

### Frequently asked questions

These are provided for guidance or quick reference guide only, so please always refer to the policy.

## 1. Reporting of Absence

### 1.1 How do I report my sickness absence?

You should speak to your manager or their deputy at least an hour before your normal start time, or in line with your local reporting arrangements, to report your absence.

Your manager will have agreed with and communicated to all their employees' details of the local reporting arrangements for sickness absence. This will have included:

- To whom absence should be reported including provision for annual leave or other absence;
- By what time, e.g. an hour before the normal starting time;
- Consequences of failing to do so, e.g. the absence may be deemed as unauthorised, therefore it would be unpaid;
- Notification should be by the individual – unless the illness prevents this;
- Method of communication, e.g. telephone.

Normally, your manager will expect you to call as soon as reasonably practicable and not leave answer phone, email or text messages (unless this has explicitly been agreed).

### 1.2 What information will my manager need when I speak to them to report my absence?

Your manager needs to build up a picture of your sickness and what support you might need. You should explain why you are absent so that they can check whether there are any concerns you have regarding your illness. You will be asked about your likely return date.

If you are likely to be away for more than a few days your manager will remind you that you will need to obtain a fit note from your GP or a registered healthcare professional if your absence is likely to be more than 7 calendar days.

Your manager will make arrangements for continued, regular contact with you. They may need to ask you about any work-related issues which require attention in your absence. Your manager will also need to ask you if the absence is as a result of stress, a work-related upper limb disorder or an accident at work.

If you do not report your absence to your line manager or are unable to speak with them directly to report your absence your manager will make a follow up call during the day to check on your welfare and any work issues which may require management attention.

### **1.3 What do I do if I am sick and not well enough to phone my manager?**

You should make every reasonable effort to report your sickness absence directly to your manager (or if not on shift, the manager in charge) so that they can offer you any support you might need and find out whether you have any concerns about your illness. In the event of an emergency or very serious illness, you will need to ask a work colleague, relation or friend to phone on your behalf. Your manager will then phone you later in the day to see how you are and discuss any support you might need.

It is very important that you report your absence. If you fail to do this it could mean that your absence is recorded as unauthorised, which would mean that you would not receive sick pay and could lead to disciplinary action.

### **1.4 What do I do if one of my employees has phoned in sick?**

You need to build up a picture of an employee's absence so that you can assess what support they might need. Therefore, it is important that you speak to your employee personally when they are reporting their sickness absence, so long as this is reasonably possible.

You should ask them why they are absent; this is so that you can check whether there are any concerns they have regarding their illness. You should ask them about their likely return date. If they are likely to be away for more than a few days you will need to remind them that they will need to obtain a fit note if their absence is more than 7 calendar days.

If the date of return is uncertain, you should make arrangements for continued and regular contact. You may need to ask them about any work-related issues that require attention in their absence. You will also need to ask them if the absence is as a result of stress, a work-related upper limb disorder or an accident at work.

After speaking to your employee, you will need to record the sickness in EASY to ensure that they are paid correctly. If they advise you that their absence is work-related you should contact HR Direct on 27700 who will connect you with the Health & Safety notification line, so that they can fully assess if the absence is work-related. This number is manned Monday to Friday 9-5 with voicemail facility for out of hours. You will need to ensure this is done as soon as possible as this could affect your employee's sick pay.

### **1.5 How do I report an employee's absence?**

To report absence, you should

use the EASY system. All absence including part day absence should be recorded this way.

You will also need to record any accidents at work, or work-related upper limb disorder [WRULD] related absences on Datix. If one of your employees has told you that their absence is work-related (including work-related stress) you need to contact HR Direct on 27700 on the first day that you are aware that the absence is work-related.

### **1.6 What should I do if my absence is longer than 7 calendar days?**

If this is the case, you will need to get a fit note. A fit note can be issued by a registered nurse, occupational therapist, pharmacist and physiotherapist in addition to your GP. You must give your fit note to your manager. Your fit note must cover all days of your absence

beyond the 7<sup>th</sup> calendar day. You will need to provide your manager with your fit note within 3 calendar days after your 8<sup>th</sup> calendar day of absence.

If your period of absence continues after this you must make sure that you continue to get fit notes from your GP or registered healthcare professional and these must be continuous, that is without any calendar days gaps (except where annual leave has been approved). You must make sure that your manager receives your fit note within 3 calendar days of the previous fit notes expiry date.

If you do not submit a fit note, your manager will contact you for an update and remind you of the need to provide the fit note. If your manager believes there are likely to be any unreasonable delays in the submission of your fit notes, they will advise you in writing that your absence may be considered as unauthorised and therefore unpaid.

### **1.7 What do I do if I haven't received a fit note after 8 days absence?**

It is very important that your employee provides fit notes to cover their absence in order to comply with Statutory Sick Pay regulations.

If your employee does not submit their fit note by the 12<sup>th</sup> calendar day of their absence you will firstly need to find out and understand the reason why your employee is not keeping contact with you and/or sending in their fit notes correctly. There may be a reason why they are finding it difficult to make contact with you. You will need to consider this on a case by case basis and decide whether or not this should be classed as unauthorised absence.

If you decide that they are not co-operating with us on their absence you will need to advise them that their absence will be considered as unauthorised until such time as they provide a fit note and that Occupational Sick Pay is not due for the uncertified period of the absence. To record this, you will need to complete form ESR-FRM-137. Statutory Sick Pay will continue to be paid.

It is essential that this form is completed immediately in order to avoid an overpayment situation.

If they continue not to respond to the request to supply the fit note and adhere to the sickness absence notification requirements, you will need to deal with this under the Disciplinary Policy.

### **1.8 What if an employee does not keep regular contact during sickness absence and/or provide fit notes?**

Firstly you would need to find out and understand the reason why your employee is not keeping contact with you and/or sending in their fit notes correctly. There may be a reason why they are finding it difficult to make contact with you. You will need to consider this on a case by case basis and decide whether or not this should be classed as unauthorised absence.

If you decide that they are not co-operating with us on their absence you will need to advise them that their absence will be considered as unauthorised until such time as they provide a fit note and that Occupational Sick Pay is not due for the uncertified period of the absence. To record this, you will need to complete form ESR-FRM-137. Statutory Sick Pay will continue to be paid.

It is essential that this form is completed immediately in order to avoid an overpayment situation.

If they continue not to respond to the request to supply the fit note and adhere to the sickness absence notification requirements, you will need to deal with this under the Disciplinary Policy.

## **2. Part day sickness absence**

### **2.1 If I go home early due to sickness, will this be recorded as a day's absence?**

If you feel ill whilst at work and have to go home as a result, you should contact your line manager immediately to make them aware and to discuss any arrangements, which need to be made to cover your absence. If you do go home your manager will record this on EASY and keep a note of this but it will not normally count towards a trigger and will not be recorded as a day's sickness because you have undertaken work that day. The same applies if you come in late due to sickness and do not complete a full day's work.

However, if this happened regularly then your manager could consider this as a trigger of unusual patterns of absence which are causing concern. If you go home before undertaking any work, then this is recorded as a complete day off sick.

### **2.2 If I come in late due to sickness will this be classed as sickness?**

You should already have contacted your manager to have advised them that you will be late due to sickness. Once you arrive at work you should inform your manager. Your manager will check with you whether you require any support and will make a note of this. This will not normally count towards a trigger and will not be recorded as a part day 'sickness because you have undertaken work that day. However, if this happened regularly then your manager could consider this as a trigger of unusual patterns of absence which are causing concern. If you aren't able to undertake any work when you come in, then this is recorded as a complete day off sick.

## **3. Employees in Hospital**

### **3.1 What should I do if I am admitted to hospital?**

If you are admitted to hospital and have not been able to give your manager prior notice of attendance, e.g. in an emergency, arrangements should be made with a work colleague, relation or friend to telephone your manager.

In cases where your admittance to hospital is pre-arranged, you should notify your manager in advance and they will discuss with you the contact arrangements during your absence.

Before leaving hospital, you should request a medical statement detailing the dates of the stay and period of absence if the total duration of absence will extend beyond 7 calendar days. This statement should be submitted to your manager as soon as possible.

Where the absence is likely to continue longer than previously anticipated, you will need to make sure that you let your manager know the new details.

## **4. Certification of Absence**

### **4.1 What is sickness absence certification?**

When you have sickness absence this must be certified either by self certification, if it is up to 7 calendar days, or via a fit note if it is for a longer period. Self certification means that

you can tell your manager the reasons for your absence by means of a verbal update, without having any documentation from your GP or registered healthcare professional. There is no form required to do this.

Your manager must record the absence on the EASY/NEXTRA system. Please see the ESR Business Support intranet pages for guidance on recording sickness absence in EASY/NEXTRA or using the ESR Notification form.

When you return to work you need to complete the Return to Work discussion form. The form and guidance is available on People First.

*NB It is not the intention to trigger this policy by counting non-working days towards the trigger points, however patterns of absence around non working days should be considered.*

## **4.2 What is a fit note?**

A fit note is a note provided can now be issued by registered nurses, occupational therapists, pharmacists and physiotherapists in addition to your GP. This means that you may be issued a fit note by someone other than your GP as long as they are discussing your fitness to work with you. A fit note covers any periods of sickness absence they feel you should be off work. You will need to send a fit note to your Manager to cover your sickness absence from the 8th calendar day of your absence (employees can self certify for the first 7 calendar days of any sickness absence), and it should run continuously for the period of your absence. It must cover calendar days, so if there is a weekend or non-working days during your sickness this must also be covered.

Where sickness continues beyond the period covered by the fit note, further fit notes should run continuously otherwise entitlement to NHS Occupational Sick Pay (OSP) or Statutory Sick Pay (SSP) may be lost. This continuous period of sickness must also cover any non-working days.

Your fit note must be signed by your GP or registered healthcare professional. The fit note will confirm whether you are not fit for any work or whether you may be fit for work in general but not specifically for some aspects of your current job. This gives your Manager maximum flexibility to discuss possible changes with you to help you return to work, which may include changing your duties for a while. The fit note also tells you whether you are likely to need a new fit note when your current one expires.

Full guidance on what the different sections of the fit note mean and how you can implement it effectively can be found on the Government web site.

<https://www.gov.uk/government/collections/fit-note>

## **4.3 What will the fit note say?**

On the form the registered healthcare professional will advise one of two options:

1. not fit to work – this means that the registered healthcare professional assessment is that your employee has a health condition that prevents them from working for the period covered by the fit note.
2. may be fit for work taking account of the following advice – this means the registered healthcare professional assessment is that although their condition does not necessarily stop them from returning to work, their return is conditional on certain conditions being met. The form contains the following options of recommendations from the registered healthcare professional:

- Phased return to work. Where they believe that the employee may benefit from a gradual increase in the intensity of their work duties or their working hours
- Altered hours. Where they believe that the employee may be able to return to work if there is a change to the hours that they work. This could mean either working fewer hours or a change to their working pattern such as starting and finishing later to avoid travelling in the rush hour
- Amended duties. Where they believe the employee may be able to return to work if their duties are amended to take into account their condition
- Workplace adaptations. Where they believe the employee may be able to return to work if their workplace is adapted to take into account their condition

#### **4.4 What do I do if an employee gives me a fit note?**

Your employee will need to send in a fit note to cover their sickness absence from the 8<sup>th</sup> calendar day of their absence. If the fit note says that they are not fit for work, you should treat this as evidence for the sick pay procedures. You can take a copy of the fit note for your records, but your employee should keep the original as they may need it for benefits or other purposes. If the fit note states that the employee will be absent for 28 calendar days you will need to arrange to meet with them to start the process of managing long term absence.

#### **4.5 Does my employee need a fit note saying they are fit for work?**

No. They do not need to be fully fit to return to work so they do not need to see their GP or registered healthcare professional again to be signed back to work. The fit note does not have an option to say that they are fit for work. If their GP or registered healthcare professional wants to assess whether they are fit for work, it will say this on their fit note.

An employee does not need to be signed back to work at the end of their fit note, and there is no option on the fit note to do so. If your employee's GP or registered healthcare professional assess that they are fit for work at the end of their fit note, they will not be issued with another one. Your employee should return to work once their fit note expires (if they have not already done so) or they will need a new fit note.

However, if your employee wants to return before the end date of their current fit note, they can do so without going back to see their GP or registered healthcare professional to be signed as fit; This is even if their GP or registered healthcare professional has indicated that; they need to assess them again. However, in this case you will need to make sure that a suitable risk assessment is carried out.

#### **4.6 What do I do if the employee's fit note says 'may be fit for work'?**

This means that your employee's GP or registered healthcare professional believes that returning to work will aid in their recovery and should also provide details on how to get the employee back to work. The fit note gives you the information you need to begin an early and informed discussion with your employee on whether they can return to work despite their illness or injury. This recognises that work is, on the whole, beneficial, and getting back to the work place as soon as possible (as appropriate and safe) tends to have a positive effect in the process of returning to better health.

You should consider the GP or registered healthcare professional's comments and discuss these with your employee. If a return to work is possible you should agree any temporary changes to their job or hours and what support, you will provide and for how long this support will apply. You will need to have regular discussions with your employee during this period to ensure that the arrangements are still appropriate and that they are receiving the support they need.

It is not necessary to refer an employee to Occupational Health unless

- The adjustment cannot be accommodated
- Agreement regarding the return to work cannot be reached
- It is a work-related condition
- It is a period that is likely to last more than 4 weeks

If it is not possible for you to provide the support to allow your employee to return to work you should the fit note as if the GP or registered healthcare professional had advised 'not fit for work'.

#### **4.7 What do I do if the employee's fit note says return on restricted duties?**

You should discuss with your employee whether there are any changes which could help them return to work. You do not need to be an expert in your employee's health condition to have these discussions, they should be focussed on practical ways that you could support your employee to return to work. You do not need to make an Occupational Health referral unless you are unable to support your employee without needing additional expertise. If the health condition is complex or work-related then support from OH should seriously be considered.

You may need to carry out a risk assessment to accommodate the clinical judgement in the fit note e.g. if it states that your employee should avoid lifting you should ensure that you do not give them work that involves manual handling.

If the recommendations for adjustment cannot be met within the department, then you should contact HR Direct on 0117 3227700 or (2)7700 to discuss whether temporary redeployment to another department would be an option.

#### **4.8 Do I have to follow the advice on the fit note?**

The fit note has been designed to give you greater flexibility to discuss possible changes to help your employee to return to work and better information to manage their sickness absence. If the GP or registered healthcare professional has advised that your employee may be 'fit for work' you should discuss this advice with them. Supporting someone with a health condition to come back to work can help in their recovery and help maintain their wellbeing.

It is your choice, after discussing the Statement on the fit note with your employee, how to act on what their GP or registered healthcare professional has advised. When considered the GP or registered healthcare professional's advice you should always consider if the advice is consistent with any specific safety guidelines or regulations that the GP or registered healthcare professional may not be aware of.

If the GP or registered healthcare professional has advised that your employee 'may be fit for work' and you cannot make the adaptations or adjustments to help a return to work, you should explain the reasons for this to your employee. This then means that the fit note will be treated in the same way as if the GP or registered healthcare professional had advised 'not fit for work'.

Your employee does not need to go back to their GP or registered healthcare professional for a new Statement to confirm this.

#### **4.9 What if the advice from OH differs from my employee's fit note?**

The assessment from the employee's GP or registered healthcare professional about whether your employee is not fit for work or may be fit for work (and any other advice in the fit note) is classed as advice, and it is for employers to determine whether or not to accept it.

Occasionally, you may believe that your employee is not fit for work when they have been assessed as fit for work by their GP or registered healthcare professional, or you may think that your employee could do some work when they have been assessed as 'not fit for work' by their GP or registered healthcare professional.

In situations like this you are within your rights to gather other evidence about your employee's fitness for work from other GP's or registered healthcare professionals. In this case this would be advice from Occupational Health. This advice can be from an OH advisor or an OH Physician. You should make a referral providing the relevant information from the employee's GP or registered healthcare professional and your reasons for seeking the other evidence.

You can choose to give this other evidence precedence over the advice in the fit note. Your employee may disagree with you, and you may need to demonstrate to an employment tribunal why the alternative source of evidence was more acceptable to you than the fit note.

#### **4.10 What if the OH report says fit to return before the end of the fit note?**

Your employee can go back to work at any time (including before the end of the fit note) without going back to see their GP or registered healthcare professional; even if they have indicated that they need to assess them again.

Therefore, you should meet with your employee and discuss the Occupational Health (OH) report with them. You should ask your employee if they feel well enough to return to work and discuss the GP or registered healthcare professional's advice and OH recommendations for their return to work. If your employee feels well enough to return to work, then there is no obligation to wait until the end of the statement period. OH, may make recommendations including reasonable adjustments which may make it feasible for your employee to return to work. For instance, OH may recommend adjusted duties or reduced hours for a temporary basis to enable your employee to carry out their role.

