MANAGEMENT OF SICKNESS AND ILL-HEALTH PROCEDURE

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AUTHOR | HR Business Partner
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PROCEDURE SUMMARY

The purpose of this procedure is to set out the Trust procedure for managing sickness and ill-health, reporting and record keeping. It describes the steps to be taken by managers and the responsibilities of employees in cases of short and long term health related ill-health.

It also describes the approach to be taken in the case of disability and maternity related ill-health thereby ensuring equality and fairness. It sets out for managers what they need to do, when and how and the Trust support the management of ill-health.

The Trust monitors the implementation of and compliance with this procedure in the following ways:

The implementation and compliance of the Managing Sickness and Ill-health Policy and Procedure will be monitored by the Human Resources Department.

The Human Resources team will provide regular reports to operational managers highlighting areas of concern and ensuring they implement the processes outlined in the procedure.

Sickness absence rates are reported on a monthly basis to the Finance & Performance Committee for any trends or concerns to be identified and addressed.

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<tr>
<th>Services</th>
<th>Applicable</th>
<th>Comments</th>
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The Director responsible for monitoring and reviewing this procedure is Executive Director of People & Culture.
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1.0 INTRODUCTION

1.1 The Trust aims to promote good employment practices and recognises and values the support, contribution and commitment of all its employees. This procedure is to ensure that arrangements are in place for the management of health-related ill-health, and other absence, from work in a manner that minimises the impact of ill-health on the employee, service users and the Trust.

1.2 All staff are expected to make a full contribution to delivering services. To support this the Trust recognises the importance of balancing the health needs of employees against the needs of the organisation and is committed to providing excellent working conditions and appropriate support to achieve that balance.

1.3 Employees have a right to be accompanied by an accredited Trade Union representative or current work colleague only where the outcome of a meeting is likely to be:

- Confirmation of formal sanction (such as a written warning), or
- Some other formal action (conduct hearing, grievance meeting or appeal hearings), or
- The termination of employment

Employees will be offered the opportunity to be accompanied at other stages of the sickness and ill-health management procedure as detailed in the sections below.

2.0 PROCEDURE FOR REPORTING ILL-HEALTH

2.1 Notification

2.1.1 Where an employee is unable to attend work due to ill-health or any other reason, they are responsible for contacting their line manager, or in their absence a nominated individual, verbally by telephone of their sickness ill-health and reasons for it.

2.1.2 For clinical services this should be done, where possible, 1-2 hours before working hours/shift is due to start if not before, or following any internal process in place within the service.
2.1.3 For non-clinical services this should be done as soon as possible from the employee’s normal start time for work, or following any internal process in place within the service.

2.1.4 Only in exceptional circumstances (i.e. when hospitalised) can an employee nominate someone else to make contact with their line manager or leave a text message. Text messages should be followed up where possible by a telephone within a reasonable timescale.

2.1.5 Where contact has not been made or maintained, the line manager will attempt to contact the employee to ensure their wellbeing at the earliest opportunity following their absence. If no contact can be established, then the employee’s identified emergency contact will be contacted.

2.1.6 Failure to report an absence may result in the employee being placed on unauthorised unpaid leave. This action could result in the Disciplinary (Conduct) Policy and Procedure being instigated. Please contact your HR Advisor for further advice on how to manage the process.

2.2 What to record

2.2.1 When phoning their manager, employees must provide the following information where appropriate:

- The reason why they are absent
- When they expect to return to work
- Are they suffering from vomiting and diarrhoea?
- Are they suffering from COVID-19 symptoms?
- Any support the Trust can provide whilst they are absent
- Details of any outstanding or urgent work that needs to be dealt with and contact details where appropriate
- A communication schedule and a contact telephone number and address details for the absence period.

2.2.2 This information should be recorded by the appropriate manager and stored confidentially in the employee’s personnel file in the department.

2.2.3 The employee and the manager will agree what information, if any, will be communicated to colleagues in relation to the reason for absence.

2.3 Keeping in Touch

2.3.1 Employees are obliged to maintain contact with their line manager during any period of ill-health. Furthermore, in order to ensure the appropriate support is provided to employees during periods of ill-health managers are responsible for maintaining regular contact with employees, as agreed.
2.3.2 A reasonable communication schedule must be agreed between the manager and the employee. As a guide, it is anticipated in cases of ill-health exceeding three days that employees, where this is known, as a minimum, will contact their manager on a weekly basis. If the length of time is not known at the time of reporting the employee is required to contact their manager daily.

2.3.3 In all cases of ill-health, communication will be agreed between the line manager and the employee. The degree of contact will depend on the individual circumstances, reason for absences and following any medical appointments.

