



East Cheshire  
NHS Trust

# **ATTENDANCE MANAGEMENT POLICY**

**Effective Date: April 2019**  
**Review Date: July 2022**

<b>Policy Title:</b>	<b>Attendance Management Policy</b>		
<b>Executive Summary:</b>	This policy sets out East Cheshire NHS trust's approach to the management of absence and attendance within the workplace.		
<b>Supersedes:</b>	All previous Attendance Management Policies		
<b>Description of Amendment(s):</b>	Revised Policy – see policy/practice briefing Key changes: <ul style="list-style-type: none"> <li>• Informal action</li> <li>• 3 stage formal procedure</li> <li>• Review period commences from date of return to work</li> <li>• Exclusion on medical grounds/medical suspension</li> <li>• Career break/support through courses of treatment</li> <li>• Rehabilitation plans</li> <li>• Redeployment process</li> <li>• Reporting an unplanned absence via the Unplanned Absence Reporting Line</li> <li>• Closing an unplanned absence via the Unplanned Absence Reporting Line</li> </ul>		
<b>This policy will impact on: All staff</b>			
<b>Financial Implications:</b>			
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## 1. Introduction

East Cheshire NHS trust is committed to providing high quality patient care, within the local communities it represents. The importance of maintaining a stable workforce and regular attendance at work is central to the delivery of these services and the trust objectives:

**PATIENTS** - Provide safe, effective personal care in the right place

**PEOPLE** - Build, value and develop a motivated and sustainable workforce

**PARTNERSHIPS** - Work within the Caring Together framework to deliver our vision

**RESOURCES** - To deliver services that are clinically and financially sustainable

The trust recognises that delivering safe, sustainable, patient-centred care, it is critically dependent on a healthy and engaged workforce with good mental and physical wellbeing. Good staff health, wellbeing and engagement can achieve significant benefits for patients and professionals alike. For example:

- improved patient safety, experience and consistency of care
- reduced costs, including lower rates of sickness absence, reduced use of agency staff, improved productivity and higher rates of staff retention
- ensuring the trust has the right people in the right place at the right time
- improved morale, job satisfaction engagement and wellbeing

There are significant financial costs attached to sickness absence in terms of occupational sick pay and back fill with agency and bank staff. High levels of sickness absence, in particular short term episodes, can have a disruptive and negative impact on the consistency, quality and safety of patient care, plus the health and wellbeing of other staff.

The trust aims to ensure that employee wellbeing is preserved and non-attendance due to ill health is minimised. This policy, and its associated procedures and guidance, aims to guide all employees of the correct process for managing wellbeing and attendance.

This policy will apply to all employees of the Trust; including members of the Executive Team and Medical & Dental Staff in accordance with NHS Terms and Conditions of Service Handbook.

## 2. Purpose

The Trust aims is to ensure that its employees maintain good health, and to encourage and support regular attendance whilst ensuring that absence due to sickness is minimised. There are two main outcomes associated with this policy. Improving the health of our employees and improving attendance at work.

### *Improving the Health of Our Employees*

There are several ways in which we aim to support all of our staff:

- Encouraging people to take responsibility for their own health and wellbeing and play a part in developing solutions as employees and on a team basis;
- Offering timely support and advice aimed at improving health and attendance.

### *Improving Attendance at Work*

The Trust strongly believes that the promotion and protection of our employees' health and wellbeing is one of our most important priorities. We will continue to work in partnership with our staff to avoid potential health problems, stay fit for work, and recover in a timely manner from any health issues affecting attendance at work.

This policy is written with the aim of providing fairness and equity to all employees. No particular group or employee will be disadvantaged on the grounds of; age, gender, gender reassignment, sexual orientation, disability, marital or civil partnership status or family circumstances, race, colour, nationality, ethnic origin, religion or belief, trade union activity & social and economic status.

## 3.0 Roles and Responsibilities

### **Responsibility of the Chief Executive**

The Chief Executive is the accountable officer and has overall accountability for ensuring that the trust has appropriate and effective HR policies and processes in place.

### **Responsibility of the Director of HR and OD**

The Director of HR and OD has delegated accountability for ensuring that there are appropriate and effective HR policies, processes and systems in place.

### **All Directors**

All directors will ensure that this policy is implemented within their area of responsibility and take appropriate action to address non-compliance.

### **Responsibility of Deputy Director of HR**

The Deputy Director of HR has responsibility for ensuring there are appropriate and effective HR policies, guidance, processes and systems in place, including overall responsibility for the monitoring of policies in accordance with key performance indicators.

### **Human Resources**

The Human Resources Managers will ensure that training is provided on this policy to ensure that a fair and consistent approach is applied by Managers. The HR team will guide managers and staff on the application of this process. Information and training opportunities will be widely publicised and the take up of such opportunities monitored.

All managers, employees and staff side representatives may seek advice from the Human Resources team on all matters relating to absence management. The HR team can offer advice and are trained to support operational matters relating to attendance management. They can also provide assistance with ongoing case management. Human Resources must be consulted prior to any steps being taken to terminate an employee's employment.

### **Key responsibilities for Human Resources include:**

- Ensuring the Attendance Management policy is kept up to date, in accordance with any developments in legislation;
- Providing training to managers with ongoing coaching;
- Provide advice to staff side representatives and managers, with respect to the application of the policy to encourage maximum attendance;
- Advising managers at all stages of the procedure whether informal or formal;
- A member of Human Resources will be in attendance at all meetings, where there is a possibility that an outcome may involve terminating an employee's employment;
- The Workforce Information Team will provide monthly sickness absence data including trigger monitoring, occupational sick pay and long term absence reporting via corporate

- reports;
- To promote the support available to employees via Wellbeing information portal.

### **Line Managers**

Line managers are responsible for ensuring that this policy is applied fairly and consistently within their own area. Managers should also ensure that employees are made aware of this policy when applicable and understand their responsibilities.

#### **The key responsibilities for managers include:**

- Ensuring they are familiar with the trust's Attendance Management policy and understand their obligations in relation to it;
- Ensuring the Attendance Management Policy is applied fairly and consistently to all employees;
- Provide support and advice through the use of the Occupational Health Service, as appropriate;
- Communicating appropriately with absent employees and maintain regular contact;
- Taking timely appropriate action to deal with absence from work, balancing the needs of the employee with those of the service;
- Monitoring the attendance of employees for who they are responsible and investigate the reasons behind employee absence and overall trends and patterns of absence (or timekeeping), where possible take measures to alleviate these. For example; environmental factors, working relationships, stress or organisational issues;
- Attending attendance management training; such as Inspiring Team Leaders, or an attendance management workshop;
- Ensuring procedures and guidelines for attendance management are followed;
- Maintaining accurate records of all absences and the reasons, including the timely completion of all information on Manager Self-Serve or if this is not possible the submission of the Notification of Sickness Forms to the ESR team;
- Investigate any themed causes of absence, where appropriate;
- Make arrangements for notes to be taken at formal meetings;
- Hold a return to work interview after every episode of sickness or unauthorised absence and maintain documentation within the employees' personal file including date of discussion and significant points;
- Record return to work interviews on e-rostering or ESR;
- Discuss and agree an Employee Wellbeing Plan with the employee where appropriate;
- Ensure all employees are aware of the support available via the trust's Wellbeing information portal site;
- Maintain confidentiality with regards to medical information.