#### **4.11 What if an employee wants to return to work before the end of a 'not fit for work' Statement?**

Sometimes your employee will be able to return to work before the end of a Statement period where a GP or registered healthcare professional has advised that they are not fit for work. This may be because the employee has recovered faster than expected, or the GP or registered healthcare professional did not know of ways in which you could support your employee to return to work.

If you agree with your employee that it is appropriate for them to return to work, you do not need to wait until the end of the Statement period for them to do so.

#### **4.12 What do I do if an employee disagrees with the support offered to aid them to return to work?**

If, on the basis of the advice from your employee's GP or registered healthcare professional and your knowledge of the work place you believe you can support your employee to return to work and they disagree with your proposal you firstly need to discuss the issue with your employee. You will need to understand why they believe they cannot return to work. There may be an aspect of their condition or the workplace that you have not considered.

If you are unable to reach an agreement on their return to work, you may wish to make a referral to Occupational Health for guidance on how a return to work can be supported.

Although your aim should be to ensure that both you and your employee are comfortable with the support that is being offered to enable them to return to work, if it is not possible to achieve a return to work within a reasonable time scale, which would normally be when their sick pay



reduces to half pay, then a Formal Absence Review Meeting should be held with the employee to discuss the options available.

## 5. Sick Pay

### 5.1 What is Statutory Sick Pay (SSP)?

SSP is a payment made to people who are off sick by their employers when certain criteria are met. These include a minimum earnings level and reporting you are off sick in time.

Full details of Statutory Sick Pay are available from [www.gov.uk/statutory-sick-pay](http://www.gov.uk/statutory-sick-pay)

If you don't meet the criteria we won't pay you SSP and you'll be sent form SSP1 by the NHS SBS Payroll Department. Please refer to [www.gov.uk](http://www.gov.uk) which gives details of what allowances may be payable.

### 5.2 What is the Statutory Sick Pay entitlement?

The SSP entitlement period is a maximum of 28 weeks, although there are also rules which link certain periods of sickness absence. Full details of how the Statutory Sick Pay entitlement period works are available from [www.gov.uk/statutory-sick-pay/eligibility](http://www.gov.uk/statutory-sick-pay/eligibility).

If you receive Occupational Sick Pay (OSP) equivalent to your full pay you will have SSP as a notional amount on your payslip. SSP will be added to OSP if you are on half pay and the full amount will be paid unless the total amount of half pay and SSP exceeds full pay, in which case your payment will be limited to full pay.

Once you have received your full 28 weeks SSP entitlement we will stop paying you SSP and you'll be sent form SSP1 by the NHS SBS Payroll Department. Please refer to [www.gov.uk](http://www.gov.uk) which gives details of what allowances may be payable.

### 5.3 What payment will I receive if I am on sickness absence?

In basic terms, the amount of sick pay you will receive is based on your sick pay entitlement which reflects what your continuous NHS service is, and whether you have had any sick pay in the last rolling 12 months. NHS Terms and Conditions of Service Handbook states that employees will "receive sick pay in accordance with the scale below":

- during your first year of service - one month's full pay and two months' half pay
- during your second year of service - two months' full pay and two months' half pay
- during your third year of service - four months' full pay and four months' half pay
- during your fourth and fifth year of service - five months' full pay and five months' half pay
- after completing five years of service - six months' full pay and six months half pay

However, if you have received sick pay in the last 12 months you will need to remember this will reduce the above amounts e.g. if you have over 5 years' service and were sick during the full month of October and then you go off on long term sickness in January, you will have probably already received one month's full pay in October and therefore, as this was within the last 12 months, would only receive five months' full pay and six months' half pay.

Sick pay will be based on your basic salary and any high cost area supplement and will not include allowances or payments linked to working patterns (shifts) or other work commitments including any short-term earnings pay protection that may be in payment. This will apply to all employees on NHS Terms and Conditions of Service other than:

- employees who are based in Scotland, Northern Ireland or Wales

- employees who are absent due to a work-related injury or disease
- Employees who were employed under the NHS Terms and Conditions handbook as at 30 June 2018 and have a basic salary of £18,160 or less

If you currently receive unsocial hours payments which are based on Annex E of the NHS Terms and Conditions of Service handbook (which under the NHSBT Collective Agreement for unsocial hours payment are known as Prototype payments), these will be paid as part of sick pay but this is subject to review by NHS Staff Council. Further details can be found in the link below.

If you currently receive contractual rostered overtime this will be applied as part of the sick pay entitlement calculation.

## 6. Claiming Employment and Support Allowance (ESA)

### 6.1 What do I do when my Statutory Sick Pay expires?

Once you have received your full 28 weeks Statutory Sick Pay (SSP) entitlement we will stop paying you SSP and you will receive an SSP1 form from the NHS SBS Payroll Department. You can use this to apply for Employment and Support Allowance (ESA). You will need to submit your original fit notes to your manager to cover your absence and so that they are aware of the information from your GP or registered healthcare professional to help with supporting your return to work. These fit notes will then be returned to you by your manager to enable you to provide them in support of any claim you make for Employment and Support Allowance (ESA).

## 7 Annual Leave and Sickness

### 7.1 What should I do if I am ill when I am on annual leave?

If you are ill when you are on annual leave and you wish to make a request to reclaim your annual leave from your leave entitlement and have the time marked as sickness related instead then you will need to follow the normal absence reporting arrangements and keep in touch with your manager as to your progress.

This means that you must still telephone your manager on your first day of sickness to self-certificate. Should your absence continue beyond 7 calendar days, you will need to provide a Fit Note.

### 7.2 What do I do if an employee reports sick when they are on annual leave?

You should follow the normal absence reporting arrangements to record their sickness in EASY and hold a return to work meeting as usual. You will also need to amend your absence records to reflect correctly any change to both their annual leave and sick leave.

### 7.3 What should I do if I am ill when I am abroad on annual leave?

If, as a result of being ill when you are abroad, you want to request to reclaim your annual leave from your leave entitlement and have the time marked as sickness absence instead, then you should make every attempt to contact your manager to make them aware of your situation and your progress. You will also need to submit either a fit note from your GP or registered healthcare professional, or a note from the medical practitioner you saw whilst abroad, to your manager on your return to work.

#### **7.4 What if I am sick for a long period of time when I am abroad on annual leave?**

You should make contact with your manager to explain the situation and agree times to ensure your manager has regular updates on your sickness. If you are not able to do this you need to make arrangements for someone to do this on your behalf. You will need to provide regular medical certificates from the attending physician or hospital during your absence. If you do not make contact with your manager, they may need to consider your absence as unauthorised.

#### **7.5 What do I do if an employee has long term sickness while they are abroad?**

If they are unable to return to work at the end of their approved annual leave because of sickness they will be expected to contact you to let you know their situation and their progress. You will still need to manage their absence as long-term sickness so you will need to arrange to have regular contact with them in order to review their absence and resume review meetings on their return from abroad. You will also need to remind them that they will need to send you medical certificates from the medical professional who is supporting them whilst abroad. The certificates will need to cover the full period of their absence.

#### **7.6 What should I do if I am ill on a bank holiday?**

If you have been rostered to work on that day, and you fall ill, you should follow the normal absence reporting arrangements and keep in touch with your manager as to your progress. This day will then be recorded for sick pay entitlement.

This is clarified in the NHS Terms and Conditions of Service handbook and in the [Time Off Work Policy](#).

If you are not due to be at work that day, then you will not receive an additional bank holiday if you are ill on that day.

#### **7.7 Can I go on holiday while I am on long term sickness absence?**

If you want to go on holiday when you are on long term sickness absence you would need to request annual leave in line with the Time Off Work policy, and this would normally be agreed as long as the holiday period does not have a detrimental effect on your recovery.

You will need to check your annual leave entitlement with your manager as this can change if your sick pay reduces to no pay. Your manager can then arrange for your records to show that you are on annual leave instead of sickness absence so that you are paid correctly.

#### **7.8 Can an employee take holiday while on long term sickness absence?**

If they want to go on holiday whilst they are on long term sickness absence they will need to make a request in line with the Time Off Work policy. This should normally be allowed as long as the holiday period does not have a detrimental effect on their recovery. You should notify Pay Support of the period of annual leave. They will update the individual's EASY record accordingly. The employee's sickness record will also show the absence as being continuous.

If your employee wanted to use some annual leave during their sickness absence when their full sick pay entitlement has expired, you can arrange this by using ESR –FRM-131.

## **7.9 Can I use some of my annual leave instead of sick pay?**

If you are on long term sickness absence and you have exhausted your sick pay (e.g. you have no sick pay left to be paid to you) or you may be on half pay you can make a request in writing to your manager to make part of your sick leave annual leave and so receive annual leave payment.

You will need to confirm with your manager how much annual leave you are entitled to, as this can change if you are on long term sickness absence and have gone into no pay.

Your manager will then arrange for your records to show that you are on annual leave instead of sickness absence.

## **7.10 What should I do if I have annual leave outstanding after my long term absence?**

You should discuss with your manager how you will be able to take this leave.

Normally you would take the leave at the end of your sickness period immediately before you return to work. You should normally take all of your annual leave within that leave year, if however, there is insufficient time left for you to take your leave then you will be able to carry over up to one week of your leave. For the rules governing carry over of annual leave following long periods of sick absence refer to the [Time off Work FAQs](#), FAQ 2.14.

If you are on a phased return/rehabilitation period which occurs towards the end of the Annual Leave year, then your manager should bear in mind any outstanding annual leave when organising this. Also, if you need a rehabilitation period of more than 4 weeks then this can be supported by using outstanding annual leave.

## **7.11 Can an employee on long term sick carry over annual leave to the next year?**

If they have been absent on long term sick leave and have been unable to take their annual leave entitlement for that leave year, they will be able to carry over the balance of annual leave entitlement specified under the Working Time Regulations (WTR). As at April 2013, this is 28 days inclusive of public holidays and is pro rata if you they are part time.

Any annual leave they have taken during that leave year will be deducted from the WTR entitlement to be carried over. If they are off sick they are able to take contractual annual leave for periods that they are in receipt of sick pay, but WTR entitlement only for periods where they are out of pay. In addition, they will not be entitled to an additional day off if sick on a statutory holiday as per NHS Terms and Conditions.

On return from long term sickness, they would normally need to take their leave at the end of their sickness absence immediately before their return to work. If OH have recommended a phased return to work that is longer than 4 weeks the outstanding annual leave may be used to support this.

If they have no occupational sick pay left, they can request, in writing, to use part of their annual leave to cover the unpaid sick leave and so receive payment.

They will only receive payment for untaken annual leave if their contract of employment has been terminated without a return to duty.

## 8. Employees with More Than One Employer

### 8.1 Can I report sick for one job and not the other if I have two employers?

Normally you cannot report as sick for one job, but not the other. If there are good reasons why it may be possible to work in one job but not another, you should discuss these reasons with your managers for both employers so that they confirm whether this is agreed.

## 9. Return to Work Meetings

### 9.1 What should I do when I am about to return to work after sickness?

You are responsible for notifying your manager that you will be returning to work at the earliest opportunity, so you should contact them as soon as you know you are fit to return to work. Where you have fit notes from your GP or registered healthcare professional, you are responsible for contacting your manager to confirm with them your anticipated date of return to work. You need to do this not later than 24 hours before the date of expiry of your fit note, this will help your manager to support your return to work.

### 9.2 What do I need to do when an employee is due to return to work following absence?

Firstly, it is important to establish when they are expected to return to work so that you can arrange a return to work meeting on their first day back.

Return to work meetings are an important part of supporting an employee and reducing short term absence. They let the employee know that they were missed, their work is appreciated and that you want to know how they are. They also give you the opportunity to identify and discuss any potential problems with your employee and arrange for extra support where it is needed.

A meeting should be carried out after every case of absence, even just one day - as this could mask a health concern which might go unnoticed. Ideally this will be on the day that they return to work.

When your employee returns to work you should complete the Return to Work discussion. The form and guidance is available on People First.

### 9.3 What if an employee wants to return to work before the end of their fit note?

Sometimes your employee will be able to return to work before the end of their fit note even though a GP or registered healthcare professional has advised that they are not fit for work. This may be because the employee has recovered faster than expected, or the GP or registered healthcare professional did not know of ways in which you could support your employee to return to work.

If you agree with your employee that it is appropriate for them to return to work, you do not need to wait until the end of the fit note statement period for them to do so.

### 9.4 What if I cannot hold a return to work meeting on an employee's first day back?

It may not always be possible for you to have a full discussion with an employee on their first day back at work, in which case you must ensure that another team manager, team leader or supervisor has an initial discussion on their first day back. This discussion may be brief

and informal in many cases but will be confidential and will aim to check on the welfare and well being of the employee as well as update them on any work issues in their absence.

You need to carry out the detailed return to work discussion as soon as possible after the absence. This meeting will normally be face to face but if necessary you may need to carry it out over the telephone.

### **9.5 What do I need to consider for the return to work meeting?**

You will need to get together some information, in preparation for the return to work meeting, this will include:

- Awareness of whether or not the procedures have been followed
- Information on your employee's patterns of absence, e.g. the amount of time, patterns of absence, any concerns over attendance generally?
- Copy of the Discussion Checklist/Guidance

From this you will need to decide whether your employee's level or pattern of absence breaches the trigger points in the policy. You will then need to decide whether a Formal Review Meeting is required under the Attendance Policy.

### **9.6 What should be covered in the return to work meeting?**

The return to work meeting is important in order to support your employee and it is a requirement of the policy that all employees must be welcomed back by their manager, or their designated deputy on the first day of their return to work irrespective of how long they have been absent.

At the return to work discussion you should include:

- A welcome back to work and ask how they are
- Explain the purpose of the meeting and confirm they are routine after every absence
- A check that they feel fit to return to work – was the absence work-related?
- Confirmation that the record of absence is correct
- Discuss what support might be necessary
- An opportunity to raise any remaining health or other issues that may need addressing with support
- Is there any need to restrict duties for a period of time?
- An opportunity to discuss or review any adjustments the employee might need at work regardless of whether or not you as their manager are aware of a disability
- An update on the work missed, and any work-based events since the absence began
- Confirmation of how many episodes of absence or total absence the employee has had in the last 12 months rolling period or an identified pattern
- If they are approaching a trigger highlight that their level of absence is causing a concern
- Improvements in attendance that are required
- Consideration of whether an Occupational Health (OH) referral is warranted under the Policy/Procedure or on other health grounds

You will need to keep a summary of your discussion and any actions that have been agreed to address the situation which you should give to your employee. This should be done on the Return to Work Discussion Notes which should be completed during the meeting.

### **9.7 Does my manager have the right to ask me the nature of my illness?**

When your manager is carrying out the return to work interview with you they should discuss with you the reasons you have been sick, this is because in order to support you it will help them to understand more about your sickness or illness. You are not obliged to give details

but if you don't then your manager will explain that NHSBT may not be able to fully support you if you feel unable to provide sufficient detail about your illness.

## 10. Short Term Absence – Trigger Points

### 10.1 What are the sickness absence trigger points?

Trigger points are designed to indicate when your employee has reached a level of absence where you need to raise concern with them.

The initial triggers are any of the following:

- A total of 15 working days absence (or 3 weeks pro-rata if the employee is part time) in a 12-month rolling period
  - 4 instances of sickness absence in a 12-month rolling period
- Significant or unusual patterns or levels of absence over a longer period, normally up to 5 years, but could be a shorter period, which are causing concern. This could include periods of long-term sickness

If the employee is in their probationary period, these triggers should be pro rata.

Where the absence is monitored over a rolling 12-month period, this means that when an employee has some short term sickness absence you will need to look back for a period of 12 months from the start of the latest sickness absence to see whether the triggers above are met.

In order to decide whether a pattern or level of absence is a concern you will need to look back over a longer period, this would normally be for the previous 5 years, but could be a shorter period.

### 10.2 What is a pattern or level of absence which causes a concern?

A pattern of absence which gives cause for concern would be where absence occurs on certain days or weeks; or around a bank holiday; before or after holiday; on a particular shift; when holiday is refused; only working part of a shift, etc. It could also be a pattern of regularly reaching or nearly reaching the triggers e.g. an employee who has 14 days of short absence on several occasions. In order to establish whether there is a pattern you would need to look back over a longer period than the rolling 12 months. You would normally need to look back over the previous 5 years. However, a pattern can occur over a shorter period than 5 years e.g. absence before or after more than one holiday or night shift.

A level of absence that causes concern would be the amount of short-term persistent absences an employee has that are not disability related, normally over a period up to 5 years, but can be a shorter period. It could also be if an employee has frequent periods or patterns of long-term absence, or if they have a combination of short and long term sickness which means that they have a high overall level of absence, consideration needs to be given to whether the level of absence is sustainable.