2.3.4 Employees must advise their manager of the intended date of return. Employees must report on their fitness to work even if recovery takes place on a rostered day off or that period will be included within the calculation of sick leave.

2.3.5 Conversely, if an employee is unable to return to work as expected, they should inform their manager as soon as they become aware.

2.3.6 Employees must not undertake paid employment during confirmed sick leave unless the Trust has given formal permission that the alternative work requested is reasonable and may assist rehabilitation. Additionally, they must not engage in activities likely to impede their recovery or that are inconsistent with their sickness ill-health status.

2.3.7 Employees returning to work after sick leave who wish to undertake additional duties in the Trust or any other organisation within 5 days following their return to work should seek agreement with their manager before doing so to ensure that additional duties are commensurate with sustaining their return to work.

2.4 Certification

2.4.1 Appropriate certification should be provided to cover the entire sickness absence period, as follows:

<table>
<thead>
<tr>
<th>Length of Absence</th>
<th>Type of Certification</th>
<th>Where to Submit</th>
<th>Who to Submit to</th>
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<tbody>
<tr>
<td>1 and 7 calendar days</td>
<td>Self- Certificate (See Appendix 1)</td>
<td>On the first day of work following the absence or as part of a return to work meeting.</td>
<td>Line Manager</td>
</tr>
<tr>
<td>More than 7 calendar days</td>
<td>Medical or GP Certificate (Statement of Fitness for Work or “Fit Note”)</td>
<td>As soon as reasonably practicable and within 2 days of expiry of last certificate</td>
<td>Line Manager</td>
</tr>
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</table>
2.4.2 In exceptional circumstances, employees may be required to produce a medical certificate before the eighth day of sickness absence.

2.4.3 The medical certificate will state the reason for the sickness absence and that the employee is either “unfit for work” or “may be fit for work”. If the certificate indicates that the employee is “not fit for work” it will indicate the length of time the absence is likely to last. If the medical certificate indicates that the employee “may be fit for work”, it will indicate the length of time that recommended adjustments are advised for, to enable an earlier return to work.

2.4.4 Depending on the reason for the ill-health and length of absence, staff do not always need to go back to their GP for a certificate of fitness. Where there is a certified end date to the absence then this should be taken as being correct. If a return to work earlier than the certified end date can be achieved this will need to be certified by the GP and/or Occupational Health.

2.4.5 If an employee remains ill beyond the end date given by their doctor, they must send in further medical certificates. Back dated medical certificates will not be accepted as valid, except where there are extreme mitigating circumstances that meant that the employee was unable to obtain a certificate.

2.4.6 Failure to follow the reporting procedure and/or failure to provide appropriate certification in a timely manner to cover the entire period of absence may lead to the absence being classed as unauthorised, pay being suspended and action being taken in accordance with the Trust’s Conduct (Disciplinary) Policy and Procedure.

2.5 Falling unwell during the working day

2.5.1 If an employee falls unwell during their working day they should notify their line manager immediately. The Line manager or appropriate manager in charge will be responsible for authorising the employee to leave work. Any staff who leave without authorisation will be deemed as taking unauthorised absence.

2.5.2 In cases where an individual leaves work early due to sickness, a local record of this should be retained by the manager. The record should detail the reasons for ill-health, the time the individual reported sick and the time they were released from work via healthroster within 24 hours of the absence occurring. As episodes of ill-health can only be recorded as full days for payroll purposes, only full day/shift absences can be recorded for payroll purposes, the individual should continue to be recorded as having worked on that day only for purposes of payroll returns/health roster.

2.5.3 Part day sickness, however, should still be monitored and any attendance patterns that are of concern should be dealt with under section 8 of this procedure.
3.0 REDEPLOYMENT AND SUITABLE ALTERNATIVE

3.1 In circumstances where it has been determined that an employee is not able to return to their substantive role due to health reasons and/or reasonable adjustments are required to support the employee in retaining their substantive role, the Trust’s Reasonable Adjustment Procedure should be followed. (HRPG26G)

4.0 MEDICAL APPOINTMENTS

4.1 Hospital, doctors or dentist appointments should be booked outside of normal working hours wherever possible. Where this is not possible appointments should be made as close to the beginning or end of working hours to minimise disruption to the working day; Employees should agree with their manager when time lost for the attendance of medical appointments will be made up or agree to take from annual leave allowance. This applies to all staff irrespective of whether they work full time or part time hours. Arrangements should be made in agreement with the appropriate manager, providing as much notification as possible.

Paid time off for medical appointments for disability health related conditions should be considered in accordance with the Trust’s Reasonable Adjustments Procedure (HRPG26G)

4.2 Time off for appointments will not be recorded or classified as sickness ill-health; however should treatment provided during such appointments prevent an employee from returning to duty such time should be classified as sickness ill-health.