### **Employees**

Employees should understand the application of this policy and have a general understanding of their statutory and contractual entitlements.

#### **Key responsibilities of each employee include:**

- Unless under exceptional circumstances employees must personally notify the Unplanned Absence Reporting Line about their absence from work by telephone and must provide a reason for absence and an estimated date of return at the time of the call. You must log all absence with the exception of Annual, Study, Maternity, Paternity and Adoption Leave.
- Ensuring regular timely, consistent attendance in accordance with their contract of employment;
- Maintaining an awareness and compliance with the trust's Attendance Management policy;
- Following the notification procedures for their department

- Ensure that any absence due to sickness is supported by the relevant and timely certification;
- Attend Occupational Health reviews, where appropriate and to co-operate with the line manager and/or Occupational Health through undertaking any agreed programme to improve their health and wellbeing to support and facilitate an early return to work;
- Ensure that they do not undertake or participate in any activity or work outside the trust that may hinder their recovery or delay their return to work;
- Comply with sick pay arrangements of the trust's Attendance Management policy;
- In order to protect themselves and their work colleagues, they must immediately inform their manager (or nominated departmental absence contact person) if they believe their absence is work-related, for example as a result of stress, an accident at work or have been in contact with an infectious disease;
- Ensure they do not attend work if they are unwell or unfit for work, if in doing so would affect their health and/or the health of others with whom they come into contact in the course of their work;
- After each episode of absence related to sickness, regardless of length, to seek a return to work interview with their manager (or nominated departmental absence contact person) at the earliest opportunity upon your return;
- Comply with Health & Safety Legislation or recommendations, including job specific training;
- Attend meetings with their line manager;
- Maintain regular contact during periods of absence;
- Ensure their ESR record is accurate and up to date, via Employee Self-Serve, in respect of contact details and equality data i.e. disability;
- Discuss and agree an Employee Wellbeing Plan with their line manager where appropriate;
- To familiarise themselves with Wellbeing information portal.

### **Occupational Health Responsibilities**

Occupational Health is an independent specialist health advisory service, which offers support to both employees and managers in the provision of impartial advice and access to staff counselling services.

#### **Key responsibilities of Occupational Health include:**

- Providing confidential and impartial medical advice and support to employees;
- Providing a manager with a report about a referred employee's fitness to perform the duties of their post. Including the short and long term prognosis of the condition which may be affecting the employee's ability to undertake their current duties;
- Assisting the trust in reducing sickness absence levels to a minimum;
- Advising both managers and employees in relation to any suitable alternatives or any adjustments of work that may be require to facilitate the employees return to work or ability to carry out their duties;
- Supporting an employee's application for early retirement due to ill health, where appropriate;
- Following all legislation concerning access to medical records and records on behalf of the Trust;
- Participate in or lead on health and wellbeing activities;
- To promote the support available to employees;

### **Staff Side Responsibilities**

Staff side will provide advice and support to staff on Attendance Management Policy related concerns/queries.

#### **Key staff-side responsibilities include:**

- Involvement in the consultation and the review of the Attendance Management policy within the trust;
- Providing appropriate advice to employees in relation to the Attendance Management policy;
- Providing advice and support to employees at any formal attendance management meetings, upon request;
- Supporting employees experiencing long term absence from work;
- To promote the support available to employees via the Wellbeing information portal.

## 4.0 Processes and Procedures

### 1. General Absence Management Principles

#### 1.1 Maintaining contact during absence

It is important that anyone who is off sick is supported by their line manager via telephone.

#### 1.2 Unauthorised Absence (AWOL)

Unauthorised Absence is where an employee fails to attend work without notifying the Unplanned Absence Reporting Line with an acceptable explanation/reason being provided. Unauthorised absence is also referred to as 'absence without leave' (AWOL).

If an employee is absent from work without good cause or fails to properly notify the Unplanned Absence Reporting Line of their absence, in line with this policy, formal action may be taken in accordance with the trust's Disciplinary Policy.

#### 1.3 Timekeeping

Lateness occurs where an employee fails to be available at work to commence their shift/working day on time. Every employee of the trust has a contractual obligation and duty to arrive punctually for work, as lateness can impact upon service delivery.

It is recognised that occasionally unforeseen circumstances may occur which prevent an employee from arriving at work on time; however where there is persistent lateness (or a one off occurrence with no satisfactory explanation) this may be considered a matter of misconduct and could result in disciplinary action being taken against an employee in accordance with the trust's Disciplinary Policy.

#### 1.4 Additional Working hours/shift allocation

Managers will prevent employees, who are being managed in line with this policy, from undertaking additional hours over and above their contracted hours. This action will be deemed necessary if the health condition of the employee renders them unable to maintain and sustain a satisfactory level of attendance in respect of their contracted hours

In circumstances where absence issues are a concern in the employees' substantive post, managers will prevent the employee from undertaking bank hours for an appropriate period of time in order to assist the employee to return to good health and/or maintain regular attendance in their substantive post. Advice should be sought from Occupational Health and Human Resources in any such instance.

#### 1.5 Exclusion on Medical Grounds/Medical suspension

Medical suspension is rare and should only be considered when a manager has concerns for an employee's health or an employee is deemed to be a risk to patients, others or themselves.

Advice must be sought from both Occupational Health and Human Resources before medically suspending a member of staff. All reasonable adjustments, including temporary redeployment should be considered and/or exhausted before the decision to medically suspend an employee is taken.

Employees excluded on medical grounds will receive full pay

Managers should closely monitor employees excluded on medical grounds with a view to lifting the exclusion as soon as possible.

Should any medical suspension last beyond 4 working weeks the absence will be handled in accordance with the long term absence procedure.

## **1.6 Undertaking work whilst absent**

Employees who are on sick leave from their substantive role must not undertake any other paid or unpaid work. This includes work for a second employer, undertaking any private clinical practice or working on a self-employed basis for any other type of work (clinical or non-clinical).

Undertaking alternative or additional paid employment whilst on sick leave is normally classed as fraudulent activity and may result in a referral to the Local Counter Fraud Specialist and/or the Disciplinary Policy being invoked.

There may be exceptional circumstances where it is appropriate for a manager to agree to the employee undertaking other work: for example when partaking in such work would be helpful to aid recovery and where it is supported by medical evidence. Advice should be sought from Occupational Health and Human Resources in any such instance and the reasoning should be formally documented.

## **1.7 Annual Leave/Public Holidays and Sickness Absence**

### **1.7.1 Sickness occurring during annual leave**

If an employee falls sick whilst on annual leave the period will be treated as sick leave if a Fit Note is provided and they follow the sickness absence reporting procedures set out in section 2 of this policy.

### **1.7.2 Sickness immediately prior to pre-booked annual leave**

If an employee is sick immediately prior to pre-booked annual leave the employee must contact the Unplanned Absence Reporting Line and advise whether they are still absent due to sickness and remain contactable for attendance management meetings or whether they are able to take their annual leave.