### 10.3 How do I pro-rata short term absence trigger points for part time employees?

One of the trigger points to instigate formal absence monitoring is 15 working days sickness absence in a rolling 12 months period for a full-time employee. When you are calculating the trigger point for a part time employee you need to ensure that the amount of their sickness absence is proportionally equivalent to a full-time employee. Therefore, to calculate the trigger point for a part-time employee, you would base this on the number of days they would work over a three week period, e.g. if your employee works a standard 3 day week, then 9

days absence would trigger formal monitoring Stage 1 OR, if your employee works 4 1/2 days per week this would equate to 2 full days per week and therefore 6 days absence would trigger formal monitoring. You would also need to pro-rata the standards of attendance expected during the monitoring periods for Stage 1 or Stage 2. So in the example above this would be 6 days. The other trigger points of 4 instances of sickness absence or a significant or unusual patterns or level of absence which causes concern will be the same for all part time employees.

#### **10.4 Do I need to adjust the triggers for an employee covered by the Equality Act?**

As soon as you are aware that an employee has a medical condition which is defined as a disability under the Equality Act, it is important that you meet with them to discuss reasonable adjustments. If appropriate this meeting can involve Human Resources, Occupational Health, or a Health and Safety Advisor. The employee can be accompanied by an NHSBT employee or a representative of a Trade Union they belong to and it will be their responsibility to organise this.

You can consider adjusting trigger points for employees who are covered under the Equality Act, and this can be an effective option when considering what reasonable adjustments would be appropriate for the employee. However, any adjustment you make will depend on the medical condition or disability the employee has, and you will need to treat each employee on an individual basis as not all options may be appropriate.

#### **10.5 Will pregnancy related sickness count towards trigger points?**

No. If you are absent due to pregnancy or childbirth related illness this will be excluded from absence monitoring. Sometimes it may not be clear whether your absence is related to your pregnancy, in which case your manager will need to seek further advice from Occupational Health.

#### **10.6 Do non working days count towards the trigger points?**

Normally non-working days would not be counted towards trigger points. However, if there is a pattern of absence around non working days then they should be considered.

#### **10.7 Does time off work following an accident at work count towards a trigger?**

Your manager would need to record and report any absence you have following an accident at work on the Datix system, but it would not normally count towards a trigger for absence monitoring. However, if you had a number of accidents at work which meant that you had time off work then your manager would need to make a referral to Occupational Health in order to provide appropriate support. In this case the absence might need to be considered as a trigger of unusual patterns of absence which are causing concern.

#### **10.8 Can long term sickness absence be included in the trigger points?**

If your employee has long term sickness absence i.e. absence over 28 calendar days, you should manage this separately. So normally it would not be included in the trigger points for managing short term sickness absence.

However, if they are approaching a trigger point or are currently in a period of monitoring and they have had some long-term absence then you should consider whether or not it is appropriate to include the long term absence for monitoring purposes.



Each case will depend on the individual circumstances, such as their previous attendance record and the nature of the long-term illness.

### **10.9 What do I do if I don't think my absence has reached a trigger point?**

Your manager will confirm your absence record at your Return to Work meetings, so you should raise any concerns you have at the meeting. If you believe your sickness absence does not reach a trigger point you should discuss this with your manager. If a mistake has been made, they will be able to correct your absence details. If this issue cannot be resolved with your manager, contact HR Direct to discuss your concerns. HR Direct can be contacted by phone: 0117 3227700 or (2)7700 or email: mail to: [hrdirect@nhsbt.nhs.uk](mailto:hrdirect@nhsbt.nhs.uk). They are available Monday to Friday 9am - 5pm.

### **10.10 Do I count working days or calendar days for absence monitoring?**

When you record your employee's sickness absence on the EASY system you will record the first day of absence and return to work day, this is because calendar days are used for Statutory Sick Pay (SSP) and Occupational Sick Pay purposes. However, for sickness monitoring and calculating sickness absence triggers, you would use the actual working days that your employee has been absent.

### **10.11 What do I do when my employee is approaching a trigger in the policy?**

If they have had some further absence, but this is below the trigger points in the policy, you need to discuss this with them when you hold their return to work meeting. You should explain to them that the level of their attendance is starting to cause concern. Whilst this return to work meeting is informal it is an important part of the regular communication and support you, as their manager, need to provide. During the meeting you should take the following actions:

- Discuss their absence with them
- Advise them that their level of attendance is starting to cause concern
- Understand the reasons for the absence
- Discuss if there is any support or intervention which will provide assistance and therefore improve the level of attendance
- Remind them of the trigger points which warrant formal action under the Attendance Policy

You will need to keep a summary of your discussion and any actions that have been agreed to address the situation which you should give to your employee. This should be done on Return to Work Discussion Notes which should be completed during the meeting.

### **10.12 If I am advised by my manager to remain off work, for example due to a potential infectious condition, will all of the absence count towards triggering the policy?**

Yes, it would, as all absence does count towards triggering the policy. In some cases, such as having diarrhoea and vomiting, you may be advised to remain off work until the infectious period has passed, and some work areas have guidance they follow on this.

While we recognise that working directly with the public can provide increased exposure to infection, all employees, regardless of their working environment are also exposed in their everyday lives, so it is difficult to assess any additional exposure in specific working environments. We also recognise the importance of not exposing vulnerable donors and patients to any infection wherever possible. However, following discussion with your manager, discretion may be applied if considered appropriate.

All employees are responsible for 'self-care' when it comes to their own health and wellbeing, and therefore we would expect you to do what you can to reduce exposure to infection regardless of your working environment.

Examples of this include\*:

- following infection control procedures, including personal hygiene (personal and behavioural responsibilities)
- hand hygiene
- following cleaning and disinfection regimes
- receiving any appropriate vaccinations such as flu
- wearing Personal Protection Equipment (PPE) and uniform as required

\*This list is not fully exhaustive

Should you be exposed to such infections and they may be considered to be attributed to the working environment, so for example there is more than one incident on your team, your manager may decide to apply discretion when considering levels of absence and which absences to include when moving into monitoring.

Such absences will not be fully excluded.

Additional guidance can be found in Controlled Document [DAT2145](#).

### **10.13 How is my sickness absence recorded when rostered to cover on-call on non-standard working days?**

Unplanned sickness absence when rostered to cover an on-call period occurring on non-standard working days (for example public holiday or weekend working) is not formally recorded on EASY. However, your manager will keep a record of these and if a pattern of unplanned absence occurs, they will discuss this with you as to whether this will trigger formal action.

## **11. Short Term Sickness Absence Monitoring – Formal Review Meeting Stage 1**

### **11.1 What do I do if an employee reaches a trigger point in the absence policy?**

You would normally need to start formal absence review monitoring when one of your employees reaches any of the triggers within the policy.

You should hold a return to work meeting as usual and at that meeting you will need to have a conversation with the employee to ensure that they are receiving all the support they might need, or whether there is any action you should take to improve their attendance at work.

You will need to advise them that as their attendance level has reached a trigger within the policy, that their attendance is causing concern. You will need to consider the details of the individual case in order to take appropriate decisions to manage this absence in a fair and consistent manner.

You will also need to inform them that they will be placed on monitoring for Stage 1 until you can hold the Formal Review meeting - Stage 1. This will be effective from their return to work date and therefore, any absences they may have in-between their return to work date and the Formal Review meeting will be considered as part of their attendance levels set for the Stage 1.

There will however be some situations where having taken all the circumstances of the individual case into consideration, such as length of service, previous attendance etc the formal stages of this policy are not implemented. Where you decide not to implement formal monitoring at this stage this should be documented, shared with the individual and a copy held on your file.

### **11.2 Do I have to put an employee on monitoring if they reach a trigger?**

The triggers are identified as a guide and provide the levels of absence where you should raise concern with the employee. If one of your employees reaches a trigger you should inform them at their return to work meeting that they have hit a trigger, and therefore you will be placing them on Stage 1 or Stage 2 monitoring from the date of their return to work.

You will then need to organise the relevant review meeting, to sit down and discuss their sickness absences in full. However, there will be some situations where having taken all the circumstances of the individual case into consideration you may decide to use your discretion and not implement the formal stages of the policy. If you decide not to proceed with monitoring at this point you need to confirm this to your employee, advise them that you have taken them off monitoring and keep a record of your decision. You also need to explain that if they have any further periods of absence which reach the trigger points in the policy they will be placed on monitoring at the appropriate Stage until you can hold the Formal Review meeting.

### **11.3 What should I do when I need to start formal monitoring for short term absence?**

You will need to arrange a Formal Review meeting – Stage 1 with your employee as soon as possible after their return to work. You do not need to make a referral to Occupational Health unless you feel that their advice would be appropriate or helpful in determining whether any underlying condition is contributing to the poor attendance.

If you believe that their pattern of absence is not health related, then you should make a referral to Occupational Health.

You will need to notify the employee in writing telling them the reason for the Formal Review meeting – Stage 1, and you should provide them with full details of your concerns about their attendance.

They have the right to be accompanied by an NHSBT employee or a representative of a Trade Union they belong to not acting in a legal capacity and it will be their responsibility to organise this.

You may wish to use the [Short term sickness absence Formal Review Meeting Checklist](#) link to help you.

Your employee should have been advised at their return to work meeting that they have reached a sickness trigger and that until a formal review meeting can be held to discuss the reasons for reaching the triggers, their formal monitoring will commence from their return to work date.

### **11.4 Can I be accompanied at a meeting to discuss my sickness absence?**

If your manager is meeting with you as part of the formal review meetings, then you have the right to be accompanied by an NHSBT employee or representative of a Trade Union you belong to. If your manager is meeting you on an informal basis, you don't have a legal right to representation and we would encourage you to hold that meeting just between you and

your manager. However, should you feel you have reasonable concerns about this, you may put forward a request to be accompanied, which will be considered.

### **11.5 What do I do at the Stage 1 Formal Review meeting for short term absence?**

At the meeting you will firstly need to review your employee's absence with them and explain the reasons why you decided to implement formal monitoring. You will need to discuss with them any underlying concerns and explore what support can be offered to improve their attendance. You can also explore with them ways in which they could improve their attendance.

You should ensure that they have the opportunity to raise any concerns that they have and that you address these where possible.

Having discussed their sickness absence, you can decide whether the formal monitoring period should remain in place or whether to apply discretion. If you decide not to proceed with monitoring at this point you need to explain that if they have any further periods of absence which reach the trigger points in the policy, they will be placed on monitoring for Stage 1 until you can hold the Formal Review meeting.

If you decide to continue with formal monitoring, then you will need to outline the standards of attendance expected of them in the future and any support agreed. You will need to write to the employee to confirm all of this and to make them aware that if they are not able to improve their attendance to the agreed level during the monitoring period then they will be referred to Stage 2 of the formal policy.

During the monitoring period you will need to keep in touch with your employee to review their progress so that you can continue to offer support which will enable them to maintain a satisfactory level of attendance.

If the advice from Occupational Health is that the employee's pattern of absence is not health related, then you will need to advise them that you will be handling the case under the Disciplinary Policy as one of misconduct.

You may wish to use the [Short term sickness absence formal review meeting checklist](#) in the link below to help you.

### **11.6 What standards of attendance should I set for an employee who is on Stage 1 Monitoring?**

At the formal review meeting you will need to outline to your employee the standards of attendance that are expected in the future. These are either:

- A total of 10 working days sickness absence (or 2 weeks pro rata)
- 3 instances of absence
- Where the level of absence is the cause of concern this should be a significant reduction in the absence level
- Where the pattern of absence is the cause of concern this should reflect the pattern of concern

Where the level of absence is being monitored you would need to establish the current level of absence and consider setting an absence level which requires a significant reduction in the employee's level of absence.

Where a pattern of absence is to be monitored you need to identify the pattern of concern and consider monitoring standards which reflect the pattern of concern e.g. no absences attached to school holidays or bank holidays.

You will then need to monitor their attendance against these standards over a 12-month period. This period starts from the date of the return to work meeting at which formal monitoring started.

However, if your employee has some long-term sickness before the Formal Review meeting can be held, then the monitoring period would need to be adjusted accordingly to reflect this (e.g. you would need to extend the monitoring period for the length of time your employee has been on long term sickness absence). You will also need to consider whether this should be included for monitoring.

### **11.7 What date does the monitoring period start from?**

The monitoring period normally starts from the date of the return to work where your employee's absence reached any of the triggers in the policy. The monitoring period lasts for 12 months. Therefore, at this return to work interview you should advise them that they would be referred to formal monitoring and that if they have any short term absence before the Formal Review Meeting it would be included for monitoring purposes.

You will then need to hold a Formal Review Meeting to review and discuss their sickness, at this meeting you can decide whether the formal monitoring period should remain in place or whether to apply discretion.

If your employee has some long-term sickness before the Formal Review meeting can be held, then the monitoring period would need to be adjusted accordingly to reflect this (e.g. you would need to extend the monitoring period for the length of time your employee has been on long term sickness absence). You will also need to consider whether this should be included for monitoring.

### **11.8 Can I ask an employee to provide fit notes when they are in formal monitoring?**

Yes, there may be occasions, when an employee is in formal monitoring under the Attendance Policy, when you feel that fit notes are required for each period of absence, regardless of how long the absence is. If so all reasonable costs incurred will be reimbursed.

You will need to consider the reasons you require this, so you can discuss them with your employee.

### **11.9 What will happen during my Stage 1 short term sickness absence monitoring period?**

During the monitoring period, if you have any more absence, this will be treated as normal in terms of reporting and your manager will hold return to work meetings with you as usual. During your monitoring period your manager will keep in touch with you so that they can review your progress and continue to offer support to enable you to maintain a satisfactory level of attendance.

If your absence levels reach the standard of attendance that your manager has set you at Stage 1 then they will advise you of this at your Return to Work Meeting and will write to you confirming this and to advise you that you will be referred to Stage 2 of the formal policy.

### **11.10 What should I do if an employee does not reach the standards set during the Stage 1 monitoring period?**

You will be monitoring your employee's attendance throughout the Stage 1 monitoring period. If their absence levels reach the standard of attendance that you set for them at the Stage 1

meeting, then you will need to advise them of this when you carry out the Return to Work Meeting.

You will need to explain that because their attendance has not improved to the agreed level this means that you will need to refer them to Stage 2 of the formal policy. You will also need to inform them that they will be placed on monitoring for Stage 2 until you can hold the Formal Review meeting - Stage 1. This will be effective from their return to work date and therefore, any absences they may have in-between their return to work date and the Formal Review meeting will be considered as part of their attendance levels set for the Stage 2.

### **11.11 What should I do at the end of the Stage 1 monitoring period?**

If your employee has achieved the required improvement during the monitoring period, then you should hold an end review meeting to discuss this. At the meeting you should confirm that they have achieved the improvement targets and that their monitoring period has ended. You should consider whether you need to discuss any reasonable ongoing support they feel might assist them in continuing to maintain regular attendance levels. However, you will need to make them aware that if their absence levels increase again to the policy trigger points within the next twelve months they will normally be referred to Stage 1 of the formal policy.

You should confirm the details of the meeting to them in writing.

### **11.12 What do I do if an employee has been on Stage 1 monitoring and achieved, then reaches the trigger points again within the following 12 months?**

If your employee has reached the normal policy trigger points

- a total of 15 working days sickness absence (or 3 weeks pro rata if you are part time) in a rolling 12-month period
- 4 instances of sickness absence in a rolling 12-month period
- significant or unusual patterns or levels of absence over a period, normally up to 5 years, but could be a shorter period, which are causing concern. This could include periods of long-term sickness

and it is within 12 months of their previous monitoring period ending, you would normally refer them to Stage 1 of the policy.

If you decide not to proceed with formal monitoring at this point you need to explain that if they have any further periods of absence which reach the trigger points in the policy, they will be placed on monitoring at Stage 1 until you can hold the Formal Review meeting.

If the employee has frequent high levels of short-term absence that lead to repeated referrals to monitoring, then you will need to consider whether to progress to Stage 3 of the Formal Process of the Disciplinary Policy as appropriate. Depending on whether this is health related or misconduct.

## **12. Short Term Sickness Absence Monitoring – Formal Review Meeting Stage 2**

### **12.1 What do I do when I need to refer an employee to Stage 2 of the formal policy?**

You will need to arrange a Formal Review meeting – Stage 2 with your employee as soon as possible after their return to work. You may ask for Occupational Health advice if you feel that this would be appropriate or helpful.

Your employee should have been advised of the need to move to a Stage 2 meeting at their Return to Work meeting, and their formal monitoring period should have started from this date, whilst you arrange for the Formal Review meeting - Stage 2 to be organised.