5.0 SICKNESS AND ANNUAL LEAVE

5.1 If an employee falls ill during a period of annual leave, they must inform the manager and follow the normal absence reporting arrangements.

5.2 In these circumstances the employee will be required to produce a medical certificate. On receipt of the medical certificate – the Trust may treat the ill-health as sick leave and replacement annual leave for days lost may be granted at a time to be agreed with the manager.

5.3 If employees fall sick on a designated public bank holiday they will not be entitled to an additional day.

5.4 In line with regulation 13 and 13A of the Working Time Regulations 1998, an employee on long term sick leave continues to accrue annual leave and should not be prevented from taking this leave due to sickness. If an employee cannot, or does not wish to take annual leave, they must notify their manager and agree together when the accrued annual leave will be taken.

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Employees on long-term sick leave will need to refer to the annual leave procedure in regards to their carry over of unused annual leave.

Following a period of sickness absence and where recommended a phase return to work of up to four weeks would be considered as a reasonable adjustment. If a phased return of longer than 4 weeks is required an employee with outstanding annual leave entitlement may be expected to take annual leave during any extended phased/graduated return.

Where annual leave is taken during a period of sick leave, this will continue to be counted towards the record of sickness & ill-health for the purposes of managing the overall sickness & ill-health.

In the event of an employee being dismissed on the grounds of capability (due to ill health) any untaken annual leave will be paid working back up to 18 months from the contract end date. The payment will be made with their final salary. The annual leave entitlement will be calculated pro-rata on contractual terms.

**6.0 ILL HEALTH RETIREMENT**

Where a decision is taken to terminate an employee’s contract of employment on the grounds of incapability due to ill health and the employee has been a paid member of the NHS Pension Scheme for 2 or more full years, the employee may qualify for early payment of lump sum and annual pension payments. An employee may wish to apply for Ill Health Retirement prior to any decision to terminate employment being made.

As Pension Scheme rules confirm that an employee must be in employment to apply for ill health retirement, the employee will be given a reasonable period to decide whether they wish to pursue ill health retirement and complete the appropriate paperwork prior to any decision being made in regards to possible termination of the contract of employment.

In circumstances where an employee is diagnosed with a terminal illness, terminal illness commutation, where the lump sum and annual pension payments are paid together, may be applicable.

Employees who are not members of the NHS Pension Scheme, or have not been a member for 2 or more full years, will only be entitled to payment in lieu of notice and any accrued and outstanding annual leave entitlement when their contract is terminated.

In the event that an employee, during their course of employment has been recommended or wishes to apply for ill health retirement benefits from the NHS Pension Scheme, it is their responsibility to ensure that their application to NHS Business Services Authority NHSBA is made in advance of any date of dismissal where a final meeting has been scheduled where dismissal is being contemplated by the Trust. The final meeting will not be deferred where an employee has been given reasonable opportunity to submit an application.
and failed to do so without exceptional rationale for delay. This action will protect any pension enhancements that may apply in their case in the event that they are dismissed. After dismissal, pension benefits may be less in some cases. Where an employee expresses that they wish to make such an application, the Trust may delay any final review meeting for a reasonable period to allow the application to take place and a response from NHSBA received.

### 7.0 SUSPENSION FROM WORK ON MEDICAL/HEALTH & SAFETY GROUNDS

7.1 When an employee is deemed unfit to work by their manager due to reasons of ill-health, the manager has the right to enforce a short period of absence for no longer than 7 days in which time the member of staff must seek advice from their GP or occupational health regarding their fitness to work.

7.2 Managers should ensure that a risk assessment is completed before medical suspension is agreed, considering alternative options to the medical suspension. The manager should seek advice from the Human Resources department. Appropriate medical advice will be sought from Occupational Health.

7.3 This absence will be counted as suspension from duty with pay for medical reasons. Where the Trust can demonstrate that the employee has refused a reasonable offer of temporary redeployment as an alternative to medical suspension, the employee will not receive pay for the period of medical suspension.

7.4 Where the employees GP advice conflicts with that of Occupational Health the organisation will rely on its Occupational Health department’s advice following discussions between the GP and Occupational Health where the employee consents for them to do so.

**If you are pregnant**

7.5 The Trust must make a special assessment of the risks to pregnant employee and their babies. If there are risks, the Trust must make attempts to protect the employee and baby by:

- adjusting your working conditions and/or hours of work
- offering you other suitable work if there is any
- suspending you from work for as long as necessary

7.6 An employee who is pregnant, or has recently given birth, or who is breast-feeding may have to be suspended from work on maternity grounds if continued attendance might damage their, or the baby's health.