If the employee remains sick a Fit Note must be provided, in the absence of a Fit Note it will be assumed that they have taken their annual leave as booked and the leave will be deducted from their annual leave entitlement.

Following any such period of leave, should the employee remain medically unable to return to work, this will be recorded as sickness absence and a Fit Note must be provided.

### **1.7.3 Holidaying when off sick**

Employees who intend to take a holiday during a period of sick leave must inform their line manager of this prior to the holiday commencing. In circumstances where a holiday is being recommended by a medical advisor, this must be brought to the attention of the line manager.

### **1.7.4 Long term sickness**

Employees will continue to accrue annual leave during periods of sickness absence. Therefore, in the event that an employee has outstanding annual leave following a period of sickness

absence, reasonable opportunity should be given to allow the employee to take this leave within the same leave year.

If the employee does not have the opportunity to take their annual leave entitlement within the current holiday year they may have the opportunity to carry any remaining statutory entitlement (currently 20 days, pro rata for part-time employees) into the next annual leave year. This will only be agreed in exceptional circumstances, by the employees' line manager and must be taken at the end of the sickness period. Where possible any outstanding leave should be used as part of an agreed rehabilitation plan.

#### **1.7.5 Statutory/Public Holidays**

Employees will **not** be entitled to an additional day off if sick on a statutory/public holiday.

### **1.8 Planned Surgery/Planned Procedures**

Managers are encouraged to refer employees to Occupational Health prior to planned-surgery for advice on the expected recovery period, the expected return to work date and the time period before the employee can return to unrestricted working, if applicable.

Planned surgery/planned procedures (including non-elective cosmetic surgery, with a medical referral) will be classified as sickness absence and monitored in accordance with Section 9 , as will any time off for recovery and recuperation.

However, elective cosmetic surgery without medical referral will not be classified as sickness absence. In these circumstances, either annual leave (or unpaid leave through Mutually Agreed Flexibility) should be agreed with the line manager prior to any employee undergoing surgery.

Where it is unclear if such surgery is elective or non-elective, Occupational Health advice must be sought. Occupational Health will, if deemed appropriate, request sight of the GP/medical referral letter to enable them to advise the manager appropriately and employees are encouraged to support this process.

On the first day the employee is going to be absent from work due to having surgery, they should call the Unplanned Absence Reporting Line to report their absence and give an estimated return to work date.

### **1.9 Medical Appointments**

**Routine appointments** for example to a GP, dentist, hospital or clinic appointments should wherever possible be made in the employee's own time. Employees attending hospital appointments should, wherever possible, come into work before and/or after appointments as appropriate. Employees should discuss with their line manager appropriate working arrangements e.g. allowing the employee to make the hours up, however, if this is not possible time off without pay or annual leave will be given.

**Consultant appointments** usually indicate that a more serious health problem exists. Line managers should do all they can to allow employees' to alter their working arrangements or if this is not possible take time off without pay or annual leave will be given to enable them to attend their appointment

These appointments are not regarded as sickness absence and will not be recorded as such however they should be recorded separately. Employees may be required to produce an appointment card or letter if requested

### **1.10 Employees Undergoing Fertility Treatment**

Certain conditions such as infertility are not, in themselves, defined as incapacity, and therefore an employee would not be automatically entitled to sick pay. However, if the employee is, as a consequence of an operation or treatment, incapacitated for work they will be entitled to sick pay. Similarly, employees would be entitled to sick pay, if they are incapacitated by some of the causes of infertility.

Any absences which are linked to employees undergoing fertility treatment will be considered as sickness absence and be monitored in accordance with section 9.

Should an employee wish to use annual leave or agreed unpaid leave to cover any pre-planned periods this must be discussed and agreed with the line manager prior to the commencement of any leave.

### **1.11 Career break/support through courses of treatment**

There may be occasions where employees and managers agree to a career break or there will be a supportive period of time where the employee undergoes a course of treatment. Suspension of the attendance management procedure in these circumstances may be appropriate. Managers should seek advice from Human Resources in all instances.

## **2.0 Absence Notification**

Employees are required to **personally** notify the Unplanned Absence Reporting Line, of all absences (except annual leave) from work at the earliest opportunity, the Unplanned Absence Reporting Line is available 24/7, 365 days per year to accommodate shift changes and flexibility. It is recognised that occasionally, there may be exceptional circumstances which prevents personal notification; however such circumstances will be by exception; therefore personal contact is expected.

The absence will be reported through the Unplanned Absence Reporting Line, by a button or voice activated series of questions. It is highly secure and will identify staff based on their assignment number.

On receipt of the staff absence information, the manager or nominated individual will call the staff member back. This will be operational 7 days a week. The manager will collect further details from the staff member and assess any requirement for occupational health assessments and any specific requirements such as swabbing during a pandemic.

Once the sickness episode has ended the staff member makes a further call to the Unplanned Absence Reporting Line to close the absence period and can then return to work as normal. Failure to comply will result in the absence being classified as unauthorised absence and pay being withheld.

This policy supersedes any local absence reporting arrangements in place.

### **2.1 Becoming Unwell At Work**

When an employee becomes unwell at work they must inform their line manager, or in their absence the person in charge of the shift/work on that day, without delay who will discuss the appropriate course of action with the employee. The employee must not leave work without consulting their line manager/person in charge of the shift and the Unplanned Absence Reporting Line unless in exceptional circumstances. Failure to comply will result in the absence being classified as unauthorised and their pay being withheld.

If an employee attends work but has to leave due to sickness, the following will apply:

- When the employee leaves work during the first half of their working day/shift a half day will be recorded as sickness absence and will count towards the trigger points. The

Unplanned Absence Reporting Line must be notified and a return to work interview must be completed.

- When the employee leaves work during the second half of their working day/shift no sickness absence will be recorded however it will be monitored against the trigger points under patterns and trends. A return to work interview must be completed.

Depending on the nature of the illness consideration should be given to referring the employee immediately to Occupational Health for advice and guidance.

## **2.2 Evidence of Incapacity**

Self-certification of sickness absence is permitted for a maximum of 7 consecutive calendar days on any one occasion. After 3 consecutive days of absence employees are required to provide either self-certification of absence or alternatively a medical certificate of incapacity (See section 2.3 – Statement of fitness to work). When calculating the length of sick leave that Saturdays, Sundays, Public/Bank holidays, non-working days and rostered days off are all included.

Should the absence last more than 7 consecutive days (i.e. 7 calendar days, regardless of how many of these were working days) a Statement of fitness to work (Fit Note) will be required and self-certification will no longer be sufficient.

Employees must provide their line manager with appropriate medical certification, without reasonable delay. Failure to provide timely medical certification will result in occupational sick pay being withdrawn or withheld and may be considered to be a breach of the Attendance Management Policy and as such the Disciplinary Procedure may be invoked.