You will then need to write to them confirming that their attendance has not improved to the agreed level and that you will need to refer them to Stage 2 of the formal policy. You will also need to provide them with full details of your concerns about their attendance.

They have the right to be accompanied by an NHSBT employee or a representative of a Trade Union they belong to and it will be their responsibility to organise this.

You may wish to use the [Short term sickness absence Formal Review Meeting Checklist](#) link

## **12.2 What do I do at the Formal Review meeting – Stage 2 for short term sickness monitoring?**

At the meeting you will need to review the employee's absence with them. You will need to discuss with them any underlying concerns and explore what support can be offered to improve their attendance. You can also explore with them ways in which they could improve their attendance.

You should ensure that they have the opportunity to raise any concerns that they have and that you address these where possible.

You will need to outline the standards of attendance expected in the future and any support agreed. You should also set dates to review their progress so that you can continue to offer support which will enable them to maintain a satisfactory level of attendance. You will need to write to the employee to confirm all of this and to make them aware that if they are not able to improve their attendance to the agreed level during the monitoring period then they will be referred to Stage 3 of the formal policy.

You may wish to use [the Short term sickness absence formal review meeting Checklist link](#)

## **12.3 What standards of attendance should I set for an employee on Stage 2 Monitoring?**

At the formal review meeting you will need to outline to your employee the standards of attendance expected in the future. These are either:

- A total of 10 working days sickness absence (or 2 weeks pro rata)
- 3 instances of absence
- Where the level of absence is the cause of concern this should be a significant reduction in the absence level
- Where the pattern of absence is the cause of concern this should reflect the pattern of concern

Where the level of absence is being monitored you would need to establish the current level of absence and consider setting an absence level which requires a significant reduction in the employee's level of absence.

Where a pattern of absence is to be monitored you need to identify the pattern of concern and consider monitoring standards which reflect the pattern of concern e.g. no absences attached to school holidays or bank holidays.

You will need to monitor their attendance against these standards over a 12-month period. This period starts from the date of the return to work meeting at which formal monitoring started.

However, if your employee has some long-term sickness before the Formal Review meeting can be held then the monitoring period would need to be adjusted accordingly to reflect this (e.g. you would need to extend the monitoring period for the length of time your employee has been on long term sickness absence). You will also need to consider whether this should be included for monitoring.

#### **12.4 What will happen during the Stage 2 short term absence monitoring period?**

During the monitoring period, if you have any more absence, this will be treated as normal in terms of reporting and your manager will hold return to work meetings with you as usual. Your manager will also keep in touch with you so that they can review your progress and continue to offer support to enable you to maintain a satisfactory level of attendance.

If your absence levels reach the standard of attendance that your manager has set you at the Stage 2 meeting then they will advise you at your Return to Work Meeting that as your attendance has not improved to the agreed level this means that they will need to refer you to Stage 3 of the formal policy to discuss your sickness absence levels. This will be confirmed to you in writing.

#### **12.5 What if an employee does not reach the standards set during Stage 2 monitoring?**

You will be monitoring your employee's attendance throughout the Stage 2 monitoring period. If their absence levels do not reach the standard of attendance that you set for them at the Stage 2 review meeting, you will need to advise them of this when you carry out the Return to Work meeting. You will need to explain that because their attendance has not improved to the agreed level this means that you will need to refer them to Stage 3 of the formal policy.

If you have not previously sought Occupational Health advice during the monitoring process, you will also need to obtain up to date relevant advice from Occupational Health in order to seek advice as to whether there are any underlying conditions which are contributing to the poor attendance.

#### **12.6 What should I do at the end of the Stage 2 monitoring period?**

If your employee has achieved the required improvement during the monitoring period, then you should hold an end review meeting to discuss this. At the meeting you should confirm that they have achieved the improvement targets and that their monitoring period has ended. You should consider whether you need to discuss, any reasonable ongoing support they feel might assist them in continuing to maintain regular attendance levels. However, you will need to make them aware that if their absence levels increase again to the policy trigger points, within 12 months of their successful completion of monitoring, they will be referred back to Stage 2 of the formal policy. Monitoring will commence from the date of the review meeting.

You should confirm the details of the meeting to them in writing.

#### **12.7 What do I do if an employee has been on Stage 2 monitoring and achieved then reaches the trigger points in the following 12 months??**

If your employee has reached the normal policy trigger points

- a total of 15 working days sickness absence (or 3 weeks pro rata if you are part time) in a rolling 12-month period
- 4 instances of sickness absence in a rolling 12-month period



- significant or unusual patterns or levels of absence over a period, normally up to 5 years, but could be a shorter period, which are causing concern. This could include periods of long-term sickness

and it is within 12 months of their previous monitoring period, you would normally refer them to Stage 2 of the policy.

If you decide not to proceed with formal monitoring at this point you need to explain that if they have any further periods of absence which reach the trigger points in the policy, they will be placed on monitoring at Stage 2 until you can hold the Formal Review meeting. Monitoring will commence from the date of the review meeting.

If the employee has frequent high levels of short-term absence that lead to repeated referrals to monitoring, then you will need to consider whether to progress to Stage 3 of the Formal Process of the Disciplinary Policy as appropriate. Depending on whether this is health related or misconduct.

## **13. Short Term Absence Termination of Employment – Final Review Meeting- Stage 3**

### **13.1 What do I do when I need to refer an employee to Stage 3 of the formal policy?**

As the manager who will be presenting the case you will need to commence the process for organising a panel for the Final Review Meeting – Stage 3 to consider why your employee's attendance levels have not improved and to consider terminating employment on the basis of capability.

You will need to establish who should chair the panel, this will need to be a manager who has not been involved in the management of the absence and, if a potential outcome of the panel could be dismissal, they will need to have the authority to dismiss. This will be a Director and 2 levels below. For ODT this will include Regional Managers.

You will need to liaise with the chair of the panel to decide who will be responsible for organising the panel and making all the arrangements for the panel meeting.

### **13.2 What will I need to present a case for a Final Review Meeting – Stage 3?**

You will need to produce a management statement of case which provides an overview of your employee's sickness absence which has led to the Stage 3 meeting. Your case should include

- your employee's sickness absence details
- the process you have followed when managing their sickness
- the support and or reasonable adjustments offered to assist your employee to improve their attendance levels
- up to date Occupational Health report
- the relevant documentation you used to manage your employee's sickness absence. (This would include things like; their record of absence, details of the Return to Work meetings you have held, and notes of review meetings/letters sent to your employee etc)

You can use your case to refer to during the meeting so that you can present information to the panel for them to understand the level of attendance, the actions and support that you have given and the current situation.

You will need to ensure that copies of your case are available to be sent at least 7 calendar days in advance of the meeting to

- your employee, and include one copy for their representative
- to each member of the panel
- to the person who is supporting you at the Final Review Meeting - Stage 3 (if you have support).

### **13.3 What do I need to do if I have to organise a sickness absence panel?**

As panel organiser you will need to;

- Arrange for a HR professional to support the chair at the panel meeting
- If a potential outcome of the panel could be dismissal, you will need to ensure the chair is the right level of line manager to be able to issue a dismissal (this would be Director or 2 levels below or for ODT this could be a Regional Manager)
- Organise a date, time and room for the panel meeting, taking into consideration the availability of both the management team and the employee and any representative they may be bringing
- Notify the employee in writing at least 7 calendar days prior to the meeting advising them of the reason the meeting is taking place, the arrangements (date, time, location, panel members and any note taker, their right to be accompanied, and the possible outcome of this meeting.
- Confirm the details of the date, time and location with the management team or panel as appropriate
- You will need to ensure that the employee is given a copy of their sickness absence record, which has led to the final review, in advance of the meeting.
- Organise a note taker for the panel meeting

In addition, you will also need to co-ordinate receiving a management statement of case from the management team and an employee statement of case from the employee, within a reasonable time to be able to send both out to each party and to the panel to review at least 7 calendar days prior to the panel meeting. You should wait until you receive both statements of cases before sending them out. You will need to send out the following; Management statement of case - two copies to the employee (one for them and one for a representative, if they are bringing one). One to each panel member. Employee statement of case - two copies to the disciplinary Investigation Manager (one for them and one for any support they are bringing with them). One to each panel member. If you are unsure of the process for any of the above, you should contact your local HR Consultant who can provide you with support.

### **13.4 What do I need to consider as a panel chair of a Final Review Meeting – Stage 3?**

The Final Review Meeting Stage 3 is a formal meeting to consider whether or not the employee's absence is an unacceptable level, and to consider termination of employment on that basis. To chair this meeting, you need to be a manager with dismissing authority, this would be a Director or 2 levels below or ODT this could be a Regional Manager and you will be supported by Human Resources in an advisory capacity.

You need to ensure that notes are taken of the meeting, so you will need to check before the panel meeting takes place, that you have a note taker organised.

You should have received both a management statement of case (management's documentation) and an employee statement of case (employee's documentation) prior to the panel meeting. You need to ensure you have read through both packs and prepared any questions you may have for either the management team and/or employee.

The manager who dealt with the absence monitoring will normally present details of their case, the actions taken, and the support given to enable the employee to achieve acceptable levels of attendance, to you. You will also consider information in the up to date OH report.

At the meeting you should explain to the employee the concerns that their attendance level is having and ask them to respond to these concerns. Probe for any mitigating circumstances and/or underlying health problems which might be present. You should consider any medical reports and ask the employee to suggest how their attendance might be improved.

You will provide the employee with the opportunity to present their view and ask any questions they feel are appropriate. You should summarise the key points of their response and seek their confirmation that you understand it correctly.

You should then adjourn the meeting to consider your decision and any possible solutions. Take into consideration the level of poor attendance, any support already provided, their records and any mitigating circumstances. Determine whether every effort has been made with the employee to enable them to achieve an acceptable level of attendance. Consider whether an improvement in attendance is likely. If you are satisfied that

- they have not achieved acceptable levels of attendance
- there is no underlying health condition for which a reasonable adjustment should be made
- an improvement in attendance is not likely
- all warnings and support have been given in line with the policy

then, as the chair of the panel with dismissal authority, you would be justified in dismissing the employee. This will be with appropriate paid notice, and due to capability based on unacceptable levels of attendance.

You need to reconvene the meeting to tell the employee your decision and then provide written confirmation of the decision, details of their paid notice entitlement, and their right to appeal, within 7 calendar days.

The outcome will need to be confirmed to the employee in writing.

Ensure that all notes relating to the proceedings are retained.

For alternatives to dismissal see FAQ 13.5.

### **13.5 What alternatives do I have other than dismissal as a panel chair of a Final Review Meeting – Stage 3?**

Even though to reach Stage 3 absence has become unsustainable or unacceptable sometimes dismissal is not always the best outcome for some employees. You may decide that a further period of monitoring is appropriate in such situations, where a long running, temporary condition has been endured.

You have a number of options open to you:

- you can set the improvement expected, the timescale and how this is to be monitored
- you can refer them back to Stage 2 where the normal Stage 2 triggers will apply

In either case, you will need to make clear to the employee what improvement levels are required and define the timescale during which you expect them to demonstrate a marked improvement in attendance in line with the standards you have set.

In addition, you will need to make it clear of the likely and potential consequence should they fail to meet the improvement levels set. A further Stage 3 Panel meeting to contemplate dismissal would take place and due to the significant support already provided up to Stage 3 and in the extended monitoring period, continued employment with us would be unlikely.

You will also need to be clear that even if they meet the expectations you have set, should they trigger the policy again within the following 12 months, they may enter back in at either Stage 2 or Stage 3, whichever is appropriate.

The outcome will need to be confirmed to the employee in writing. You will need to ensure that the manager is made aware of this additional monitoring.

Ensure that all notes relating to the proceedings are retained.

## **14. Management of Frequent, Persistence, High Levels or Patterns of Absence**

### **14.1 What if an employee has frequent, persistent, high levels or patterns of absence or instances of monitoring?**

It is a requirement of their contract of employment that employees attend work regularly.

It may be apparent that an employee has either frequent, persistent, high or regular patterns of absence which may include repeated periods of absence monitoring, normally over a period of up to 5 years, but can be a shorter period. In which case, you will need to consider whether it may be appropriate to refer the employee to a Final Review Meeting Stage 3 or the Disciplinary Policy if appropriate.

This would apply if an employee has absence that means that they frequently meet the triggers for short term monitoring. An example of this might be where the employee had a pattern of absence that led to Stage 1 monitoring, achieved the standards set for absence in the monitoring period, but had the same pattern of absence a year later. Where this pattern has occurred, you will need to consider whether this is misconduct or health related. This would also apply if you believe that the patterns of absence your employee has had over a period of time are not related to their health.

You should make a referral to Occupational Health to determine whether there is any medical reason for the level or pattern of absence and if it is likely to be improved. If Occupational Health advice is that there is a medical reason but that their level of absence is likely to continue then you should refer the employee to a Final Review Meeting Stage 3 to consider termination of employment on the basis of capability – incapacity.

If there is no underlying medical reason, then you will need to handle the case as misconduct using the disciplinary policy.

Similarly, if an employee has frequent periods or patterns of long term absence, or if they have a combination of short and long term sickness which means that they have a high overall level of absence, consideration needs to be given to whether the level of absence is sustainable.

You should invite them to attend a Formal Absence Review Meeting to discuss their absence level and how they might be supported in the workplace in order to attend work regularly. If you consider that the level of absence is unsustainable, this would mean that you need to put forward a case for consideration of termination of employment due to capability – medical incapacity or alternatives to dismissal in order to enable the employee to attend work on a regular basis.

Further advice on dealing with patterns, frequent or high absence can be obtained from HR Direct.

## **15. Long term absence which occurs with short term monitoring**

### **15.1 Can long term absence be used in monitoring of short term absence?**

Normally you need to manage short term absence and long-term absence separately. However if your employee is approaching a short term absence trigger point or is currently in a period of monitoring for short term absence and they have a period of long term absence you need to consider whether it is appropriate to include the long-term absence for monitoring purposes. Each case will depend on the individual circumstances, such as their previous attendance record and the nature of the long-term absence.

## 16. Home Visits

### 16.1 Can I visit an employee at home when they are absent?

It is usual for meetings with your employees to be held in the workplace so that contact with work is maintained. However, where it is appropriate, you may feel that it is better to visit them at their home.

## 17. Occupational Health Advice

### 17.1 What is the role of Occupational Health (OH) in sickness absence management?

The Occupational Health Service is available to give advice which will support you and your employees. They will examine both the effects of your employee's duties on them and also establish what their health status is in relation to work, i.e. are they fit enough to carry out the work for which they are employed?

They can also provide you with guidance on reasonable adjustments that you could consider for your employee, to support them in being able to do their job.

### 17.2 How can I get access to the Occupational Health Service?

As a manager you need to register on the [Optima Health Portal](#) website link, You can then access the Occupational Health portal via the website and make the referral on line

### 17.3 How do I make an Occupational Health (OH) referral?

This is made via the [Optima Health Portal](#) You will need to confirm the referral with the employee and discuss with them the Occupational Health advice received.

#### **If you already have login details to the OH website.**

You will need to login to the [Optima Health Portal](#) on the link. You can then make a management referral for your employee. You need to make sure that you have talked to your employee about the reason for the referral and then discuss the OH advice that you receive with them.

#### **If you do not have login details to the OH website.**

You will need to email the [Health, Safety and Wellbeing Department Administrators](#), to request for an account to be set up. Once you receive these details you will then be able to log on to the OH website and make a management referral for your employee. You need to make sure that you have talked to your employee about the reason for the referral and then discuss the OH advice that you receive with them.

### 17.4 What is the telephone number for Occupational Health (OH)?

Our current Occupational Health provider is Optima Health. To contact them you need to call either

- Sharps line 0845 371 0572
- Helpline. 0845 601 8029

If you want to track progress of a referral you can do this via the portal.

### **17.5 What do I do if an employee fails to attend an Occupational Health appointment?**

There is a contractual requirement for your employee to attend Occupational Health (OH) meetings. You need to discuss the reason for non-attendance with your employee. If there are valid reasons why your employee failed to attend OH, you can organise to rearrange the appointment.

If there are no reasonable grounds/reasons for them to have failed to attend their Occupational Health appointment, the matter may be referred to the disciplinary procedure.

### **17.6 Can I ring Occupational Health for urgent medical advice?**

If you need advice on sharp and needlestick issues or you have had contact with blood and require assistance, then you can call the Sharps number on **0845 371 0572**. If you describe the issue, either someone from Optima Health will return your call or you will be put through to an OH professional.

Alternatively, you can call the Optima Health Helpline on **0300 008 5107** for urgent advice on issues such as allowing a person to return to work where there is doubt that the medical issue has been resolved e.g. length of time needed to recover with shingles before they are non infectious.