7.7 If an employee is suspended they’re entitled to full pay, which includes any enhancements you would have been paid. The suspension should last until the risk to the employee or the baby has been removed.
7.8 If an employee unreasonably refuses suitable temporary redeployment the Trust doesn't have to pay the employee and HR advice should be sought.

8.0 PROCEDURE FOR MANAGING ILL-HEALTH

8.1 Managing Ill Health

The purpose of this procedure is to provide a consistent basis for the management of ill-health, be that infrequent, intermittent or long term ill-health and results in them being absent from work, or in cases where an employee is at work but unable to fulfil the requirement of their role for health reasons.

8.2 Return to Work Discussion / Informal Management

8.2.1 Managers must monitor all ill-health of their staff, including discussing and investigating the causes of any ill-health.

Following any return to work discussions regarding sickness, health and well-being should be undertaken during regular supervision as part of the management of ill-health and support of staff at work.

8.2.2 The ‘Return to Work Interview’ is an important part of ill-health management and must be completed after all periods of ill-health and related absence. This can be done face-to-face, telephone or via video conference. This will involve an informal but confidential discussion with the employee on their return to work. This return to work discussion will allow managers to gather all the relevant facts on the individual’s ill-health; ascertain what support, including reasonable adjustments, may be needed and ensure the implications of the individual’s health needs are understood in order to facilitate and sustain their return to work. The manager should also use this as an opportunity to make the employee aware that if they have or are activating the sickness and ill-health indicators (See sections 8.4 and 8.7), it may require escalation to formal procedures. The discussion will be recorded on the Return to Work Interview Form at appendix 2 retained on the employee’s personnel file in the department.

If necessary, managers should also seek permission or agree what needs or can be discussed with others in the team if the individuals work is affected by their Ill-health, without prior permission to do so no sharing of why a member of staff is absent or reasons related should be discussed with other members of staff.

Undertaking the ‘Return to Work Interview’ demonstrates the following:

- an awareness of the individual’s ill-health whether through illness or other reasons;
- that managers are concerned about their staffs’ wellbeing; and
• that it raises awareness that ill-health is being actively managed and monitored.

It is important to remember the ‘Return to Work Interview’ is not a capability or disciplinary interview. Instead, the ‘Return to Work Interview’ provides Line Managers with an opportunity to start a dialogue with staff about underlying issues which might be causing the ill-health and agreeing actions to support attendance.

8.2.3 Where reasonable adjustments are made during the Return to Work interview, then managers should follow the reasonable adjustment procedure (HRPG26G)

8.2.4 It is important to understand there may be a variety of reasons for frequent short-term sickness ill-health, which may include:

- An underlying medical condition / disability;
- An unusually high, but genuine, vulnerability to colds, flu, etc.;
- Excessive tiredness e.g. the employee may have additional responsibilities outside work such as childcare or a second job;
- Personal or family problems;
- Specific problems in the workplace; and/or
- Demotivation.
- Alcohol, drug and/or substances misuse problems please refer to HRPG26E

Discussions between the manager and employee can be important to help determine if there are any contributing factors and what, if any, support can be provided.

8.2.5 Possible Impact of Workplace Factors - It should also be acknowledged that frequent short-term sickness may be caused or exacerbated by factors in the workplace. For example, in addition to genuine periods of sickness, frequent short-term may be linked to:

- Stress, anxiety and depression due to the volume of work or pressure of work deadlines;
- Difficult working relationships or conflict with colleagues;
- Bullying or harassment;
- Anxiety relating to organisational change; and/or
- Other factors causing dissatisfaction e.g. ineffective procedures or equipment, or a lack of clear goals or targets.

Where such issues are identified appropriate support or reasonable adjustments should be considered in accordance with the Trust’s Employee Wellbeing Procedure and its appendices.
8.3 **Occupational Health**

Ill health, of whatever nature, may affect the work performance of an individual and may also have an impact upon colleagues or service provision. If a manager has any concerns about whether an employee has an underlying health condition which may affect their ability to continue in their present job or may result in a detriment to their health or need advice on whether an employee is fit to return to work a management referral to Occupational Health should be completed in accordance with the Occupational Health procedure (HRPG26C).

8.4 **Sickness Absence Management – Indicator Exceptions**

8.4.1 **Ill-health Related to Pregnancy**

Under the Equality Act 2010 pregnancy related ill-health (supported by medical advice) will be considered separately from other sickness ill-health, and will not be included when monitoring sickness ill-health. For specific advice on pregnancy related ill-health please refer to the Trust’s Maternity & Adoption, Paternity, Parental leave & Shared Parental Leave Procedure (HRPG24B).