## **2.3 Statement of fitness to work (Fit Note)**

The 'Statement of Fitness for Work' (also known as a 'Fit Note') allows a GP to advise on whether an employee is either 'unfit for work' or 'may be fit for work'. The advice in the Fit Note is about the employee's fitness for work in general and not specifically about their current job. The GP may suggest ways of helping the employee get back to work – for example by recommending a phased return or modified/restricted duties.

The trust is not bound to implement a GP's recommendations to change working arrangements and it will be at the discretion of management following advice from Occupational Health and discussions with the employee as to whether adjustments/ modifications can be accommodated in line with service needs. Any such recommendations should be discussed and agreed between the employee and line manager prior to commencement of work/shift at the absence/attendance review meeting if appropriate or a return to work interview.

## **2.4 Returning to work following certified absence.**

Government advice from the Department for Work and Pensions (DWP) includes the following:

- The advice in the Fit Note is about the employee's fitness for work in general and not specifically about their current job
- An employee does not need to be 'signed back' to work by a doctor
- An employee does not need to be 100% fit to return to work.
- Sometimes an employee will be able to return to work before the end of the Fit Note period where a doctor has advised that they are not fit for work. This may be because the employee has recovered faster than the doctor expected, or the doctor did not know of ways in which they could be supported to return to work

In such cases Occupational Health can advise on a suitable date for a return to work, or a return to some amended form of work/reasonable adjustments taking full account of the circumstances.

When an employee returns to work, the Unplanned Absence Reporting Line must be notified.

### 3 Sick pay arrangements

#### 3.1 Occupational Sick Pay (OSP)

Payment of Occupational Sick Pay is subject to the correct notification and certification procedures being followed and the amount received will be dependent on length of service and the period of absence. The service which counts is reckonable service, provided that any breaks of service do not exceed 12 months.

Where eligible, the Trust will pay Occupational Sick Pay in accordance with length of service as follows: -

**Table 1**

Length of Service	Period of Full Pay	Period of Half Pay
Up to 12 months service	One Month	Two Months
More than 1 year, less than 2 years' service	Two Months	Two Months
More than 2 years, less than 3 years' service	Four Months	Four Months
More than 3 years, less than 5 years' service	Five Months	Five Months
More than 5 years' service	Six Months	Six Months

Entitlement to Occupational Sick Pay will be calculated from the first day of paid absence due to sickness or injury. Any days of paid absence due to sickness or injury in the 12 months immediately prior to that date shall be deducted from the maximum entitlement.

For the purpose of calculating periods of sickness and entitlements Saturday, Sunday, public/bank holidays, non-working days and rostered days off are deemed to be part of the normal working week.

In aggregated periods of absence due to illness, the following absences will be disregarded from the calculation of sick pay; unpaid sick absence, absence caused by injuries or, diseases which have been sustained or contracted in the discharge of the employees duties; absence caused by injury resulted from a crime of violence.

Occupational Sick Pay may be withdrawn or withheld if an employee fails to maintain contact with the trust, fails to submit appropriate medical certification in a timely manner or is deemed fit to return to work by Occupational Health and does not return.

Occupational sick pay is not normally payable for any absence caused by an accident due to active participation in sport as a profession (i.e. being paid for playing the sport) or where contributable negligence is proved or in the course of other paid work outside the trust.

If an employee is absent as a result of a non-work related accident and receives damages from a third party they will not be entitled to Occupational Sick Pay and payroll should be notified immediately by both the employee and their manager. In circumstances where sick pay has been paid and damages have been received the employee will be expected to return the net amount of sick pay to the trust. Once received the absence shall not be taken into account for the purposes of the scale set out in Table 1.

Abuse of the sick pay scheme, for example, by undertaking certain sorts of paid or unpaid employment elsewhere whilst absent on sick leave, engaging in activities which are inconsistent with the nature of the illness or any activities which aggravate the nature of the illness or delay of the recovery, may result in a referral to the Local Counter Fraud Specialist and/or the Disciplinary policy being invoked

### **3.2 Pay Protection**

An employee who is in receipt of pay protection and is absent due to sickness, will continue to receive pay protection for the duration of the pay protection period. Should the employee exhaust their full sick pay entitlement during the pay protection period and go into half pay their pay protection will be paid at half the pay protection rate.

Should the end of the pay protection period fall during the period of sickness absence, the protection will cease and any remaining sick pay will be paid based on the basic salary and conditions of the new job.

## **4.0 Occupational Health**

### **4.1 General**

At any stage during the process of managing an employees' attendance, whether with long term absence or short term absence issues, or where their health is impacting on their ability to perform their normal duties, it may become appropriate for the employee to be referred to Occupational Health.

It is a condition of employment that all employees are required to attend a medical assessment with Occupational Health when they are absent from work due to sickness, or where they are in work and guidance is required regarding an ongoing health issue or condition, to ensure the appropriate support and assistance is received to enable the employee to remain in work, to aid recovery and where appropriate a return to work

With the employees consent Occupational Health will prepare a report for the manager providing advice and guidance concerning the employee. Occupational Health will only provide non-clinical information to managers on specific areas of concern relating solely to the employees ability to perform their role.

Occupational Health has knowledge of the workplace and will provide advice around alternative arrangements and reasonable adjustments that can help to facilitate an employees return to work.

Should the employee refuse permission for the report to be released to the manager, Occupational Health must comply with the request. As a minimum the Occupational Health response will include whether the employee is fit for work; not a risk to others and can undertake their duties without adjustment or restriction.

In refusing to give permission for the report to be released the employee must be made aware that the trust will make decisions based on the information available to them.

### **4.2 Immediate referrals to Occupational Health**

Where there is concern of stress (either work or non-work related), psychological conditions, musculoskeletal conditions or absence/injury sustained at work an Occupational Health referral must be made immediately or on notification of the absence and by no later than 2 working days of the first day of absence.

#### **4.3 Occupational Health opinion on fitness for work**

An employee who is still covered by a Fit Note may be reviewed by Occupational Health and deemed to be able to return to work and undertake some form of work, i.e. to their current role with adjustments or to an alternative role within the trust. In these occasions the advice of Occupational Health will take precedence over the Fit Note

#### **4.4 Failure to attend Occupational Health**

Repeated failure to attend Occupational Health will be considered to be a breach of contract and could result in the trust's Disciplinary policy being invoked

#### **5.0 Disability related absence and reasonable adjustments**

When managing attendance, consideration should be given to the Equality Act 2010 which outlines that no employee should be disadvantaged because of a disability or something arising from a disability i.e. which is the result, effect or outcome of a disability.

If an employee is disabled or becomes disabled during their employment, then the Trust is required, under the Equality Act 2010, to make reasonable adjustments to support an employee with a disability both in respect of access to the workplace and employment to enable the employee to continue working.

Absence arising from a disability must still be managed through the policy to ensure that the appropriate support is available

The Trust recognises its duty and obligation to support employees with disabilities to ensure that they are not treated less favourably than employees who do not have disabilities, the Trust has implemented triggers for disability related absence (see section 9.2.5). Those employees who have absence related to a recognised disability are monitored using separate trigger review points. Advice must be sought from Occupational Health, at the earliest opportunity, in all cases where the absence may be related to a disability.