### **17.7 Should I make an OH Referral when an employee's absence reaches the trigger points?**

It is not necessary for you to make a referral to Occupational Health (OH) when an employee's absence reaches the triggers within the policy, unless you feel that there might be an underlying medical reason for the absence a referral to OH could be made to help you decide whether to move to formal monitoring.

If you need to move your employee to a Final Review Meeting - Stage 3, then you should make a referral to OH to ensure you obtain up to date relevant advice from Occupational Health on your employee's sickness absences.

### **17.8 Do I have to send an employee to OH before they can return to work?**

No. The important thing is that you take into account any recommendations that your employee's GP or registered healthcare professional has put on their fit note. You should discuss with your employee whether there are any changes which could help them return to work. You do not need OH advice to have these discussions - they should be focussed on practical ways that you could support your employee to return to work rather than their health condition e.g. building their hours up over a 4 week phased return period, or allowing them to work a reduced number of shifts in their first few weeks back building up to normal shifts in their 5th week of return.

Support from Occupational Health should be considered for more complex conditions.

You may also need to carry out a risk assessment to accommodate the clinical judgement in the fit note. Support can be obtained from the Health, Safety and Wellbeing Department

### **17.9 Can I refuse to attend my occupational health appointment?**

It is a condition of your employment that you may be required to attend Occupational Health (OH) appointments. More information about this can be found in NHS Terms and Conditions. You could be asked to attend one or more medical examinations by a Medical Practitioner, Consultant or Occupational Health Specialist, nominated by NHSBT. We will meet all reasonable costs for any referrals.

If your manager has made a referral to OH it is important that you attend. NHSBT have a duty to protect you from harming yourself mentally or physically, whilst at work and these meetings help us to ensure this happens. Occupational Health will examine the effects of your duties on you, establish your health status in relation to work, and provide advice to your manager on any support you might need. If you don't attend these meetings you could increase the risk of further injury or illness, to yourself as well as put your colleagues under more pressure.

### **17.10 Will OH share details of my medical condition with my manager?**

OH will not share details of your medical condition unless you give your consent or it is already known by your manager (for example if it is on the manager's referral). However, OH will share what the impact is of your medical condition on your work with your manager. This is to allow recommendations to be given on common issues such as your return to work, reasonable adjustments to help you return, or on the likely time for you to return to work.

### **17.11 Can I refuse consent for my manager to see my OH report?**

Your manager will refer you to Occupational Health in order to understand the implications of your health condition on your fitness for work. You have a legal right for your OH records to remain confidential, so you will be asked for your permission to release the OH report to your manager. Your manager will not be given details of your medical condition and you are encouraged to give consent for your manager to see your OH report in order that they can provide you with any appropriate support which will help you return to work. However, if you choose not to give your consent to your manager seeing your report, or OH requesting additional information about your health condition from your GP, registered healthcare professional or your specialist, it would be difficult to provide you with support.

It would also mean that your manager would have to make decisions without any medical advice.

### **17.12 Can I make a self referral to Occupational Health?**

If you have any concerns about your health, we would always recommend that you see your GP or registered healthcare professional first as they can not only provide you with advice but also with any medication you may need. However, if you feel that your health condition may be affecting your work now or in the future and your GP or registered healthcare professional has not been able to provide support or advice on this, you can ring Occupational Health 0845 601 8029. This option is purely for use if you have issues you wish to discuss in confidence without involving your manager, however if we require any changes to help with these issues a referral by your manager will be needed. This can only be done if you are prepared to discuss the issue with your manager so that they can make the referral.

We therefore would encourage you to talk to your manager and ask for a referral through them. This will ensure your manager is aware of any health conditions that could affect you whilst at work and allow them the opportunity to support you where appropriate.

### **17.13 Do I have to follow Occupational Health advice?**

The Occupational Health Service provides advice which will support you and your employees. When an employee is on long term sickness you do not need to make a referral to OH particularly if their return to work date is known. You can also discuss the advice received from the employee's GP or registered healthcare professional on their fit note with them.

If the case is complex, then you should seek OH advice to support you in managing the absence. In most instances you should follow the advice but sometimes there may be operational reasons why this is not possible. In this case, you should discuss and agree with occupational health more suitable recommendations.

If your employee is covered by the Equality Act and OH confirm that they are unable to undertake part or all of their role and/or duties, you have a duty to consider reasonable adjustments and redeployment to suitable alternative employment.

## **18. Disability**

### **18.1 How will sickness related to my disability be treated?**

Firstly if you make your manager aware that you have a disability they will seek advice from Occupational Health and HR on how best to support you.

When Occupational Health advises your manager that you have a disability as defined under the Equality Act, they will hold a meeting with you to discuss any reasonable adjustments that you might need. If appropriate HR, OH and Health, Safety and Wellbeing might also be present. You may also be accompanied by a work colleague or representative of your trade union; however you would need to arrange this.

We recognise that disability does not mean that you will necessarily have increased sickness absence. However if OH advise your manager that your condition presents particular requirements that will impact on your attendance at work, a flexible approach to managing disability may be required.

Although the terms of this policy will apply equally to all employees, your manager should consider management discretion when applying trigger points if Occupational Health confirms the condition is potentially covered by the Equality Act and your disability may impact on your attendance levels.

Your Manager will need to consider your sickness absence on an individual basis and make an assessment sensitively with fairness.

### **18.2 What does it mean if an employee has a disability?**

If your employee has a disability it may be that they are covered by the Equality Act 2010. Under the Act disability is defined as 'a physical, mental, or sensory impairment which impacts on them carrying out their normal day to day activities, which has substantial and long-term effect, i.e. it is expected to last 12 months'.

The sorts of impairments that are covered are those affecting their

- Mobility



- manual dexterity
- physical co-ordination
- continence
- ability to lift carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to learn or understand
- perception of the risk of physical danger
- severe disfigurement
- progressive conditions such as HIV, cancer and multiple sclerosis

If you have identified that your employee has a condition that is covered under the Equality Act, as an organisation we have a duty to consider reasonable adjustments to their role which allow them to continue to work to the best of their ability. The sort of adjustments you can consider are making physical adjustments to the workplace, providing additional equipment to support or assist your employee, or temporarily adjusting hours or days worked. Occupational Health will be able to advise whether your employee is covered under this Act, and to give you advice on what adjustments might be made.

These adjustments should be recorded in the Tailored Adjustment Agreement.

### **18.3 What is a Tailored Adjustment Agreement?**

This is a living record of reasonable adjustments which have been agreed between an employee who may be regarded as disabled under the Equality Act 2010 and their manager.

The purpose of this agreement is to make sure that both an employee and their manager have an accurate record of the reasonable adjustments that have been agreed. By having an agreement, it will minimise the need to re-negotiate reasonable adjustments every time an employee changes jobs, is re-located or when a new manager comes into post.

It will provide employees and their managers with the basis for discussions about reasonable adjustments at future meetings.

As this is a living document it should be reviewed regularly by both the employee and manager and amended as appropriate. Remember, however, that expert advice from third parties, such as Occupational Health advisers, Access to Work, our own Health, Safety and Wellbeing Advisers or IT specialists may be needed before changes can be agreed and implemented.

New managers of employees with 'Tailored adjustment agreements should accept the adjustments outlined in the agreement as reasonable and ensure that they continue to be implemented. The agreement should be reviewed within a 12-month period or more frequently if required and amended at a later date but this should not happen until both parties have worked together for a period of time. If a change is necessary, the new manager and the employee should discuss this with an HR Consultant.

### **18.4 What is the purpose of a Tailored Adjustment Agreement?**

When a Tailored Adjustment Agreement is made it can have a number of purposes and benefits for an employee and their manager

If you are an employee who has a disability that may be covered by the Equality Act 2010 it allows you to

- Explain the impact of your disability on you at work

- Suggest adjustments that will make it easier for you to do your job
- Offer further information from your GP or registered healthcare professional, specialist or other expert
- Request an assessment by occupational health, Access to Work or another expert
- Review the effectiveness of the adjustments agreed
- Explain any change in your circumstances
- Be reassured that your manager knows what to do if you become unwell at work and who to contact if necessary
- Know how and when your manager will keep in touch with you if you are absent from work because of illness or a disability related reason
- You can request time off to attend related medical appointments

As a manager with an employee who has a disability which may be covered by the Equality Act 2010 it allows you to:

- Understand how a particular employee's disability affects them at work
- Explain the needs of the business or organisation
- Explain the organisation's attendance and reasonable adjustment policy
- Consider whether or not the employee needs to be referred for an assessment by an occupational health or another adviser to help both parties understand what adjustments if any are needed
- Review the effectiveness of the adjustments already agreed
- Explain any change in the employer's circumstances
- Consider granting discretion to attend at medical appointments

## 19. Management of a health condition

### 19.1 What do I do if an employee can't do their role because of their health?

Sometimes an employee has a health condition where they are not absent from work but they are not able to undertake all or part of their role effectively. It is important that you manage this supportively through meetings with the employee.

You need to make an Occupational Health referral in order to understand the nature of the condition and the impact on the employee's ability to undertake their role.

### 19.2 What do I do if OH advises that my employee needs to have restricted duties?

If you have received advice from Occupational Health that your employee has a health condition where, they are not absent from work but they are not able to undertake all or part of their role effectively, these recommendations will have been made to reduce the risk of further injury or illness, and to support them while they get better.

You need to arrange a meeting with the employee which can be supported by your HR Consultant and where relevant Health, Safety and Wellbeing in an advisory capacity. Your employee may wish to have a trade union representative or colleague present at the meeting. It will be their responsibility to organise this.

At this meeting you should review the advice from Occupational Health with your employee. and discuss how you both think you could implement the recommendations. If you agree that there are elements of the role that they cannot undertake then a task-based assessment should be carried out to establish what tasks they cannot undertake.

Occupational Health will advise if the employee has a disability and if so what reasonable adjustments they would recommend.

Once you have put any restrictions in place, you will need to regularly review the arrangements in order to identify any changes in your employee's health condition and make adjustments to the work restrictions as appropriate.

If it is agreed that it is not possible for your employee to undertake their role or significant parts of the role you would need to arrange a Formal Absence Review Meeting with the employee to discuss options which may include dismissal on the basis of capability – medical incapacity

## 20. Reasonable Adjustments

### 20.1 What does it mean if OH advises that an employee requires reasonable adjustments?

As a manager you need to be aware of the importance of making reasonable adjustments in relation to employees with disabilities which are covered by the Equality Act, as failure to do this may amount to unlawful discrimination.

Under the Equality Act there are very specific requirements. An employer has a duty to make reasonable adjustments to prevent a disabled employee from being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer. However, this must be reasonably practicable and in line with service needs.

The sort of reasonable adjustments Occupational Health (OH) might suggest may include:

- Adjustment to working pattern; hours; start and finish times; working arrangements; working environment and duties;
- Providing new or modify existing equipment and tools;
- Providing additional training;
- Modified instructions or reference manuals;
- Providing a buddy or mentor or supervision while they gain confidence to return to work.
- Training to use equipment being used as an adjustment, e.g. voice recognition software.
- Allocating to someone else, the non-essential parts of the new job which the employee cannot do because of their disability.
- Time off work to attend medical appointments.

If you feel the recommendations made by OH are not reasonable you should contact HR Direct on 0117 3227700 or (2)7700 to discuss options

### 20.2 What do I do if OH advises that an employee requires reasonable adjustments?

This will be because Occupational Health (OH) has advised you that your employee has a disability as defined under the Equality Act. You will need to hold a meeting with your employee and HR, together with a Health and Safety Advisor or OH if appropriate to discuss reasonable adjustments. They may be accompanied by a work colleague or trade union representative if they wish, however it will be their responsibility to arrange this.

You should ensure that all possible reasonable adjustments to enable them to stay in their original job and attend work at a sustainable level are explored. This may well involve obtaining specialist medical and other expert reports, such as from a disability employment adviser or IT specialist.

Further advice is available from the Disability Employment Advisory Service and the Disability Rights Commission at <https://www.drc.org.uk/>

You should make sure that you review any adjustments that you have implemented to aid your employee's attendance at work, whether or not they are related to a disability, regularly.

You need to record any reasonable adjustments using the Tailored Adjustment Agreement so that you both have an accurate record of what has been agreed. In addition, you should hold regular reviews with your employee and make amendments where appropriate.

### **20.3 Can I refuse to make reasonable adjustments?**

As a manager you need to be aware of the importance of making reasonable adjustments in relation to employees with disabilities. Under the Equality Act there are very specific requirements related to this. We have a duty to make reasonable adjustments to prevent a disabled employee from being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer. However, this must be reasonably practicable and in line with service needs. Failure to do this may amount to unlawful discrimination. You should ensure that all possible reasonable adjustments to enable the employee to stay in their original job and attend work at a sustainable level are explored. You can seek advice from Occupational Health on implementing the reasonable adjustment.

If you have concerns, you will be unable to make the reasonable adjustments recommended you should contact HR Direct on 0117 3227700 or (2)7700 to discuss.

## **21. Management of Long Term Absence (4 weeks or more)**

### **21.1 What do I do when an employee reports long term absence?**

You need to manage any long-term sickness via regular informal absence support meetings with your employee. The main objective in management of long-term absence is to facilitate a safe return to work as soon as possible if this is possible, but this has to be balanced with the needs of the service.

If your employee advises you that they are likely to be absent for 28 calendar days, you do not need to wait for 28 calendar days before you start to supportively manage the absence. When you receive their fit note, you need to arrange to meet with them as soon as possible to find out how they are, the likely prognosis, and to discuss any actions or reasonable adjustments to support them to return to work. Although not essential, it would be beneficial if any information that they may have about their condition is shared with you to enable you to provide them with the appropriate support.

If they are able to provide clear information about their condition and treatment and give a likely date of return, which is verified by their medical certificate, you should discuss frequency and arrangements for regular contact and meetings between you. You should also discuss with them any actions that can be taken to support their return to work and any actions they will be taking to receive treatment, advice and lifestyle changes that will support their expected return to work.

If they are unclear about their condition or likely return to work you should make a referral to Occupational Health in order to find out more about the underlying reasons for their absence and to seek advice on its likely duration, their ability to work and likelihood of return.

You should then meet with them to discuss the OH advice, this meeting can include a representative from HR together with a trade union rep (or colleague employed by the service) if appropriate, it is their responsibility to arrange this.

### **21.2 What do I need to consider for the absence support meeting?**

You need to arrange to meet with your employee as soon as possible after they have advised you that they will be on long term absence. At this meeting all medical advice received from OH or the employee's medical practitioner will be reviewed, in order to facilitate a safe return to work if this is possible.

In some circumstances it may also be appropriate to include the OH or HS adviser in the meeting.

At the meeting you should discuss

- Whether the employee is fit to return to work
- The advice as to when a return to work will be possible
- Likely reasonable and sustainable future attendance at work based on medical advice and attendance at work previously
- Whether the advice suggests there will be a full recovery or will a return to the same work be inadvisable
- Does the 'Statement of Fitness for Work' say that the employee may be fit for some work?
- Whether reasonable adjustments can be made to enable an early return to work
- Whether temporary redeployment would enable an early return to work e.g. if fit note provisions cannot be accommodated within the normal department.
- Any necessary and reasonable adjustments to duties, hours, or start or finish times.
- Agree arrangements for regular discussions with them during their absence.
- You should agree and record actions covering these areas.

You may wish to use the [Long Term Sickness Absence Support Meeting checklist](#) at the meeting.

In the case of long term sickness, it is important to obtain an early diagnosis and where relevant, make decisions based on occupational health advice so that attendance and absence is managed in line with both the policy and NHS Terms and Conditions. Your HR Consultant will be able to provide you with support and guidance advice if there is a need for a Formal Absence Review Meeting; Section 14.10 of the NHS Terms and Conditions of Service provide very clear guidance in the event that a review and decision is not taken prior to exhaustion of an employee's occupational sick pay.

It is particularly important that appropriate support is provided when an employee has mental health problems or musculoskeletal disorders. Helping them to get the right support as soon as possible can aid an early return to work and most importantly help to stop such conditions getting worse or leading to additional problems such as depression.

If OH advises that you they may be fit to return but not in the near future, or if they have persistent or high levels of long-term absence you will need to take reasonable steps to manage this. In some cases, this may lead to termination of their employment or consideration of alternatives to dismissal in order to enable them to attend work on a regular basis

However, if there is a known return date or if you think an OH referral would not provide you with any more medical advice at present than your employee has advised you of e.g. your employee is waiting for elective surgery or has a broken bone then you may not need to immediately obtain Occupational Health advice unless short term adjustments may be required to allow a return to work. For example, if someone is waiting for surgery but suggests to you they can carry out some of their role whilst waiting for surgery, you may want to seek further clarification from OH.