8.4.2 **Ill-health Related to In Vitro Fertilisation (IVF)**

Should a member of staff be undergoing fertility treatment, they are not entitled to paid time off during the treatment. They may choose to book annual leave or take unpaid leave. The individual will be expected to provide line managers with adequate notice of appointments, alongside evidence of the appointment. Line managers to ensure that adequate support is provided to the employee.

8.4.3 **Ill Health Related to Disability**

Under the Equality Act 2010 disability related ill-health (supported by medical advice) will be considered separately from other sickness ill-health, and will not be counted for the purposes of any sickness absence indicators. Managers are expected to manage any disability related ill health sickness (or ability to fulfil duties) in accordance with this procedure in a manner that is sensitive and gives due regard for the application of reasonable adjustments.

8.4.4 **Ill-health Related to COVID-19**

Any sickness absence related to COVID-19 must be recorded separately and should not be counted for the purposes of any sickness absence indicators or sickness management policies.

The Trust must continue to make their judgement that staff are well enough to work and that the COVID-19 infection control guidance is followed in all cases.
8.5 Fast-track support for employees

The Trust is fully aware that the main reason[s] for sickness ill-health is either stress/anxiety/depression related and/or musculoskeletal related. Depending on the circumstances it may be in the interest of the employee, manager and the Trust to make attempts to fast track support where necessary.

If an individual is absent with a musculoskeletal related illness, regardless of the duration of ill-health, the Line Manager should consider whether to refer to Occupational Health immediately, and may wish to take advice from HR about this. In order to reduce MSK related injuries, the Trust provide a fast track physiotherapy service for all staff. For more information please visit the dedicated fast track physiotherapy intranet page.

In terms of stress, anxiety and depressive illnesses consideration should be given to other supportive measures in accordance with the employee wellbeing procedure.

8.6 Instances of Suspected Drug or Alcohol Abuse

In cases of suspected drug or alcohol abuse reference should be made to the Trust’s Management of Staff with Alcohol, Drug or Substance Misuse Problem Procedure. If the manager has reason to suspect the individual is abusing drugs or alcohol they will refer the matter to Occupational Health in order to provide help and support in the first instance. However, if the individual refuses to accept the offer of help and support, or after treatment the condition does not improve, then action may be taken under the Disciplinary (Conduct) Policy and Procedure.

8.7 Indicator Points – Irregular and frequent absence and long term absence/ill-health

8.7.1 High level or particular patterns of sickness absence/ill-health or Indicator points are agreed levels of sickness absence or ill-health which, when reached, will activate a management action.

• What does an indicator look like?

It is important to monitor an employee’s persistent ill-health and links to absence to enable issues to be identified, such as high levels or particular patterns. An accurate record of sickness levels is essential to the management of ill-health. When reviewing an employee's sickness record any patterns which cause concern should be identified and discussed. This could include repeated absence on a particular day of the week or that tend to occur at a particular time e.g. just before a monthly deadline or towards the end of a busy shift cycle.
Discussions about patterns in sickness absence should be carried out initially during the return to work meeting and then during sickness and ill-health meetings, by stating the facts and asking open questions. For example:

- “I have noticed that six out of your previous 10 absences have been on Mondays. Would you like to comment on that apparent pattern?”
- “Is there any reason why nearly all your absence has been in the final week of the month?”
- “The records show that you tend to be absent towards the end of your shift cycle. Is there any problem we can help you with in relation to shift working?”
- “The records show that over a period of time you have been sick from work over the same or similar period of this annual leave period: Christmas, Easter, half term etc, can you explain why? / is there any reason for this?”

When high level or sickness patterns are indicated, it may be an early indication of a problem and line managers should informally discuss an employee’s attendance record with them, including reminding them of the standards expected and of the support and interventions available to bring attendance to satisfactory levels.

8.7.2 As detailed in 8.4 above, pregnancy, disability or COVID-19 related absences and miscarriages will be monitored and support provided.

8.7.3 Before considering action, line managers should consider each case on its own individual circumstance and take account of:

- Isolated illnesses/accidents that should not lead to formal action in an otherwise good attendance record.
- Staff who are disabled, where special consideration will need to be given to a higher level of absence as a reasonable adjustment.
- Whether the ill-health has resulted from an occupational injury or illness (including vomiting and diarrhoea), in these circumstances further action may not be appropriate.
- Where ill-health is related to an assault in connection with their duties, OH referral, meetings and on-going support will be facilitated to support the individual. Where ill-health following an injury at work becomes protracted the long term sickness procedure should be followed.