At any time during their employment an employee can be referred to Occupational Health to discuss how their disability may affect them at work and if any reasonable adjustments are required.

It will be the line manager's decision as to whether those adjustments are reasonable for the service. The manager must meet with the employee and discuss the proposed adjustments. Details of the reasonable adjustments agreed and implemented must be recorded together with dates and outcomes of reviews with the employee in respect of those adjustments.

Managers should seek advice from Human Resources in all instances.

#### **6.0. Return to work discussions**

A return to work interview **must** be held with the employee following **every episode** of absence due to sickness ideally on their first day back, but by no later than 2 working days of the employee's return, and a Return to Work Form completed via the Absence Management System to establish the following:

- The reason for, and cause of absence
- Any patterns or trends
- Anything the manager or the Trust can do to help to support the employee in their return to work or to prevent further episodes of absence

- Any underlying causes for absence (e.g. personal or domestic circumstances, relations with colleagues etc.)
- Whether an Occupational Health referral is appropriate
- Whether a wellbeing plan/risk assessment/stress risk assessment is required
- That the employee is fit to return to work

If, in accordance with section 9.2, the employee has met the threshold for action they should be informed of this at the return to work interview

### 6.1 Employee Wellbeing Plan

The manager is responsible for agreeing an Employee Wellbeing Plan, with the employee taking into account Occupational Health advice.

Where any adjustments, either temporary or permanent, have been agreed between the employee and their line manager, to support their health and wellbeing, it is usually appropriate to incorporate these into an Employee Wellbeing Plan.

Where an employee has been absent due to stress or a psychological condition an Employee Wellbeing Plan **must** be agreed or an existing plan revisited.

### 6.2 Stress Risk Assessment

Where an employee has been absent due to stress or a psychological condition a Stress Risk Assessment **must** be undertaken and an Employee Wellbeing Plan agreed or an existing assessment to be revisited.

### 6.3 Risk Assessment

Where the absence is as a result of a musculoskeletal condition a risk assessment (i.e. manual handling; workstation, display screen assessment) **must** be undertaken as part of the return to work plan or an existing plan revisited.

### 7.0 Phased Return to Work

A phased return to work is a temporary arrangement and is a graduated return to the full duties and responsibilities of an employees' role. The trust will support employees in facilitating a phased return to work following a prolonged period of ill-health, where the Occupational Health team advise that a 'phased' return is likely to aid rehabilitation and a return to normal duties.

An Occupational Health referral is required, in all cases, in order to seek this guidance.

A phased return should not exceed more than 4 weeks and may commence or be completed by the time the employees Fit Note has expired.

Where Occupational Health advise a phased return, managers have the discretion to allow employees to return to work on reduced hours or to be encouraged to work from home (the latter without any loss of pay), subject to statutory sick pay rules as per the below examples;

- If an employee works 1 day per week, they can still receive SSP for the remaining 4 days;
- If an employee works 2 days per week, they would still qualify for SSP but the two days would have to be two consecutive days in order to get the maximum SSP for the remainder of the week; for example if they work Monday and Wednesday they would lose 1 days SSP. If they work Monday and Thursday they would get no SSP (as they have not been absent for 4 consecutive days);
- If an employee works 3 days per week they would still qualify for SSP for the remaining 2 days but the 3 working days would have to be consecutive again;

- If an employee works 4 days per week then there is no entitlement to SSP as they are not absent for 4 consecutive days.

Whilst on a phased return the employees pay will reduce to reflect the agreed working hours unless it is off set, or partially offset, by taking annual leave.

For employees who have been absent on a long term basis and they have been unable to take their **statutory** annual leave they have the right to carry this forward into the next leave year. It is recommended that a Manager seeks advice from their HR representative where this may be applicable.

Where it becomes apparent that there are doubts about the employee continuing to progress to their contractual hours and duties, Occupational Health advice should be sought and the employee should be managed under section 9.5 On-going Conditions.

## **8.0 Right to be accompanied**

Employees have the right to be accompanied at any stage of the formal procedure by either an accredited staff representative(s) or full-time official(s) of a recognised staff organisation, or by a fellow worker who must be an employee of the Trust. Where reference is made in the procedure to an “accredited staff representative” this should also be taken to mean full-time official as appropriate. However it would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the hearing.

If an employee’s companion is unavailable, it is the responsibility of the employee, so long as it is deemed reasonable to suggest another date which is not more than 5 working days after the original date any meeting or hearing.

The individual accompanying the employee is bound by their duty of confidentiality in all matters relating to this policy. Employees have no right under this procedure to be accompanied by anyone else (e.g. a spouse, partner, other family member, or legal representative) other than those persons previously referred to.

## **9.0 Procedure for managing sickness absence**

### **9.1 Thresholds for action**

Thresholds that initiate a response from managers remove uncertainty as to how attendance will be managed. They assist in the management of absence and ensure consistent application of the policy.

Trigger points help managers to monitor attendance and help to ensure employees are adequately supported and treated in a consistent manner.

The following sets out the thresholds for action to be followed in those circumstances where:

1. An employees’ attendance falls below expected standards through short term persistent absence or a combination of short term and long term sickness absence
- OR**
2. Long term sickness absence – a continuous and ongoing period of absence of 4 weeks or more
- OR**
3. On-going health issue or conditions.

### **9.2 Short term persistent absence or a combination of short term and long term sickness absence are monitored using:**

**Occasions:**

- 2 occasions of absence within a 6 month rolling period (calculated retrospectively, from the first day of this period of absence)  
and/or

**Trends or Patterns:**

- Trends or patterns of absence within a rolling 3 year reference period

Trends or patterns may include, but are not exclusive to absences which occur during the same period of time each year i.e. Public Holidays; Easter; Christmas etc. A trend may also be identified when there is regular absence on particular days of the week or particular shifts; following or preceding annual leave or days off; days coinciding with sporting events, school holidays, shortly following the expiry of a warning etc. or trends related to recurrent health conditions.

A sickness trigger flowchart can be found at Appendix 2.

**9.2.1 Informal action**

Prior to any formal action taking place, any employee who has had 2 occasions of absence within a 6 month rolling period, and/or whose overall attendance record gives cause for concern, must have this informally drawn to their attention. At the same time the manager must engage in conversation with the employee in an effort to understand what is preventing the employee attending work on a regular basis and take steps to support the employees where feasible. The manager must also inform the employee that if they have a further 2 occasions of absence in a 6 month rolling period and/or their continues to be a trend/pattern to their absence then this will result in progressing to the formal stage of the process. This must be documented on the Return to Work form.

There is no right to be accompanied at the meeting however should the employee wish to be accompanied, they are responsible for making the necessary arrangements. This informal discussion may be held as part of the normal return to work discussion or, take place at a later date, but by no later than **3** working days after their return to work and a record of the discussion should be documented on the return to work form.

**9.2.2 Formal action**

Where an employee's attendance continues to fall below acceptable standards following the informal discussion then a formal attendance review meeting will be held with the employee

Human Resources should be involved at all formal stages in either an advisory capacity or present at meetings/hearings in accordance with Table 2.