### **21.3 How do I support an employee who is on long term sickness?**

You will need to keep regular contact with your employee which can be via a quick phone call each week to check how they are and the progress on their medical condition and return to work. Where the absence is likely to extend beyond 4 working weeks, as soon as you receive their fit note you should arrange to meet with them to start to supportively manage their absence. It is essential that you hold regular informal absence support meetings. Where appropriate these need to be held every 4 weeks in the workplace so that the employee can maintain contact with the workplace. If they are too ill to attend the workplace, you can arrange to visit them at home instead.

At these meetings you need to keep your employee informed and aware of their position. Knowing that there is a job to return to can help relieve anxiety. However, the main objective in management of long-term absence is to facilitate their safe return to work but this needs to be balanced with the needs of the service. You should discuss

- their progress so that you understand the nature and impact of their condition
- whether there is an update on a likely return to work date
- if they are undergoing treatment it may be necessary to obtain further OH advice on the likely return to work
- if there is a return to work date, whether anything can be done to assist them in terms of their hours or the role
- whether they would be fit to return to work on modified duties
- assist in discussion to explore the possibility of an application to the NHS Pensions Agency for Ill Health Retirement where applicable
- absence support meetings should take place regularly, for those employees on NHS Terms and Conditions of Service the final options must be considered in line with [AfC Terms and Conditions](#) .

You may wish to use the [Long Term Sickness Absence Support Meeting Checklist](#) at the meetings.

As these are informal support meetings we would anticipate that the meeting takes place just between you and the employee unless they have a particular concern with this. In which case they should put forward a request to be accompanied which will be considered. If this is agreed, it is their responsibility to arrange this.

When they are fit to return to work you should consider any recommendations on their Fit note or OH recommended reasonable adjustments. These will often be for a short, defined period, however, if they are likely to be long term, these should be recorded in the [Tailored Adjustment Agreement](#) .

You do not need to refer your employee to OH before they can return to work. However, for more complex cases, you may wish to make a further OH referral prior to a return to work to discuss the need for a staggered return to work, varied duties or any other reasonable adjustments which may need to be made to protect the continued employment of the employee.

In the case of long term sickness it is important that you obtain an early diagnosis and make decisions based on Occupational Health advice where appropriate so that absence is managed in line with both the policy and [NHS Terms and Conditions](#). If a return to work seems unlikely in the foreseeable future (usually by the time the employee's sick pay reduces to half pay) then the possibility of dismissal on the grounds of capability – medical incapacity may need to be discussed if reasonable adjustments or alternative employment are not possible.

Your HR Consultant will be able to provide you with support and guidance advice if there is need for a Formal Absence Review Meeting. The NHS Terms and Conditions of Service

provide very clear guidance in the event that a review and decision is not taken prior to exhaustion of an employee's occupational sick pay.

#### **21.4 Can I be supported at the meetings to discuss my long term sickness?**

If your manager is meeting you on an informal basis, you don't have a legal right to representation and we would encourage you to hold that meeting just between you and your manager. However, should you feel you have reasonable concerns about this, you may put forward a request to be accompanied, which will be considered.

If your manager is meeting with you as part of the Formal Absence Review Meeting within the policy, then you have the right to be accompanied by an NHSBT employee or representative of a Trade Union you belong to. It will be your responsibility to organise this.

#### **21.5 Can my manager contact me whilst I'm off sick with a fit note?**

When you are on any sickness absence it is important that your manager keeps in touch with you so that they can provide you with any support that you need. If you have a fit note from your GP or registered healthcare professional or your hospital, your manager will make arrangements for continued, regular contact with you. This may just be a quick phone call to see how you are progressing and whether there is any support that can be offered. If your absence is going to be longer than 4 weeks your manager will organise with you to hold regular sickness support meetings with you. These will be in your workplace or, if you are too ill to attend the workplace, a home visit can be arranged.

## **22. Frequent, Persistent or High Levels of Long Term Absence**

### **22.1 How do I deal with an employee who has frequent or high levels of long term absence?**

If an employee has frequent episodes of long-term absence over a period of time you should continue to manage this under a series of regular support meetings with agreed outcomes. The main objective is to facilitate their safe return to work as soon as possible and to help them to achieve a sustainable level of absence.

Whilst the employee may return to work for extended periods this recurrent absence needs to be balanced with the needs of the service and you should take reasonable steps to deal with frequent, persistent or high levels of long-term absence.

You should invite them to attend a Formal Absence Review Meeting to discuss their absence level and how they might be supported in the workplace in order to attend work regularly. If you consider that the level of absence is unsustainable, this would mean that you need to put forward a case for consideration of termination of employment due to capability – medical incapacity or alternatives to dismissal in order to enable the employee to attend work on a regular basis.

### **22.2 Can an employee who is at work but has frequent or high absence be dismissed?**

During your employee's sickness absences, you will have provided support in order to facilitate any return to work and to help them maintain regular attendance. You will need to keep records of the absence management so that you can assess the level and impact of their absence.

In some cases, despite providing the support and advice which is available, it may be apparent that your employee is not able to attend work on a regular basis. In this case you

may consider making a case for termination of employment or consideration of alternatives to dismissal, in order to enable them to attend work on a regular basis.

### **22.3 What do I do when an employee is not able to attend work regularly?**

You should follow the same process as with all long-term sickness absence by holding a Formal Absence Review meeting to determine the options to enable the employee to attend work on a regular basis.

You should ascertain their opinion on their condition and how they anticipate their situation developing. If they accept that their level of attendance is not likely to improve or is not possible, you should contact your HR department to arrange a further meeting to discuss the options and the least distressing way to terminate employment.

However, if they contest this and the advice is that they are not able to attend work on a regular basis then a panel will need to be arranged to consider termination of employment on the basis of capability – medical incapacity or alternatives to dismissal that will enable regular attendance at work.

## **23. Redeployment**

### **23.1 Can someone who is on long term sickness be temporarily redeployed?**

There may be some circumstances where an employee who is not fit to undertake their full role could be fit to return in some capacity on a temporary basis. For example, if they are waiting for surgery but suggest to you they can carry out some of their role whilst waiting for their surgery, this could also apply where they needed a period of transition after long term sickness before resuming their full role.

In this case you could consider whether temporary redeployment would be an option. You would need to undertake a skills analysis and then look at whether there are any posts which could be modified to allow your employee to undertake them. Or you could explore with managers in other departments whether they had some suitable role or work which the employee could do. Your HR Consultant will be able to assist you.

Your employee does not need to go back to their GP or registered healthcare professional to be 'signed back to work' as there is no option on the fit note to do so. However, if you or your employee have any concerns about their ability to undertake the temporary work then you can make a referral to OH or seek advice from your H&S representative.

This is a supportive arrangement to allow an employee to remain at work in some capacity wherever possible. However, you will need to review the arrangement regularly to make sure that it continues to support the employee and the needs of the service. Normally this arrangement would be limited to 3 months. The employee should not be disadvantaged through being at work on a fit note when compared to being off as sick. Therefore they would receive pay on the same grade and hours as they are contracted to during this period.

### **23.2 Can someone who has been absent on long term sickness be redeployed?**

Formal redeployment support can only be accessed for employees who have a disability. However, you should only consider redeploying an employee as a final option. An example of where you might consider redeployment is where Occupational Health advice suggests



they cannot carry out their current duties and you have carefully considered all reasonable adjustments to enable them to retain their original job, but these have proved unreasonable.

If your employee has a disability then transfer to a suitable alternative vacancy i.e. redeployment, could be an example of a reasonable adjustment. You should only consider redeployment as a reasonable adjustment if:

- Your employee has acquired a disability that means that it is simply not possible for them to keep their existing job e.g. because they can no longer drive; or
- If despite reasonable adjustments to the employee's existing job, they are still unable to do the job to the standard required.

If your employee does not have a disability and you establish at their support meetings that they are unable, or do not wish, to continue in their current role but would wish to seek an alternative role with us then support for this can be explored further with your HR Consultant. Your employee can access the weekly vacancy bulletin. Your HR Consultant will work with you to identify any specific support your employee might need to help them to make an application for alternative roles with us.

### **23.3 What should I do if OH advice is that redeployment should be considered?**

If OH advice is that your employee is unable to undertake their role due to a disability and should be considered for redeployment, your HR Consultant will arrange for them to be put on the Redeployment Register if your employee wishes to. As a disabled redeployee they will not be expected to undergo a "competitive interview" for posts which are identified as suitable given their skills and abilities.

This arrangement would commence as soon as your employee makes this request. A reasonable time scale will be agreed in order to explore redeployment opportunities with them and if their employment is subsequently terminated, redeployment will continue to be sought during their notice period.

Firstly, if you have carefully considered and there are no reasonable adjustments that will enable the employee to retain their original job, you need to undertake a skills assessment with the employee to determine whether redeployment may be an option under the Equality Act 2010. This should reveal:

- The skills the employee has acquired in their job
- Skills which may have been acquired outside work
- Any transferable skills
- Training needs

Redeployment support will be available to your employee if required, whereby your HR Consultant will work with you to identify:

- Current suitable vacancies with or without reasonable adjustments
- Vacancies that might be suitable with reasonable adjustments e.g. a change of location, working hours or removal of an inessential duty
- Vacancies which might be suitable were training provided
- Vacancies that may arise in the foreseeable future

If the employee meets the person specification for any vacant position that have been identified they should be transferred to that position.

Reasonable adjustments, as previously detailed, should be considered for the new position, together with retraining to help the employee acquire new or different skills or learn new systems.

Any necessary adjustments should be identified and put into place swiftly and efficiently in consultation and agreement with the disabled employee and agreement reached on the timetable for implementation. The disabled person must be kept informed if the timetable or the adjustments need to change, particularly when they are absent from work awaiting the adjustments or in a different workplace.

There is no obligation however under the Equality Act to create a new job for someone who needs to be redeployed.

## **24. Phased Return to Work**

### **24.1 Can an employee have a phased return to work?**

You need to take into account any recommendations that your employee's GP or registered healthcare professional has put on their fit note. This may say whether they may be fit for work in general but not specifically for some aspects of their current job. This gives you maximum flexibility to discuss possible changes with the employee to help them return to work, which may include changing their duties for a while.

You do not need OH advice to have these discussions - they should be focussed on practical ways that you could support your employee to return to work rather than their health condition e.g. building their hours up over a 4 week phased return period, or allowing them to work a reduced number of shifts in their first few weeks back building up to normal shifts in their 5th week of return. Support from Occupational Health should be considered for more complex conditions.

You may also need to carry out a risk assessment to accommodate the clinical judgement in the fit note. Support can be obtained from the Health, Safety and Wellbeing Department.

### **24.2 Can I have a phased return to work?**

During your long-term sickness absence your manager will meet with you on a regular basis and discuss with you whether adjustments can be made to enable an early return to work. It is recognised that after a break from the work place because of ill-health, you may need time to re-adjust to your job and to your hours of work. Your manager will take into account any recommendations that your GP or registered healthcare professional has put on your fit note.

Your manager may also have sought advice from Occupational Health. Where a phased return to work is recommended by them after a period of long-term sickness absence this will be supported. The rehabilitation period will offer time to re-adjust to work and to rebuild stamina. Due consideration should also be given as to whether working at another location, where appropriate, may assist in the phased return to work.

However, there is no automatic right for you to have a phased return to work and where OH have recommended this, whether this is appropriate will be discussed and agreed between Occupational Health, HR and your Manager before being discussed in detail with you. Advice may also be requested from Health, Safety and Wellbeing Department if necessary.

Each case will need to be considered on an individual basis and the circumstances of that case taken into account to determine the benefits to both you and the organisation and whether it is reasonably practicable and in line with service needs.

### **24.3 What is the length of a phased return to work after long term sickness absence?**

If it is agreed that your employee should have a phased return it will normally be for up to a period of 4 consecutive weeks during which time there will be a gradual build up of their hours, days and/or duties as appropriate, with a view to them working for their full contracted hours and undertaking their full range of duties at the end of this period.

If they have any pre-existing annual leave arrangements this can be taken into account when organising their phased return.

Whilst they would not normally be expected to use their annual leave during their phased return if their rehabilitation period occurs towards the end of the annual leave year then you need to make sure you plan any outstanding annual leave either when agreeing the phased return arrangements or before your employee returns to work.

### **24.4 Can a phased return be longer than 4 weeks?**

Phased returns are normally only for a maximum of 4 weeks and Occupational Health will usually provide rehabilitation advice based on a maximum 4-week period. However, there may be exceptional circumstances when you or your manager review your progress and feel that there might need to be a longer phased return. In these circumstances your manager would need to discuss this further with Occupational Health and your HR Consultant for some guidance.

If after these discussions, it is felt that a longer phased return would be beneficial in ensuring a successful return to work for you, then you would need to jointly agree a plan with your manager of what the continued phased return will be. Your manager will need to consider and discuss with you the options for supporting this. These could be utilising annual leave and/or a temporary reduction in contracted hours and pay, again with the ability to gradually increase up to the original full hours/duties.

### **24.5 What payment will I receive during a phased return?**

During the initial period of 4 weeks of a Phased Return to work you will be paid as if working your full contracted hours.

If you normally work any hours that would attract enhanced payments during your phased return e.g. Sunday working, then you will be paid the appropriate enhancements for the work done.

### **24.6 Will I have to work shifts or on call during my phased return to work?**

During your phased return to work you would normally continue to work within your normal shift or on call pattern. If Occupational Health recommend a different shift pattern as part of your rehabilitation process, then this will be considered. However, it maybe that you and OH feel working some on call fits better with the circumstances of your case.

### **24.7 How should I record my hours during a phased return?**

During your phased return (which should be a maximum of 4 weeks) you should complete your timesheet or EASY attendance record as usual and/or claim as if you are working your normal full contracted hours. You should ask your manager to make a note on these records to record that you are working a phased return.

If, under exceptional circumstances, your phased return is agreed to be longer than 4 weeks you will need to discuss with your manager how the continuing phased return period will be managed e.g. through using annual leave, reducing your hours (and your pay accordingly) etc and any changes recorded on your timesheet.

### **24.8 What should I do if my employee is having problems during their phased return?**

If at any time during the rehabilitation period you have concerns or your employee appears to be experiencing problems in adjusting to the return to work and/or presents with a further period of absence, then you may feel that further discussions with Occupational Health and HR may be necessary.

The discussions can explore whether your employee is actually fully fit to return to work, whether temporary reasonable adjustments might need to be made and/or whether there are any other recommendations you could consider helping your employee adjust to being back at work.

#### **24.9 What should I do if my employee is not able to return to their normal duties after their phased return?**

If by the end of the phased return period, your employee has not been able to return to their full duties you should arrange a Formal Absence Review Meeting to consider the options and decide on an appropriate course of action.

#### **24.10 What if my employee needs an additional phased return to work?**

If your employee has successfully completed a phased return but has further absence with the same or another medical condition you will need to make another OH referral. This will be to find out more about the underlying reasons for their absence and to seek advice on its likely duration, their ability to work and likelihood of return. It will normally only be possible to fund one phased return to work, which lasts no more than 4 weeks, in any rolling 12-month period.

If OH advises that your employee needs further temporary adjustments these would need to be managed by the use of annual leave, temporary change of hours or unpaid leave.

Whilst the employee may return to work for extended periods if they have recurrent absence this needs to be balanced with the needs of the service and you should take reasonable steps to deal with frequent, persistent or high levels of long-term absence.

You should invite them to attend a Formal Absence Review Meeting to discuss their absence level and how they might be supported in the workplace in order to attend work regularly. If you consider that the level of absence is unsustainable, this would mean that you need to put forward a case for consideration of termination of employment due to capability – medical incapacity or alternatives to dismissal in order to enable the employee to attend work on a regular basis.

#### **24.11 How do I notify payroll of an employee's phased return to work?**

Your employee will receive their normal pay during their maximum 4 weeks phased return to work, as if they were doing a full return to work so you do not need to make a special notification to payroll.

However, you do need to make sure that you record their return to work on EASY as normal.

Should there be exceptional circumstances and you have agreed with your employee that you will support the phased return being extended, then you will need to consider whether there needs to be a formal change to their hours/pay. In which case these need to be done via a contractual change form. You would need to put any new details on the contractual change form and remember to put an end date in the form as to when the changes will stop. This will ensure that at the end of the extended phased return your employee will be changed back to their permanent hours/pay. However, if the change of hours is to become permanent, you will need to complete another contractual change form.

## 24.12 How is my annual leave recorded if I am on an agreed phased return to work?

Once you return to work your pay will revert to normal pay, even if receiving support through a phased return for example reduced hours, and gradually increasing them over a short period. Any annual leave would be based on your **contracted** daily hours. On this basis, any annual leave that you book must be recorded as your full entitlement for the period of leave. For example, if you are full time working 5 days this would be 7.5 hours; pro rata if part time etc.