8.7.4 In the unfortunate event that an employee dies in service the line manager should contact the HR service and utilise the ‘How to manage death in service toolkit’
8.7.5 In addition to section 8.7.1 above The Trust may consider the following indicators when instigating the formal procedure:

- Four episodes and/or 10 calendar days in any rolling 12 month period (pro-rata for part time employees).
- A clear pattern of absence in any rolling 12 month period (e.g. days off adjoining, or immediately preceding or following; weekends, days off or annual leave, or days falling on the same day(s) of the week / time of year;)
- A clear pattern of absence in any rolling period, up to 36 months (e.g. festive holidays, school holidays or during adverse weather).
- Large periods of frequent absence with no pattern of underlying health condition apparent;
- Indicators or a known underlying condition that relates to presentism or work related stress, anxiety and depression. Signs of “presenteeism” may include the issue of employees coming into work while not physically or mentally well, instead of staying home and recuperating;
- Intermittent ill-health due to an underlying health condition where the reasons for ill-health are directly connected to that condition;
- A continuous period of 4 weeks’ (or more) of absence;
- where an employee is in attendance at work but has an underlying health condition which means they have been unable to undertake the full duties of their role for a continuous period of 4 weeks or more

8.7.6 Indicator points do not preclude the instigation of ill-health management procedures or meetings where a ‘indication may not have been notified but the nature of ill-health, the employees behaviour and performance at work or attendance at work give cause for concern.

An employee may request or feel the need to discuss their sickness or emotional wellbeing even though ill-health is not identified by the manager or their record.

**The application of short and long term ill health processes**

8.7.7 The following rules apply when employees experience both short and long term sickness. Where ill-health initially managed under the short term procedure then transitions into long term sickness i.e. intermittent ill-health due to an underlying health condition where the reasons for ill-health are directly connected to that condition; this is classified as long term ill-health, and will be managed further under a formal long term ill-health process.

Where an employee has returned to work from ill-health managed under the long term sickness process and should further short term sickness arise within the specified review period, the employee’s ill-health will be managed in line with the same stage of the sickness procedure, which it was previously managed at.
Managerial discretion, with advice from HR, in managing short term ill-health following long term sickness is usually exercised in the context of an on-going health conditions.

8.8 Stage 1 – Sickness and Ill-health Meeting

8.8.1 If the manager believes there are indicators that require a meeting to occur or an employee makes a request to have a meeting, there must be consideration what is the outcome or achievement from the meeting i.e. reduction of absence, improvement in wellbeing etc – The manager and employee must have a clear sense of purpose for the conversation, which will help focus on what is trying to be achieved and becomes a great steer, especially if the manager feels things are going off track.

8.8.2 Staff should be informed that this meeting does not constitute part of the disciplinary process and is not punitive. Managers should be open and supportive, and encourage staff to bring forward any concerns that might be affecting their attendance. Also ask staff for any ideas about what would help them return and remain at work e.g. reasonable adjustments.

8.8.3 Management should ensure that the meeting environment is appropriate –

A) In cases whether the meeting is face-to-face the environment plays an important part about how an employee may feel, so it’s important to find a confidential space and that the seating and lighting is conducive to a relaxed conversation, free from interruptions and with sufficient time allocated.

B) In cases where the meeting is held virtually (Microsoft teams), please consider the following:

- Ask all attending parties for any reasonable adjustments e.g. length of meeting time;
- whether you would like to arrange a ‘trial run’;
- Are in a confidential and private space where you cannot be overheard. Please ensure any windows are closed and you will not be disrupted;
- What can be seen by the camera? Is it suitable for a professional environment? – consider use of backgrounds.
- You are dressed appropriately (please refer to the Trust dress code policy and procedure-CP41);
- Do not use a device to record the meeting without authorisation.
- Ask for a break if you need one/offering breaks.
- Do not speak over each other. A nominated person should be identified to lead the meeting (this in most cases should be the relevant manager). – may want to consider using the
hands up function for questions if this is available for all parties;
- Speak clearly. Be mindful can be harder to hear over Microsoft Teams;
- Remain on mute unless you are speaking.

C) In exceptional circumstances it may be necessary to hold a meeting at an employee’s home address. This should only be done with their consent and in accordance with lone working safety precautions.

Consider:

- The appropriate way to inform the employee you would like to have a discussion with them.
- Where will be the best place to have this conversation (on site/off site)?
- can you find a quiet space for a private conversation?
- when is the best time to have the conversation?

8.8.4 How will the employee react? – Take some time to consider how the other person might be feeling about this conversation.

- What assumptions will they be making?
- How will they be feeling?
- What will they be thinking?
Managers should always shows empathy and attempt to place themselves in their shoes and consider how the employee might be feeling and what they might be thinking.
- What can you do to alleviate any concerns and or fears they may be having?
- What would work best for them in letting them know that you’d like a conversation?
- If you have wellbeing conversations regularly then this is just an extension of the normal process. If it’s not, then you need to think about how best to let them know and how much notice would be helpful.

