The manager will convene a hearing by writing to the employee outlining the reasons for the Final Formal Ill-Health Hearing giving a minimum of 10 working days’ notice. This must include:

- Date, time, place of hearing
- Members of the panel hearing the case
- The right to be represented
- That the hearing may lead to dismissal
- That if they fail to attend without satisfactory reason the matter may be dealt with in their absence.
- Two copies of the management report (statement of case), one for the employee and a second for the accredited Trade Union representative (where applicable).

Wherever possible Hearing’s will take place virtually to ensure social distancing can be maintained – the Trust’s guidance for Virtual Meetings. Meetings held in person will require a risk assessment be undertaken in advance.

Reasonable Adjustments should be considered and implemented to enable the employee to participate in a Final Formal Ill-Health Hearing.

The report (management statement of case) which must be prepared by the manager should include:

- The level and effect of the sickness absence(s);
- Action taken, including interview dates, referrals, any reasonable adjustments made to working conditions etc;
- Consideration of all options (to include medical option at all stages)
  - Return to substantive post
  - Return to substantive post with reasonable adjustments (e.g. working hours, performance targets, environmental)
  - Redeployment (posts available and reasons rejected)
  - Ill health retirement
  - Termination of contract
- In the case of employees with an underlying medical condition/disability, current Occupational Health advice?
- general employment record
- the impact on the service and team
Persons Present at the Hearing

Hearing Panel: Hearing Manager
HR Representative supporting the hearing manager

Presenting Manager
HR Representative supporting the presenting manager

Employee
Employee accredited Trade Union representative or work colleague

Recording the Final Formal Ill-Health Hearing

In line with Trust procedure all formal meetings are recorded on a digital recorder. If the employee does not wish the hearing to be recorded they should contact the Hearing Manager in order for a note taker to be arranged. No other form of recording the hearing is permitted unless explicitly agreed by all parties in advance.

Process of the Final Formal Ill-Health Hearing

The presenting manager will outline the case and may be questioned by the employee and/or (their) representative or by the Panel. Witnesses in support of either party may be called. Each witness:

a) May be questioned by the manager
b) May be questioned by the employee or (their) representative
c) May be questioned by the Panel

The Hearing Panel shall decide on the appropriate course of action having regard to the considerations set out below:

- The nature of the illness. The likelihood of it continuing / recurring or some other illness arising.
- The length of various absences (if appropriate) and the period of good health in between.
- For long term absence the prognosis for facilitating and sustaining a return to work / fulfilment of full duties.
- The impact of short / long term ill health on service delivery.
- The impact of the absence on staff who work with the employee.
- The financial consequences for the organisation.
- The extent to which the difficulty of the situation and the Trust's position have been explained to the employee.
- The employee's general employment record, including post and length of service.
- The action already taken by management to support the employee.
- Have all opportunities for reasonable adjustments been considered.
- Any special circumstances or mitigation referred to by the employee.
- The availability of alternative work if appropriate. (Redeployment)
- Whether the proposed action is proportionate and reasonable in all the circumstances.
The options available will usually decide on one of the following courses of action:

- To keep the situation under review for a defined period, including seeking alternative work (redeployment) if applicable, or any reasonable adjustments to the role or environment at the end of which a decision will be taken on the appropriate course of action.

- To issue a final written warning (for up to 18 months) to enable the employee to demonstrate that they are able to return to work / full duties and sustain regular attendance at work for a continuous period.

- To dismiss the employee with notice on full contractual pay (regardless of whether the employee is in a half or no pay situation) on the grounds of either Capability (ill health) or Some Other Substantial Reason (short term frequent absence with no underlying health condition).

- The employee will be given written confirmation of the outcome of the Final Ill Health Hearing within 5 working days and will receive full pay during their contractual notice period, where applicable.

- The employee will be advised of their right of appeal, and how to do so, in accordance with the Trust’s Appeals Policy and Procedure (HR58).

END