## 25. Termination of Employment – Formal Absence Review Meeting (Long Term Sickness Absence)

### 25.1 Can an employee on long term sickness be dismissed?

During the sickness absence you will have provided your employee with support in order to facilitate a return to work. However, in some cases, following all the support and advice which is available, the Occupational Health advice might be that they will not be fit to return to work in a reasonable time scale. You will have considered a range of options to help them to return to work such as redeployment and/or reasonable adjustments and these may not be practicable solutions, or you may not have been able to identify a suitable vacancy. In these circumstances' termination of the contract of employment may need to be considered and may be the outcome.

A panel will look at the case and all of the actions that have been taken to allow the employee to return to work. Dismissal of the employee (with appropriate notice) will be considered when the sickness record is such that the stage has been reached where it is not possible to continue with their employment, as they are incapable of satisfactorily performing the job for which they are employed and there is no likelihood of them being able to return to work in the near future.

### 25.2 What do I do if OH are unable to advise on a return to work date?

If it is clear from recent Occupational Health (OH) advice that your employee will be absent from work in the medium to long term, and if there is no way of knowing when they will be able to return to work, you will need to arrange a Formal Absence Review Meeting with them, which must be before the expiry of sick pay, to discuss the options available.

It is essential that the outcome of the review is based on current OH advice, so if the OH report is more than 2 months old, you will need to make a referral to Occupational Health for an up to date report on their condition.

This is a formal meeting, so you will need write to them to invite them to the meeting and to advise them of their right to be accompanied at the meeting by an NHSBT employee or representative of a Trade Union they belong to, not acting in a legal capacity.

At the meeting:

- You will need to consider the timescale advice and make a decision on your employee's future employment
- If the OH report states the employee is unfit to perform their present duties due to a disability, but is capable of other work, then you need to consider whether Redeployment, reasonable adjustments or flexible working arrangements would be suitable. Whilst there is no onus on the organisation to create a job you need to take all steps possible to support them to return to work as soon as possible if a suitable job is available

- Where an alternative post is not available or where the OH report states that they are unfit to return to work, you should find out from your employee what their opinion is on their condition and how they anticipate their situation developing. If they accept that their return to work is not possible, you should contact your HR Consultant to invite them to a meeting to formally end their employment with appropriate paid notice which you will need to confirm in writing within 7 calendar days of the meeting
- However, if they contest the OH advice on their fitness to work, then you will need to put forward a case for dismissal due to capability – medical incapacity to be considered
- You can advise your employee that they may wish to consider an application for NHS ill health retirement if they are eligible. It is important that you make them aware that this is their voluntary application, and HR cannot make it for them. You should also make them aware that there is no guarantee of the application being successful, this is a decision that will be made by NHS Pensions based on the medical evidence
- You should make them aware that the process for consideration of termination of their employment is separate to their applications for ill health retirement
- If your employee advises you that they wish to pursue an ill health application, you will need to invite them to a meeting to end their employment at the point when the application is submitted. This will need to be confirmed in writing within 7 calendar days of the meeting. They will receive full pay for the duration of their notice period and payment for any annual leave accrued. If their application is unsuccessful we may support their appeal, which in most cases will be after their contract of employment is terminated

### **25.3 How is the decision made to move to dismiss on the basis of long term sickness absence?**

If from the Occupational Health advice provided it is not possible to predict a return to work date for you within a reasonable time scale, which would normally be at the point your full sick pay is exhausted, you will be invited to a Formal Absence Review Meeting. This will be to discuss the latest medical advice and consider any other relevant factors before deciding on an appropriate course of action. If reasonable adjustments or other suitable employment are not practical solutions a Panel will be convened to consider termination of your employment on grounds of medical incapacity.

If you accept that your return to work is not possible in any capacity your manager will discuss with you whether you would wish to pursue an uncontested dismissal meeting instead of a formal panel meeting.

### **25.4 What do I do if termination of employment on health grounds is to be considered?**

Following the Formal Absence Review Meeting where you determined that it was not possible to predict their return to work within a reasonable timescale, you will be putting a case forward for termination of employment on the grounds of capability due to medical incapacity.

As the manager who will be presenting the case you will need to commence the process for organising a panel meeting to consider your employee's attendance levels and to consider terminating employment on the basis of capability.

You will need to establish who should chair the panel, this will need to be a manager who has not been involved in the management of the absence and, if a potential outcome of the panel could be dismissal, they will need to have the authority to dismiss. This will be a Director and 2 levels below. For ODT this will include Regional Managers.

You will need to liaise with the chair of the panel to decide who will be responsible for organising the panel and making all the arrangements for the panel meeting.

### **25.5 What should a case for termination on health grounds contain?**

You will need to produce a management statement of case which provides an overview of your employee's sickness absence which has led to the panel meeting. Your case should include

- your employee's sickness absence details
- the process you have followed when managing their sickness
- the support and or reasonable adjustments offered to assist your employee to improve their attendance levels
- the relevant documentation you used to manage your employee's sickness absence. (This would include things like; their record of absence, details of the Absence Support Meetings you have held. Details of the Formal Absence Review Meeting including up to date Occupational Health advice and notes of support meetings/letters sent to your employee etc)

You can contact your local HR Consultant who can support you with putting together the management statement of case.

You can use your case to refer to during the meeting so that you can present information to the panel for them to understand the level of attendance, the actions and support that you have given and the current situation.

You will need to ensure that copies of your case are available to be sent at least 7 calendar days in advance of the meeting to:

- your employee, and include one copy for their representative
- to each member of the panel
- to the person who is supporting you at the Formal Absence Review Meeting (if you have support)

## **25.6 What do I need to do if I have to organise a sickness absence panel?**

As panel organiser you will need to:

- Arrange for a HR professional to support the chair at the panel meeting
- If a potential outcome of the panel could be dismissal, you will need to ensure the chair is the right level of line manager to be able to issue a dismissal (this would be a Director or 2 levels below or ODT this could be a Regional Manager)
- Organise a date, time and room for the panel meeting, taking into consideration the availability of both the management team and the employee and any representative they may be bringing
- Notify the employee in writing at least 7 calendar days prior to the meeting advising them of the reason the meeting is taking place, the arrangements (date, time, location, panel members and any note taker, their right to be accompanied, and the possible outcome of this meeting)
- Confirm the details of the date, time and location with the management team or panel as appropriate
- You will need to ensure that the employee is given a copy of their sickness absence record, which has led to the Formal Absence Review, in advance of the meeting
- Organise a note taker for the panel meeting

In addition, you will also need to co-ordinate receiving a management statement of case from the management team and an employee statement of case from the employee, within a reasonable time to be able to send both out to each party and to the panel to review at least 7 calendar days prior to the panel meeting. You should wait until you receive both statements of cases before sending them out. You will need to send out the following; Management statement of case - two copies to the employee (one for them and one for a representative, if they are bringing one). One to each panel member. Employee statement of case - two copies to the disciplinary Investigation Manager (one for them and one for any support they

are bringing with them). One to each panel member. If you are unsure of the process for any of the above, you should contact your local HR Consultant who can provide you with support.

## **25.7 What do I need to consider as panel chair to terminate employment (LTS)?**

If you are chairing a panel to terminate employment of an employee who has long term sickness you need to be a manager with dismissing authority this would be a Director or 2 levels below or ODT this could be a Regional Manager. At the panel meeting you will be supported by an HR Consultant in an advisory capacity. You need to ensure that notes are taken of the meeting.

At the meeting the manager who dealt with the Formal Absence Review Meeting and the monitoring of the absence will normally present details of this to you, together with the options considered and an up to date OH report. The employee will also have an opportunity to put forward their case to you.

You should explain to the employee the concerns that their absence is having and ask them to respond to these concerns. You should consider the OH reports and prognosis for return and ask the employee to suggest any reasonable adjustments which might enable them to return.

You should summarise the key points of the employee's response and seek their confirmation that you understand it correctly.

When you are happy that you have all the information you need to make a decision, you should then adjourn the meeting to consider your decision and any possible solutions. You should review the absence and the actions taken in order to determine that every effort has been made with the employee to enable them to continue to work.

The sorts of things you need to consider are:

- If the employee has a disability, whether all possible reasonable adjustments been made that would enable them to attend work at a sustainable level
- Have warnings and support been given in line with this policy
- Whether, and for how long, other employees can cover the employee's workload.
- What is the level of disruption caused by the employee's absence?
- Could a temporary replacement be recruited and how much this will cost?
- The length of time the employee has been with the organisation and the level of specialist skills the employee has
- Cost of recruiting and training another employee
- Length of time for which the employee is still entitled to contractual sick pay
- Is there an alternative vacancy which would enable the employee to remain in work with reasonable adjustments?
- Has up to date medical advice (normally via Occupational Health) been provided
- Has the employee been kept informed regularly of progress (and discussions held as soon as reasonably practicable) and left in no doubt that their employment is at risk
- Has the possibility of redeployment/redesign been considered? If the employee is considered to be disabled under the Equality Act 2010 has every effort been made to make reasonable adjustments to enable the employee to return to work

You should also consider their record and any mitigating circumstances and determine whether you consider a return to work is likely in a sustainable timeframe.

If you are satisfied that a return to work within a reasonable time frame is not likely, or in the case of frequent long term absence that a sustainable level of absence cannot be achieved, all warnings and support have been given in line with the policy then as the chair of the panel,



with dismissing authority, you would be justified in dismissing the employee, with notice, due to capability - medical incapacity.

You need to arrange to meet the employee to convey your decision and then provide written confirmation of the decision, details of their notice entitlement, and their right to appeal, within 7 calendar days.

Ensure that all notes relating to the proceedings are retained.

## **26. Ill Health Retirement**

### **26.1 What do I do if an employee wishes to apply for ill health retirement?**

If your employee is a member of the NHS Pension Scheme they can make an application for ill health retirement. However, this would need to be supported by medical evidence, which is usually obtained via Occupational Health (OH). They can find more information from the Ill Health Retirement Factsheet see below or the [NHS Pensions Website](#). If they do wish to make an application, you should obtain advice from your HR Consultant as to how to take this request forward.

If your employee advises you that they wish to pursue an ill health application then you will need to invite them to a meeting to formally end their employment, with appropriate paid notice, at the point when their application is submitted and confirm this in writing to your employee.

<https://www.nhsbsa.nhs.uk/sites/default/files/2017-05/III%20health%20retirement%20tiers%20and%20FAQs%20%2805.2017%29%20V8.pdf>

## **27. Work-related Absence, Accidents at Work and Industrial Injury Benefits**

### **27.1 What should I do if I have an accident at work?**

You should report the accident to your manager, ideally this should be immediately following the incident, or as soon after as is practicable.

### **27.2 What should I do if an employee has an accident at work?**

They should report the accident immediately, but if this is not possible then you need to undertake this responsibility (see SOP429). You will also need to record any accidents at work, or work-related upper limb disorder [WRULD] related absences on the electronic accident reporting system ([Datix](#)). You must investigate the report, it will be reviewed in Datix by the local Health and Safety Advisor. In accordance with legislation, the Health and Safety Adviser will notify the Health and Safety Executive.

### **27.3 What should I do if I have work-related absence?**

You need to report your absence in the normal way, but you need to make sure that you tell your manager that you think your absence is work-related. This could be an accident connected to your work, or an injury or illness that you have as a result of your job, or it could be stress which is caused by some aspect of your job.

Your manager will discuss this with a member of the Health, Safety and Wellbeing Department who can provide support and guidance on how they can support you in returning to work.

#### **27.4 What do I do if an employee reports work-related absence?**

If one of your employees has told you that their absence is work-related you need to contact HR Direct on 27700 on the first day that you are aware that the absence is work-related.

This line is manned by a member of the Health, Safety and Wellbeing Department and they will be able to give you advice on whether the absence is wholly or mainly attributable to work. If this is the case, they will advise you to tick the relevant box in the NHSBT sickness absence reporting system on EASY

This is important to ensure that your employee receives their correct pay entitlement during their absence if it is considered to be wholly or partly work-related.

When the employee returns to work you should follow the [Musculoskeletal Return to Work Flowchart](#).

#### **27.5 What do I do if an employee reports work-related stress?**

If your employee tells you that they are suffering from work-related stress you will need to ensure that they receive the appropriate support. You would need to discuss with them the options that could support them which would include the Employee Assistance Programme an Occupational Health Referral or they may wish to seek help via their own GP.

If they have absence which is due to work-related stress you should report this to [HR Direct](#). You will need to carry out a risk assessment either before they return to work or immediately after their return.

#### **27.6 How do I complete a Work-related Stress Risk Assessment?**

You can access the generic work-related stress risk assessments which have been done for different jobs through your H & S co-ordinator or Health, Safety and Wellbeing. If you need an individual work-related stress risk assessment, where your employee has said they are suffering from stress at work or where you suspect this to be the case, you should contact your local Health and Safety Advisor.

#### **27.7 What do I do when an employee returns to work following a work-related absence?**

You will need to carry out a return to work meeting in the usual way and you will also need to follow the [Musculoskeletal Return to Work Flowchart](#). This provides guidance on how you can support your employee on their return to work, working with Health, Safety and Wellbeing Department and Occupational Health. This includes a time frame for improvement and evaluation of their progress which is aimed at a sustained return to work on full duties, or if this is not possible the options that are available.

#### **27.8 What if an employee's sick pay has been reduced or expired?**

In this case if the absence is wholly or mainly due to NHSBT duties the individual may be entitled to Injury Allowance (IA). This will be reviewed by the Health, Safety and Wellbeing Department IA reviewer in consultation with the Manager and Human Resources on a case by case basis where relevant.

## 28. Terminal Illness

### 28.1 What action should I take if one of my employees is terminally ill?

You will be supported to remain in work whilst you are able, and it is safe for you to continue working. NHSBT recognises that it may be beneficial to you to continue working and your line manager will explore with you the options available to continue in your role, seeking additional advice from HR, Occupational Health or Health & Safety.

### 28.2 I have been advised that I have a terminal illness how will this affect my employment?

You will be supported to remain in work whilst you are able, and it is safe for you to continue working. NHSBT recognises that it may be beneficial to you to continue working and your line manager will explore with you the options available to continue in your role, seeking additional advice from HR, Occupational Health or Health Safety.

### 28.3 When should I tell my manager of my diagnosis?

It would be beneficial to speak to your manager at the earliest opportunity and have an open discussion about the options which may be available for you these may include reasonable adjustments to support you in work, if you are a member of the NHS pension scheme an application for ill health retirement may be appropriate or the payment of a death in service benefit. For more information please see Ill Health Retirement Factsheet or the [NHS Pensions Website](#)

### 28.4 What will happen once I have been given my diagnosis that my condition is terminal?

You should talk to your manager to discuss what support may be required for you to continue in your role. This may require your manager seeking additional advice from HR, Occupational Health or Health & Safety. NHSBT also provide the Employee Assistance Programme (EAP) who you may feel can help you. They can be contacted by telephone on 0800 716 017 or alternatively if you just wanted to find out more about it you can visit their website [www.employeeecare.com](http://www.employeeecare.com), the 'access code' and 'password' are both 72992.

### 28.5 What information will I need to give my manager about my condition?

You should tell your manager how your illness may affect you in work and whether any reasonable adjustment will be required to your role. Your manager may seek further advice to support you from HR, Occupational Health or Health & Safety. Following the initial meeting regular reviews should take place.

### 28.6 What if I want to continue working but I am unable to do all the tasks within my role?

A discussion should take place between you and your manager for the manager to understand what changes can be made to your job. Your manager may seek further advice to support you from HR, Occupational Health or Health Safety. It may also be appropriate for an individual risk assessment to be undertaken. If no reasonable adjustment can be made it may be appropriate to see if an alternative role was available for you to be redeployed in.

### 28.7 Can I have time off to attend medical appointments due to my medical condition?

All medical appointments will be considered under the time off work policy. However, managers are also reminded that, in such circumstances, consideration should be given to whether further flexibility can be afforded to the employee to allow them time off to attend appointments and / or treatment and / or rest following such appointments.

### **28.8 What will I be paid?**

If you are absent from work due to illness then you would be paid sick pay, the amount of sick pay you will receive is based on your sick pay entitlement which reflects what your continuous NHS service is, and whether you have had any sick pay in the last rolling 12 months. NHS Terms and Conditions of Service Handbook. Please see FAQ 5.3

### **28.9 What happens if I am unable to return to work?**

If you are a member of the NHS pension scheme you can make an application for your pension to be paid to you. Under the NHS pension scheme rules you may be able to apply for ill health retirement, an application for ill health retirement will need to be supported by medical evidence. This can be sought from our Occupational Health provider or your medical practitioner / consultant. You should discuss this option with your line manager with the support of HR and staff side representative if you have one.