Managers should plan out next steps relating to the content of the conversation – Managers should consider what they want to cover in the conversation, perhaps using this structure:

- How will you start it?
- What areas do you want to explore with them?
- What are some good questions that might be helpful?
- How will you get them to commit to action?
- How will you end it?
8.8.5 Managers should ensure that the employee is notified in writing of the nature of the meeting, details of their ill-health and provide them with the opportunity to be accompanied by either a recognised accredited trade union representative or work colleague. A minimum of 5 working days’ notice should be given prior to the meeting, unless there is mutual agreement to bring forward the meeting. In the meeting, the following points will be discussed and recorded within the outcome letter, for which a copy should be provided within 5 working days:

- Reference to previous return to work interviews and supervision discussions regarding ill-health including contact maintained during long term ill-health(s);
- The number, nature and duration of the sickness ill-health(s) and any underlying health issues over the period that has been monitored;
- Update on any medical interventions or treatments that have been recommended and the prognosis of a return to work (where appropriate);
- The standards of attendance required and the consequences of continued regular or enduring ill-health;
- Confirmation of referral to Occupational Health and / or outcome of any Occupational Health report and recommendations;
- Any support and assistance, including reasonable adjustments and/or phased return to work arrangements that have been recommended (including redeployment – see Section 3);
- Any mitigating or extenuating circumstances that need to be considered.
- Confirmation of a period of review (appropriate to the individual circumstances) following which either no further action will be taken or a Stage 2 meeting will be convened.

8.8.6 The duration of the sickness review period, which should not normally exceed a 3-month period, with agreed monitoring dates, and should be recorded by the Manager and be placed on file and a copy provided to the employee and the HR department. If the indication of sickness is in regards to patterns of sickness ill-health e.g. every Christmas period off sick, then the manager should reflect this in the outcome letter.

8.8.7 Depending on the circumstances, the review period may mean waiting until the next years same period could exceed a 12 month review and may include past years/patterns of sickness ill-health. If during the review period it is evident through further sickness ill-health, that a significant improvement is not evident or a return to work has not been achieved or sustained, the Line Manager should initiate the Stage 2 of the procedure. It is not necessary to wait until the end of the review period to instigate the next stage of the procedure where ill-health continues to be a cause for concern.
Follow up and further support – managers should continue to support employee’s further to ensure they are successful in making the changes to positively impact on their wellbeing. Managers should continue to support and monitor employees through wellbeing checks. This can be carried out through informal discussion or via supervision.

8.9 Stage 2 – Formal sickness and Ill-health Review Meeting

8.9.1 If the level of ill-health indicators continue to cause concern during the Stage 1 review period and/or long term ill-health has continued a stage 2 formal sickness ill-health meeting should take place between the relevant line manager and the employee. Managers should apply the same procedures and measures as identified in section 8.8 above.

8.9.2 Manager’s should ensure that the employee is notified in writing of the nature of the meeting, details of their ill-health’s and provide them with the opportunity to be accompanied by either an accredited recognised trade union representative or work colleague.

A HR Advisor may be in attendance at the stage 2 Ill-health meeting, depending on the individual circumstances, to provide advice, guidance and support.

A minimum of 5 working days’ notice should be given prior to the meeting, unless there is mutual agreement to bring forward the meeting. In the meeting, the following points will be discussed and recorded within the outcome letter, for which a copy should be provided within 5 working days:

- Reference to previous Stage 1 meeting discussion and outcomes:
  - The number of absences, nature and duration of the sickness ill-health(s) and any underlying health issues over the subsequent period that has been monitored;
  - Update on any medical interventions or treatments that have been recommended and the prognosis of a return to work (where appropriate);
  - Confirmation of further referral to Occupational Health and/or outcome of any Occupational Health report and recommendations, including any implications under the Equality Act 2010;
  - Any support and assistance, including reasonable adjustments to the role or phased return to work arrangements that that have been recommended, including redeployment where appropriate;
  - Any mitigating or extenuating circumstances that need to be considered.
- Confirmation of a period of review (appropriate to the individual’s circumstances) following which either no further action will be taken or a Stage 3 Final Formal Ill-health Hearing will be
convened, which may result in a sanction up to and including termination of employment.

8.9.3 The duration of the sickness review period, which should not normally exceed a 3-month period, which includes monitoring dates and should be recorded by the Line Manager and be placed on file and a copy provided to the employee and the HR department. If the indication of sickness is in regards to patterns of sickness ill-health then the manager should reflect this in the outcome letter.

