirmation of a decision will normally be provided within 5 working days and no longer than 7 working days from the appeal hearing unless an alternative agreed date is provided during the Hearing.

- The employee will be advised that the outcome of the appeal marks the end of the internal consideration of the case.

6 Possible Outcomes of appeal hearings:

6.1 The potential outcomes of an Appeal Panel are:

I. To fully overturn the initial management decision or sanction

II. To fully uphold the initial management decision or sanction

III. To uphold aspects of the management decision or sanction and overturn others

IV. To recommend an alternative solution or outcome where all or part of a decision is overturned

V. To downgrade the sanction in place e.g. dismissal to final written warning

VI. To recommend further investigation and reconsideration of the initial decision

VII. To recommend a new investigation

6.2 The decision of the Appeal Panel will be final.

6.3 The Appeal Panel will normally confirm the outcome of the Hearing within 5 working days and no longer than 7 working days of the hearing unless an alternative agreed date is provided at the hearing. In exceptional circumstances the outcome may be provided in writing only; should this be necessary it will be agreed at the hearing. A copy of the outcome will be recorded on the employee’s personal file.
Appendix 6 – Levels of Authority

Managerial levels at which suspension or disciplinary action may be taken

**ACTIONS MANAGEMENT LEVEL**

**Suspension**
Normally the Line Manager with the authorisation of an appropriate Director, Assistant Director, Divisional General Manager, Cluster Manager, Community Services Manager, equivalent level specialist manager or higher level of management

**Written Warning**
Line Manager (or other manager hearing the case)

**Final Written Warning**
Line Manager (or other manager hearing the case)

**Dismissal**
Appropriate Assistant Director, Divisional General Manager, Cluster Manager, Community Services Manager, equivalent level specialist manager or higher level of management.

**APPEALS**

**Written Warning**
One level above that of the manager who chaired the Disciplinary Hearing.

**Final Written Warning**
One level above that of the manager who chaired the Disciplinary Hearing except where the manager who chaired the Hearing was a Director in which case the Appeal Hearing will be chaired by an alternative Director.

**Dismissal**
Panel of two Directors or Non Executive Directors of the Trust.

Where the Chief Executive is the Dismissing Officer, the Panel should comprise two Trust Board Members one of whom will be the Chair of the Trust.