If you are not a member of the NHS pension scheme you will not have the option of applying for an NHS pension or ill health retirement. In this case you would either resign from your post or your employment could end by dismissal with notice on the grounds of capability.

### **28.10 What is the TUC Charter “Dying to Work”**

The charter is a commitment to enabling employees with a terminal illness diagnosis to discuss options around remaining in work – if it is safe to do so and you wish to carry on working for as long as you are able.

### **28.11 Does the Charter guarantee me remaining in work?**

It does not provide a guarantee that we will be able to accommodate any adjustment – but that we will be willing to explore and offer alternative duties, if possible.

### **28.12 How will my terms and conditions be affected by the Charter?**

It does not provide any change to my terms and conditions – as your occupational sick pay (OSP) will remain the same, the length of OSP payable is determined by your length of NHS service see FAQ5.3

## **29. Pregnancy**

### **29.1 How do I manage my employee's sickness if it is pregnancy related?**

If you have an employee who is pregnant you will need to carry out a risk assessment.

It is important that you do not discriminate against an employee for pregnancy or maternity related reasons. You should still record pregnancy related sickness absence in the normal way and carry out a return to work interview as usual in order to ensure that you offer appropriate support to your employee. You must ensure that you exclude any period of non-attendance due to their pregnancy or childbirth related illness from monitoring of their attendance. If you have any doubt about the nature of any pregnancy related illness you should seek advice from Occupational Health.

## **29.2 Can my line manager request that I start my maternity leave early?**

Generally no, your manager cannot ask you to start your maternity leave earlier than you want to start it however, if you continue to work after the 4th week before your expected week of childbirth and you have any time off for sickness absence which is wholly or partly pregnancy related, your maternity leave will automatically start earlier than your requested date. In this situation your maternity leave and maternity pay will start on the day after the first day of absence from work due to pregnancy related sickness.

If however, the reason for your sickness absence is not pregnancy related you will continue to receive any sick pay you are entitled to up to the date you requested to commence your maternity leave.

Odd days of pregnancy-related illness may be disregarded if you do not want to automatically start your maternity leave early, however this is at our discretion (e.g. down to NHSBT to decide if we are happy not to automatically start your maternity leave early) therefore you would need to discuss this with your manager when you report in sick.

## **29.3 What if I am unable to return at the end of my maternity leave due to sickness?**

If for any reason you are unable to return to work after your maternity leave because you are sick you should follow the normal sickness reporting arrangements. Your absence will then be treated as sickness absence rather than maternity leave. Your manager will meet with you regularly to offer support during your absence.

This is regardless of whether your sickness is related to your pregnancy. If for example you were suffering from post natal depression you would be treated in the same way as for any other form of sickness absence.

## **30. Fraudulent Sick Leave**

### **30.1 What should I do if I think an employee is misusing the sickness absence provisions?**

Normally sickness absence relates to the employee's capability to do their job due to their illness. However, there may be occasions when you consider that this is not the case and the issue could be one of misuse of the sickness absence provisions rather than illness, in which case this could be misconduct.

If you consider that this is the case, you will need to take a different approach to handling the issue. The decision on whether or not this is misuse of the absence provisions should, whenever possible, be made on the basis of medical advice taken at the time of their absence or prior to their return to work, as to which of these issues is involved.

If after thorough investigation it appears that there is abuse of the absence policy, you will need to deal with the matter in accordance with the Disciplinary Procedure.

You should hold the Return to Work meeting as usual with your employee as soon as possible after they return to work. In addition to the normal return to work discussion you should discuss with them any reasons you have to doubt the genuineness of their absence. If after this discussion you still have reason to doubt that their absence is not genuine, then this should be thoroughly investigated in accordance with the Disciplinary Policy.

If you have evidence or reasonable grounds to suspect that your employee has fraudulently taken sick leave you will need to consider whether this matter should also be referred to our Local Counter Fraud Specialist.

## 31. Unauthorised absence

### 31.1 What if an employee does not attend for work and does not make contact?

When it becomes evident that your employee is not simply late for work, as a manager, you should take the following actions:

- Attempt to contact the employee on their personal phone number(s), leaving voicemail or sending an appropriate text message if there is no answer
- Make a further attempt later in the shift, being clear about the consequences of unauthorised absence
- At the end of the missed shift, attempt contact by email or any other means available
- Assess whether contact by one of the employee's colleagues is possible and appropriate
- At the end of the missed shift, inform HR Direct and attempt to contact the employee's emergency contact
- At the beginning of the next shift, you will need to complete form ESR-FRM-137 to stop pay beginning with the first missed shift and continuing until further notice
- At the beginning of the next shift, attempt telephone contact again
- If this is not successful, start the procedure below

You must **log** all attempts at contact with the employee (giving date and time) and should use as many means of contact as are available (telephone, voicemail, text message, email, letter, emergency contact).

It is not recommended that a you or a colleague visit the employee's home address, other than to hand deliver a letter, unless there is a particular cause for the concern for their health and wellbeing.

In order to stop the employee's pay for the duration of the unauthorised absence, you will need to record their absence on EASY.

Please also contact [HR Direct](#) if you wish to stop an employee's pay urgently.

Only in exceptional circumstances, if an acceptable reason is provided for absence, should pay for the whole period of absence be re-instated. In this instance you should contact [HR Direct](#) regarding backdating the employee's pay.

### 31.2 What will happen after I have had unauthorised absence?

If this is your first occasion, your manager will conduct a Return to Work meeting following your return from any period of unauthorised absence and will ask you why you did not attend work or make contact with them. You are likely to be considered in breach of expected behaviour and conduct. Following a discussion, they may decide to issue an improvement note or depending on the circumstances you may advise them of the required standard, noted by means of a file note, e mail etc. [The Management Record of Informal Discussion](#) may also be used. In each case you will need to provide the employee with a copy for their own records.

If you have continuous or persistent unauthorised absences this will be managed under the Disciplinary policy, and your manager will consider the impact of you being absent for example on the operation and/or the rest of team.

If you are struggling with health or personal problems, and you choose not to tell us we will not be able to provide any support or assistance and may be forced to take disciplinary action. In difficult circumstances, we can be a valuable source of support and advice e.g. through the [Employee Assistance Programme](#).

### **31.3 What do I do when an employee has returned to work following unauthorised absence?**

On their return, as their manager, you must conduct a Return to Work meeting following their return from any period of unauthorised absence and ask why they did not attend work or make contact with you.

If this is their first occasion, following a discussion, you may decide to issue an improvement note or depending on the circumstances you may advise them of the required standard, noted by means of a file note, e mail etc. [The Management Record of Informal Discussion](#) may also be used. In each case you will need to provide the employee with a copy for their own records.

Should it be continuous or persistent unauthorised absences this will be managed under the Disciplinary policy and you will need to consider the impact of the absence for example on the operation and/or the rest of team.

If either a disciplinary investigation meeting or a disciplinary hearing has already been arranged it may be that the meeting will still take place in addition to the initial return to work meeting - please contact [HR Direct](#) who are available Mon-Fri 9.00am to 5.00pm to discuss.

You should close the absence record in EASY. Only in exceptional circumstances, if an acceptable reason is provided for absence, should pay for the whole period of absence be re-instated. In this instance you should contact [HR Direct](#) regarding backdating the employee's pay.

### **31.4 What happens if I leave my shift without getting agreement?**

If you leave work while you are on duty or if you do not return to work following a break without the proper authorisation from your manager, this will be considered to be unauthorised absence. You can expect to be questioned regarding the reasons and circumstances of your absence. If you are unable to provide a satisfactory reason for leaving your shift without authorisation this will result in an Improvement Note being issued as part of the Disciplinary Policy and pay being withheld for the shift (or part shift).

If for any reason you put in your resignation and leave a shift in haste and want to change your mind, you will need to discuss your reasons fully with your manager in line with the [Leavers Policy](#).

### **31.5 What if an employee repeatedly fails to report absence before their shift?**

If an employee who is absent, doesn't make contact with you prior to their shift on more than one occasion these should be considered as unauthorised absences and is a breach of conduct expectations and should be referred for investigation under the [Disciplinary Policy](#). Where absence is unauthorised pay will be withheld which will apply from the first day of absence.

### **31.6 What if I am absent from work for a long time without contact?**

If you are absent from work without authorisation for an extended period, the disciplinary procedure will be applied. This means that your manager will meet with you to find out the

reasons and circumstances for your absence. They will then refer your case to an appropriate manager to come to a decision based on this. They are able to recommend a sanction up to and including a final written warning is offered to you. This is unless they disagree with the investigating manager's recommendation and feel a different sanction or action is required, including dismissal.

In all cases where dismissal is a possible outcome, or where you choose not to accept a sanction offered, a Disciplinary panel must be convened so that a panel may consider the investigating manager's report your testimony before determining an outcome.

This may be a case of you making no contact at all but will also apply where the level of contact is not as has been agreed or is unsatisfactory. Pay will be withheld for the period of your unauthorised absence.

### **31.7 What if I do not keep regular contact or provide fit notes during absence?**

Even when you have told your manager that you are not fit for work due to ill health, you must ensure that you continue to follow the correct reporting procedures including:

- Maintain meaningful, up to date contact as agreed with your manager
- Attend any appropriate GP, consultant, Occupational Health or other appropriate medical appointments
- Provide fit notes to your manager (for all sickness absences longer than 7 calendar days). Backdated certificates will not be accepted unless there are exceptional circumstances

If you fail to keep regular contact and/or supply fit notes this means that your occupational sick pay will be withheld, as it is apparent that you are not co-operating with us on your absence.

The Disciplinary Policy may still be used to investigate your behaviour and conduct, and sanctions may be applied to bring about an improvement by you.

### **31.8 What if an employee does not provide fit notes or keep regular contact?**

You will need to find out and understand the reason why your employee is not keeping contact with you and/or sending in their fit notes correctly. There may be a reason why they are finding it difficult to make contact with you. You will need to consider this on a case by case basis and decide whether or not this should be classed as unauthorised absence.

If you decide that they are not co-operating with us on their absence you will need to advise them that their absence will be considered as unauthorised until such time as they provide a fit note and that Occupational Sick Pay is not due for the uncertified period of the absence. To record this you will need to complete form ESR-FRM-137. Statutory Sick Pay will continue to be paid.

It is essential that this form is completed immediately in order to avoid an overpayment situation.

If they continue not to respond to the request to supply the fit note and adhere to the sickness absence notification requirements, you will need to deal with this under the Disciplinary Policy.

### **31.9 What if I fail to attend work for a shift where annual or other leave has been refused?**



You should be aware that *all* such instances will be investigated. This will include situations where you may have reported sick for a shift where your manager has previously refused your request for annual leave or other leave which is covered by the [Time off Work Policy](#).

### **31.10 Can I visit an employees' home if they are absent without authorisation?**

It is not recommended that you visit an employee who is absent from work without authorisation other than to hand deliver a letter, unless there is a particular cause for the concern for their health and wellbeing.

### **31.11 What happens if an employee persistently fails to attend work without making contact?**

You should investigate this in accordance with the Disciplinary Policy. However, any investigation into unauthorised absence should be relatively simple and it should not involve lengthy investigations and reports. You need to give the employee the chance to explain their actions and for an appropriate manager to come to a decision based on this. They are able to recommend a sanction up to and including a final written warning.

As investigating manager, you will be required to submit a brief summary of the case to a senior manager, who may then formally offer such a sanction to the employee (unless they disagree with the investigating manager's recommendation and feel a different sanction or action is required, including dismissal).

In all cases where dismissal is a possible outcome, or where the employee has chosen not to accept a sanction offered a Disciplinary panel must be convened so that a panel may consider the investigating manager's report and the employee's testimony before determining an outcome.

### **31.12 What should I do if I am going to be late for work due to unplanned circumstances?**

Lateness is generally not acceptable as you are responsible for getting yourself to work in time to start your shift. You should be aware of any barriers to this even if they are on a temporary basis, so that you may make any appropriate changes to your journey. However, with all best intentions, there may be times when something may prevent you from arriving on time. This would normally be something out of your control such as a major incident, accidents or public transport issues. Therefore, if you think you are going to be late for work, you must make every reasonable effort to contact your manager to advise them of this, including the reasons why and your expected arrival time. Remember to ensure that any telephone calls made should be done so safely and legally. On arrival at work, you must make contact with your manager so that you can both discuss your circumstances in detail and any actions required.

### **31.13 What should I do if I am late for work?**

If you are late for work, as soon as you arrive you must make every effort to speak to your manager. You will need to provide your manager with a full explanation for your lateness.

Options your manager may consider in dealing with your lateness are:

- If your manager is satisfied with the reasons you have given, you may be allowed to make up the time lost at a time suitable to the department
- Your manager may, if appropriate, wish to consider the options available to you within the Time off Work Policy

- If either of these options is not possible or practicable your pay may be stopped for the period of your absence
- Whether your manager is satisfied with your reasons or not, the incident will be noted informally by your manager, which should be documented, and a copy provided to you
- Should lateness repeat itself, including if you have a good reason, or if patterns of lateness emerge, then your manager will take further action
- Further action may include discussing your circumstances in more detail, resulting in a temporary or permanent change to your hours or shift pattern, this would normally follow a Flexible Working Request from you
- Further action may also include disciplinary action in line with the Disciplinary Policy

Normally lateness is considered to be a matter of conduct and is covered by the Disciplinary policy, although there may be some occasions when there is an overlap between cases of lateness and unauthorised absence.

### **31.14 What will happen to my pay if my absence is unauthorised?**

If you are away from work without permission, your manager will stop your pay on the second day of your absence. However, this will apply from the first day of your absence. If and when you return to work, your manager will conduct a 'return to work' meeting. Whatever the circumstances, this time has to be accounted for and therefore, if your reasons are satisfactory you will need to make up your time or discuss an option under the Time of Work Policy if this is appropriate, or if this is not possible, your pay will be adjusted to account for your absence. If after any reasonable investigation, your reasons are not satisfactory, the time you have been absent will be deducted from your pay. Your pay will be adjusted and recommence once your manager has been able to establish fully the dates and times of your absence.

## **32. Wellbeing support**

### **32.1 What support is available for my wellbeing?**

Whilst you are responsible for your own general fitness, health and wellbeing, we offer a whole range of services to help you achieve and maintain this. Some examples of the wellbeing support which is available to you are

- Employee Assistance Programme (EAP)
- Health Safety and Wellbeing Zone
- Occupational Health
- Physiotherapy
- Wellness Clinics
- EAP – Counselling and Cognitive Behaviour Therapy

The Wellbeing Policy gives full details of the support which we can offer you together with links to a range of websites where you can find out more information on a range of health-related issues.

### **32.2 What is the support available to me for my medical condition?**

If you have a health condition and feel that you need some support in the workplace you should discuss this with your manager so that they are aware and can provide any support, you might need. Your manager can make a referral to our Occupational Health provider. They will be able to advise on any impact your health condition might have on your ability to undertake your role. They may suggest simple solutions that may help improve your working conditions. If you are suffering from long term problems, they may also be able to suggest more permanent solutions, such as adjustments to your workplace.

### 32.3 Can I have physiotherapy for an injury?

If you have a muscular-skeletal injury that is affecting your ability to undertake your work, it may be a condition where physiotherapy could be beneficial for you.

In order for you to be able to receive this treatment you will need to meet a set of specific criteria which are that you will

- be off work, or at work with significant restrictions in place;
- be suffering from a musculoskeletal condition for less than 6 weeks at the point of referral;
- not be receiving physio treatment anywhere else.

If you do meet this criteria you need to speak to your manager in the first instance and they will make a referral to Occupation Health, who will then be able to make an assessment as to whether physiotherapy would be the best course of action for you. If this is the case, then you will be able to have up to eight sessions of physiotherapy to aid your recovery. A report on your progress will be sent to your manager. Additional information can be found at:

<https://peoplefirst.nhsbt.nhs.uk/Wellbeing/>

### 32.4 What do I do if my job is causing me to have health problems?

If you believe your role is causing you to feel discomfort or if you experience any ill effects, then you should discuss this with your manager so that they are aware and can provide any support you might need. Your manager should review the risk assessment and safe system of work for the activity suspected to be causing the issue.

Your manager may ask Health, Safety and Wellbeing to help with this, but if you have time off work which is related to a work issue then your manager must contact HR Direct on 27700 who will connect them with the Health & Safety notification line, to review the issue. They may advise that your manager makes a referral to our Occupational Health provider for you, and they will be able to advise on whether your role is the likely cause of your discomfort and suggest some simple solutions that may help improve your working conditions. If you are suffering from long term problems, they may also be able to suggest more permanent solutions, such as adjustments to your workplace.

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