**9.2.3 Occupational Health referral**

At all stages of the formal procedure the employee must be referred to Occupational Health and up to date advice must be sought.

**9.2.4 Attendance review meeting**

The attendance review meeting should take place ideally within 7 working days of the employees return to work and by no later than 10 working days.

At this meeting all absences within the monitoring period and any identified patterns or trends must be discussed. The purpose of the meeting is to hear all the facts and any other associated points that the employee wishes to raise so that they can be fully considered. The discussion must also focus on what the employee can do to improve their absence, explore what support and assistance could be provided to overcome any short-term issues, patterns or problems identified as contributing to the level of absence.

It may be appropriate to develop a return to work action plan setting out the timescales for monitoring, the required level of attendance, any adjustments or assistance agreed or put in place to support the employee.

It may be decided to issue the employee with a first/final stage warning – notification of unsatisfactory attendance in accordance with Table 2; in all cases the decision must be confirmed in writing. The letter must set out the timescales for monitoring, required level of attendance, details of any adjustments or assistance agreed or put in place to support the employee.

If it is decided not to issue a warning, that decision must be recorded, including the justification and communicated in the outcome letter. The employee should be advised that a further meeting will be convened on the next or future occasions of absence during the monitoring period.

Employees have the right of appeal against any warning issued under the formal stages of this policy. (see section 10).

### 9.2.5 Disability related absence

Those employees who have disability related absence will be monitored by the same attendance triggers. However, at the attendance review meeting, the manager will consider (in accordance with the latest Occupational Health advice) whether a reasonable adjustment of allowing 1 more occasion (i.e. a total of 3 within a rolling 6 month period) is appropriate, prior to a notification being issued. This decision should only be made once Occupational Health advice has been obtained and after an attendance review meeting has taken place. The reference period will apply in line with the relevant stage of the policy.

### 9.2.6 Procedure summary

The following sequential notifications and targets may be applied once trigger points have been reached:

**Table 2**

The following trigger points will be used to monitor all attendance levels:					
<ul style="list-style-type: none"> <li>• 2 occasions of absence within a 6 month rolling period (calculated retrospectively, from the first day of this period of absence) and/or</li> <li>• Trends or patterns of absence within a rolling 3 year reference period</li> </ul>					
			<b>Review Period/Remains on File</b>	<b>Scheme of Delegation</b>	<b>HR Involvement</b>
<b>Formal Action</b>	<b>Attendance Review Meeting</b>	Stage 1 First Stage Warning – notification of unsatisfactory attendance	12 months from date of return to work	Line manager/deputy or equivalent	Advice must be sought in all cases
	<b>Attendance Review Meeting</b>	Stage 2 Final Stage Warning - notification of unsatisfactory attendance	2 years from date of return to work	Line manager/deputy or equivalent presents to Service manager/matron or equivalent	Both advisory and present

	<b>Attendance Review Hearing</b>	<p>Stage 3</p> <p>Panel to determine outcome</p> <p>Employment may be terminated</p>	Determined by outcome of hearing	<p>Service manager/matron or equivalent presents management case to Associate Director/General Manager/Clinical Director or equivalent</p>	Both advisory and present
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A notification of unsatisfactory attendance will remain 'live' on the employees file from the date of issue for the duration of the review period.

If at any stage in this procedure the employee has achieved, better attendance than that set out in the notification, by the end of the review period, their attendance record will be considered 'clear' and they will revert to the initial stages of monitoring. No further action will be taken unless the trigger points are reached once more.

Any notification previously issued will remain on the employee's personal file but will be disregarded for any further action.

### 9.2.7 Extensions to warnings

Where a warning is already in place and an attendance review meeting/hearing has been convened, the manager may, if they deem it appropriate, step back from progressing to the next stage in the procedure and they may instead issue an extension of the existing warning

### 9.2.8 Exceptions

#### a) Unacceptable levels of attendance

In exceptional circumstances employees may be moved to a higher stage of the process where the level of attendance is affecting the service or where there are demonstrable levels of historical trends of unacceptable levels of attendance and the trust has previously provided reasonable levels of support. This must only be done after consultation with Human Resources

#### b) Work related absences

Where an employee has suffered an injury or illness as a result of their work, consideration should be given to the appropriateness of moving an employee through the stages of the policy. Such situations should not be automatically excluded and advice should be sought from Human Resources in all instances.

Absences related to workplace investigations (i.e. employee relations matters) will not be classed as work related absences for the purpose of this policy and will be managed in accordance with Section 9 of this policy.

#### c) Linked absences

There may be instances where an employee has returned to work too quickly and goes off within 2 calendar days with the same illness. Such illnesses may be linked and counted as 1 occasion.

Where there is uncertainty about whether the occasions are linked advice should be sought from Occupational Health.

#### **d) Infection Control**

All employees (particularly clinical staff) should be aware of their responsibilities under the Infection Prevention and Control Policies, to reduce the risk of spreading infection whilst they are unwell.

Employees who are absent from work due to illness which may be infectious (e.g. chicken pox, diarrhoea and vomiting, influenza), should not return to work until they are clear of all symptoms.

In order to minimise the risk of spreading infection employees **must** not return to work until symptom free (e.g. 48hours after the last episode of diarrhoea and or vomiting) further advice on exclusion periods should be obtained from Occupational Health

Where certified sickness absence is attributed to an official, corporately agreed outbreak of sickness and diarrhoea any absences of such a nature should be recorded separately from other sickness absences and would not be included in any triggers. However, any such absence should still be monitored for any patterns or underlying health concerns.

If further information is required please refer to the trust's Infection Prevention and Control Outbreak Policy or contact Occupational Health.

#### **e) Pregnancy related absence**

Should an employee be absent from work due to pregnancy related sickness, these absences should be clearly recorded as pregnancy related within the employees attendance record. Any absences of this nature will be monitored in accordance with this policy.

Should the absences meet the thresholds for action set out in section 9.1 of the policy the line manager must meet with the employee to review any support required and review the pregnant workers risk assessment, however absences related solely to pregnancy should not result in a notification of unsatisfactory attendance being issued.

If an employee is off work sick, or becomes sick, with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave would normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the week after the employee last worked, whichever is the later. Absence prior to the last four weeks before the expected week of childbirth, should be treated in accordance with the Attendance Management policy.

### **9.3 Long term sickness absence**

Long Term Sickness (LTS) is defined as a continuous and ongoing period of absence of 4 weeks or more usually due to a single health problem e.g. operation or a combination of health issues.

During periods of long term absence it is essential that the employee and the line manager maintain regular weekly contact by telephone and face to face regular meetings on a monthly basis

Upon receipt of a statement of fitness to work (Fit Note) indicating that the employee will be absent for 4 weeks or more or the likely length of the absence is unknown the manager should contact the employee and an Occupational Health referral must be made.

In all cases an absence review meeting(s) must be held.

Long term sickness may count towards "trigger levels" calculated at the point of return to work (section 9.2 refers).