8.9.4 Depending on the individual circumstances and pattern of absence, the review period may mean waiting until the next years same period and therefore could mean exceeding a 12 month review. This may include past years/patterns of sickness ill-health. If during the review period it is evident through further sickness ill-health, that a significant improvement is not evident or a return to work has not been achieved or sustained, the Manager should initiate the Stage 3 of the procedure. It is not necessary to wait until the end of the review period to instigate the next stage of the procedure where ill-health continues to be a cause for concern.

8.10 Stage 3 – Final Formal sickness and Ill-health Hearing

8.10.1 If there is no significant improvement in the level of attendance, ill-health or where a return to work (or full duties) has not been achieved or sustained, a final formal ill-health hearing will take place. Wherever possible it will be necessary to refer the employee to Occupational Health prior to a final meeting. The occupational health referral should consider ill-health retirement at this stage. The employee will have the right to be accompanied at the hearing by an accredited trade union representative or a work colleague. A minimum of 10 working days’ notice should be given prior to the meeting, unless there is mutual agreement to bring forward the hearing. The invite must include what the potential outcome of the meeting could be.

The occupational health report (management statement of case) used at the stage 3 final meeting should be current and where possible not exceeding 3 months.

8.10.2 The hearing will be conducted by an appropriate Hearing Manager (with the authority to dismiss), in accordance with the procedure set out in Appendix 3. The employee will have the right to be accompanied at the Final Formal Ill-health Hearing by an accredited Trade Union representative or work colleague.

The employee’s manager will attend and present a statement of case outlining the factors considered at Stage 1 and Stage 2 detailed above. The management statement of case will include any evidence or documents referred to and will be shared with the employee, and their representative a minimum of 10 working days before the date of the Final Formal Ill-health Hearing.
The employee or their representative will be given the opportunity to state their case and to question the case presented by the line manager.

A HR Advisor will be in attendance at the Final Formal Ill-health Hearing to provide advice, guidance and support to the Hearing Manager on procedure and best practice.

8.10.3 At the stage 3 Final Formal Ill-health Hearing the Hearing Manager may decide:

- That satisfactory attendance and / or return to work and fulfilment of duties has been achieved and no further action is required.
- That further investigation or information is required, in which case the Hearing will be adjourned and re-convened.
- That not all factors within Stage 1 and 2 have been considered and the rescheduling of the Final Formal Ill-health Hearing be adjourned for no more than 12 weeks.
- To issue a final written warning (for up to 18 months) during which time ill-health and attendance will be regularly reviewed and if improvement in attendance or fulfilment of duties is not sustained a further Final Formal Ill-health Hearing will be convened.
- To dismiss the employee, with notice, on the grounds of capability (ill-health) or for Some Other Substantial Reason (short term frequent absence with no underlying health condition).

8.10.4 Where termination of the contract of employment on the grounds of incapacity is considered, all reasonable efforts should be made to obtain appropriate medical evidence via the Occupational Health Service, including occupational health advice on the likely outcome of a successful ill-health retirement application. Before a decision to terminate employment is made all other options should meaningfully be considered, including:

- rehabilitation;
- phased return;
- a return to work with or without reasonable adjustments;
- redeployment with or without reasonable adjustments.

Contractual notice must be given to a member of staff whose contract is being terminated on grounds of capability ill-health and/or SOSR.

8.10.5 The review timescales in this procedure may be shortened or lengthened by managers on their assessment of the circumstances but they must operate the policy fairly and consistently documenting, the reasons for their actions with advice from HR.
8.10.6 If an employee fails to, or is unable to, attend an ill-health hearing for a protracted period they will be informed that the Hearing will proceed and that a decision will be taken in their ill-health. However, advice should always be sought from HR in respect of making the decision to proceed. An accredited Trade Union representative may attend the meeting to speak on the employee’s behalf or they may submit written representation for consideration.

8.10.7 The employee will be informed of the outcome of the Final Absence Ill-health Hearing in writing within 5 working days of the date of the hearing and will be informed that they have the right of appeal as set out in the outcome letter and will include details of the individual to whom to write to with grounds of appeal. Appeals must be lodged within 10 working days of the receipt of written notification of the sanction / outcome. For further details of the appeal procedure please refer to the Trust’s Appeals Procedure.

9.0 REINSTATEMENT OF SICK PAY

9.1 Long term ill-health cases must be managed accordingly and concluded within 12 months. As set out in Agenda for Change terms and conditions there are provisions for sick pay for those who have exhausted sick pay entitlements which states that this should be reinstated at half pay, after 12 months of continuous sickness absence, in the following circumstances:

- staff with more than 5 years’ reckonable service: sick pay will be reinstated if sick pay entitlement is exhausted before a final review meeting for long term ill-health has taken place;

- staff with less than 5 years’ reckonable service: sick pay will be reinstated if sick pay entitlement is exhausted and a final review does not take place within 12 months of the start of their sickness ill-health.

END