### **9.3.1 Absence review meeting**

Absence review meetings should take place monthly however this may not always be appropriate or necessary and advice should be sought from Human Resources

On receipt of the Occupational Health report the manager must arrange to meet with the employee to discuss the report. The employee should be invited to attend an absence review meeting to discuss their absence. If the employee is unable to attend the workplace this meeting may take place at the employee's home or at an alternative location.

The purpose of the meeting is to review the employees' absence, obtain an update on their health, discuss any Occupational Health advice/recommendations/adjustments or modifications set out in the report, review next steps and, if appropriate develop a rehabilitation plan to enable the employee to return to work as soon as possible.

Following the meeting the manager must write to the employee confirming the content of the discussion and any agreed actions. If the employee is too unwell to return to work, a further review meeting and a referral to Occupational Health must be arranged.

A member of the Human Resources team should be present at all absence review meetings

### **9.3.2 Rehabilitation Plan**

In most cases of long term sickness it is anticipated that the employee will return to work in their substantive role and on their normal terms and conditions of work. In certain circumstances Occupational Health will recommend a phased-return to work to aid rehabilitation after a period of absence.

Where Occupational Health advice is that the employee is able to return to work there are a number of options that may be discussed/considered:

- Employee Fit to Return - phased return
- Fit to return to current role/duties – phased return
- Fit to return to current role but unable to fulfill all of the duties – consider reasonable adjustments/phased return
- Unfit to return to current role but is capable of other work – consider redeployment
- Currently unable to return to work but assessed by Occupational Health as likely to return in the future

To enable employees who are absent long term due to sickness or disability to return to work, the trust will endeavour to make or review reasonable adjustments/modifications to their present position or consider redeployment either on a temporary or permanent basis.

The manager and employee must meet prior to any return to work to discuss and plan the employees return and facilitate an earlier return if possible.

The manager is responsible for agreeing a rehabilitation programme with the employee taking into account Occupational Health advice and agreeing, with the employee, a rehabilitation plan which may include, but not be limited to any adjustments or modifications to hours/working days; role or duties, training and associated timescales.

### **9.3.3 Employee unlikely to return**

If at any time during the period of absence Occupational Health advise that the employee is unfit to return to work in the foreseeable future; where there is no realistic expectation of a

return to work within a reasonable timescale; where there is no definitive date for return and where all appropriate avenues have been explored such as reasonable adjustments/modifications to their current role and/or redeployment then an incapacity review hearing will be convened

If at any time in the process the employee indicates that they wish to explore/instigate ill-health retirement, they should be referred to Occupational Health. On receipt of the Occupational Health report an absence review meeting must be convened to discuss the implications of this.

Advice must be sought from Human Resources.

#### **9.4 Attendance/Absence review meetings**

At all formal stages of the procedure the employee will be given 5 working days' notice of the meeting. In the event that representation cannot be arranged for the appointed time/date or the employee is unavailable to attend a rescheduled meeting will be arranged as quickly as possible but not later than 5 working days after the original date wherever possible. This meeting will take place as rescheduled.

In the event that either the employee or their representative fails to attend the rescheduled meeting without prior agreement of the manager or justifiable reason agreed by the manager the meeting will still go ahead with a decision being made in the absence of the employee/representative based upon the information available.

Should an employee fail to attend absence review meetings the trusts Disciplinary policy may be invoked.

#### **9.5 Ongoing conditions**

In some situations an employee may have on-going health issues or a condition, or develop during the course of their employment, on-going health issues or a condition which may impact upon their ability to perform the duties of their role or their ability to sustain regular attendance.

Where there is a clear indication that an on-going health related issue or a condition is impacting on the employee's ability to perform their normal duties or they are unable to sustain regular attendance a three step procedure should be followed:

##### **1. Occupational Health Referral**

Where an employee has on-going health issues or a condition Occupational Health advice must be sought to ascertain the best course of action.

##### **2. Reasonable Adjustments / Redeployment**

Where the employee's health issue or their condition is classed as a disability under the provisions of the Equality Act 2010 the Trust will meet its legal obligations to make reasonable adjustments to the employee's current post or look to find suitable alternative employment for the employee.

##### **3. Incapacity Review**

If the employee's substantive post is unsuitable due to their on-going health issues or condition and where it has not been possible to make reasonable adjustments to their current post or been possible to re-deploy them into another post it will be necessary to proceed to an Incapacity Review Hearing in accordance with Section 10 to determine the employee's future employment with the organisation.

Where termination of the contract of employment on the grounds of incapacity is considered, all reasonable efforts must be made to obtain appropriate medical evidence

via Occupational Health, including Occupational Health advice as to whether the employee is likely to be a candidate for ill health retirement

## **9.6 Redeployment**

Where Occupational Health advice is that an employee is not able to return to their current role and/or reasonable adjustments to the employee's current role have been explored, the trust will endeavor to identify a suitable alternative role either on a permanent or temporary basis.

On receipt of the Occupational Health report the manager must arrange to meet with the employee to discuss the report. The employee may if they wish be accompanied at this meeting by a staff representative or a fellow worker.

A Human Resources representative must also be in attendance

Once it has been agreed that redeployment will be explored the employee will be placed on the trust's redeployment register and the process set out in the trust's Redeployment Policy – Section 6 will be followed.

The employee will remain on the redeployment register for up to 12 weeks. Any trial undertaken during this period will form part of the 12 weeks on the register.

Employees who accept a post at a lower banding will not be entitled to receive pay protection.

Attempts will be made to redeploy the employee during this period. If alternative employment cannot be found the employee's contract of employment may be terminated on the grounds of capability due to ill health in accordance with section 9.8 of this policy.

## **9.7 Terminal illness**

The trust will aim, as far as possible, to accommodate the employees wishes and provide appropriate support to the employee and their family.

Options include:

- The employee continues to work either fully or in a reduced capacity
- If the employee is a member of the NHS Pension Scheme they could make an application for ill-health retirement.
- If the employee is a member of the NHS Pension Scheme and where life expectancy is 12 months or less they could make an application to have their incapacity pension commuted so the value of their benefits is paid as a single lump sum.

Members of the NHS Pensions Scheme should contact the Pensions team as soon as possible to enable options to be identified and discussed

## **9.8 Attendance/Incapacity review hearing (Final review meeting)**

Where all possible stages of this policy have been exhausted and there is no likelihood of the employee maintaining regular attendance at work or the employee is unfit to return to work within a reasonable timescale and all appropriate avenues have been explored it may be necessary to consider termination of the employees' contract on the grounds of incapacity/incapability due to ill-health.

An Attendance Review/Incapacity Review Hearing will be convened to consider all available information and determine the employees continued employment with the Trust.

The incapacity review hearing **must** take place within 12 months of continuous sickness absence/start of the employees' sickness absence.

The hearing will be chaired by an Associate Director or an alternative manager (see Table 3) with the authority to dismiss, supported by a HR representative and attended by the employee and their manager. The employee has the right to be represented at this hearing by a Staff-side representative or accompanied by a workplace colleague.

During the hearing all the facts available should be given consideration including evidence that the manager has made all reasonable efforts to assist the employees' return to work or improve their attendance.

In all circumstances all reasonable efforts must be made to obtain the appropriate medical advice via Occupational Health.

After hearing representations from the employees' line manager and the employee and/or their representative a decision will be taken with regard to the employees continued employment with the Trust.

### **9.8.1 Exceptions**

There may be exceptional circumstances i.e. where the employee is too ill or it would be detrimental to their health for them to attend a formal hearing. Advice should be sought from Human Resources in these circumstances.

### **9.8.2 Termination of Contract**

Before any decision to terminate an employee on medical incapacity grounds the following options must be considered:

- Rehabilitation
- Phased-return
- A return with or without adjustments
- Redeployment with or without adjustments

If the decision is to dismiss the employee on the grounds of incapacity/incapability due to ill health, notice will be given in accordance with the employees' contractual entitlement.

The employee must be advised of their right to appeal the decision.

## **10.0 Right of Appeal**

Employees have the right to appeal against any formal action (including the withholding of pay), notification of unsatisfactory attendance or any decision to terminate the contract of employment under the Attendance Management policy.

Appeals against any action short of dismissal i.e. notification of unsatisfactory attendance; the withholding of pay will be dealt with in accordance with the trust's Grievance and Dispute Policy – Grievance Appeal. Any appeal must be made in writing to the next in-line manager of the person issuing the sanction within 10 working days of the receipt of the notification letter.

Any letter of appeal must clearly outline the grounds for appeal in writing **within** the above specified time-frame, unless in exceptional circumstances with prior agreement by management.

Appeals against dismissal will be heard in accordance with the trust's Disciplinary Policy and Procedure. The decision of the Appeal Panel will be final and there will be no further

opportunity for recourse to the Grievance Procedure.

Employees should address their appeal to the Director of Human Resource and Organisational Development, within 10 working days of receipt of the dismissal letter.

At any appeal hearing the employee has the right to be accompanied in accordance with section 8 of this policy.

**Table 3**

<b>NOTIFICATION</b>	<b>NOTIFICATION ISSUED BY:</b>	<b>WHO TO APPEAL TO:</b>
Stage 1 – First stage warning	Line Manager/ deputy or equivalent	Service Manager
Stage 2 – Final stage warning	Service Manager/Matron or equivalent	Head of Service/Clinical Director
<b>Stage 3 - Dismissal</b>	Associate Director/General Manager, Clinical Director (or person with authority to dismiss)	Director of Human Resource, and Organisational Development

***Please note: A member of the HR team will be in attendance at all appeal hearings to provide HR support to the panel.***

### **11.0 Ill-health retirement**

Employees who are members of the NHS Pension Scheme can make an application to NHS Pensions for ill-health retirement.

The decision to terminate the employees' contract is not dependent on the outcome of any application to NHS Pensions for ill-health benefits however the trust can support in the completion of the appropriate documentation.

The decision as to whether or not the application is accepted sits solely with the NHS Pensions medical advisors.

### **12.0 Industrial Injury**

An industrial injury is an accident or incident that has occurred as a result of work. Any suspected occurrence should be reported through the local incident/near miss reporting procedures (by electronically completing a Datix incident reporting form).

Should an employee feel that their absence is a result of an injury of incident at work, the employee must discuss this with their line manager at the earliest opportunity. Consideration should also be given to refer the employee immediately to Occupational Health for advice and guidance, in accordance with Section 4.

Where a period of absence is deemed attributable to an industrial injury, this will be excluded from any triggers for action. However, the Attendance Management Procedures will still be followed. Further guidance can be obtained from the Attendance Management Procedures which support this policy.

### **13.0 Injury Allowance (IA)/Temporary Injury Allowance (TIA)**

Injury Allowance (IA), is defined as an injury or contracted disease on or after the 31st March 2013.

Temporary Injury Allowance (TIA), is defined as an injury or contracted disease on or before the 30<sup>th</sup> March 2013.

An employee who has been injured or who has contracted a disease during the course of their work may be eligible for injury allowance (IA)/temporary injury allowance (TIA). Both schemes are administered by the NHS Pensions Agency; however employees do not have to be members to apply for this allowance.

To qualify for injury allowance/temporary injury allowance, an employee covered by the scheme must be on leave of absence and be suffering a reduction in their NHS pensionable pay as a result of an injury or disease that is wholly or mainly attributable to their actual NHS duties.

#### **14.0 Failure to comply with the Attendance Management Policy**

All employees of the trust are expected to engage with and comply within the framework of this Attendance Management policy. Failure to do so may result in disciplinary action being taken, in accordance with trust's Disciplinary.

#### **15.0 Confidentiality**

All employees have a duty to ensure that confidentiality is maintained throughout the application of the Attendance Management policy. This includes both employees and managers being discrete in discussing or communicating attendance issues, within their departmental teams.

All documents will be stored and processed in accordance with the provisions of the Data Protection Act 1998 and the Trust's Occupational Health provider understands their obligations under the access to Medical Reports Act 1988.

In any case where there is a suspected breach of confidentiality, the matter will be investigated under the trust's Disciplinary policy.

## **5.0 Monitoring Compliance with the Document**

### **Audit & Monitoring**

This policy will be reviewed annually by the policy lead to ensure compliance in respect of:

- 100% of long term absence will have a referral to Occupational Health and HR support
- 100% of short term absence receive HR support at stages 2 & 3
- 100% of return to work interviews are completed and recorded on the relevant system
- 100% of Occupational Health referrals relating to stress, anxiety and depression and musculo-skeletal occur within 2 days
- 100% of absences relating to stress, an employee will have a stress risk assessment and wellbeing plan in place.

The final audit will be reviewed at the People Development Strategy Board.

### **Review of Policy**

This policy will be reviewed by the policy lead on a three yearly basis.

The policy and procedures will be monitored and reviewed by management and staff-side representatives in line with legislative changes and best practice guidelines.

Any party to the approved document may seek revision, within the context of partnership working at any time.

## 6.0 References

### Associated Documents

This policy should be read in conjunction with the following East Cheshire NHS trust Policies/documents:

- Capability Policy
- Grievance & Disputes Policy
- Disciplinary Policy and Procedure
- Redeployment Policy
- New & Expectant Mothers Policy
- Maternity, Paternity, Adoption & Shared Parental Leave Policy
- Annual Leave Policy
- Infection Prevention and Control Outbreak Policy
- ESR Manager Self Service Guidance
- Management of Workplace Stress and Wellbeing Policy
- Employee Wellbeing Plan
- Prevention & Management of Stress Guidance
- Equality and Human Rights Policy

### External Resources:

- NHS Pensions - <https://www.nhsbsa.nhs.uk/nhs-pensions>
- Department for Work and Pensions - <https://www.gov.uk/government/collections/sickness-absence>
- Access to Work – <https://www.gov.uk/access-to-work>

### **Transitional Arrangements**

Staff who commenced an episode of sickness absence prior to 1<sup>st</sup> April 2019 will continue to be managed under the terms they were employed upon when their period of sickness absence commenced. The provisions for sickness absence for any subsequent periods of sickness absence from 1 April 2019 will be managed under the terms of this policy

## Appendix 2

### Sickness Trigger Flow Chart

