

Managing Attendance and Wellbeing Policy

During the COVID-19 period please firstly read the COVID-19: Impact on HR Policies and Procedures Guidance document which can be found on the HR Consultancy page on SolNet.

Solent NHS Trust policies can only be considered to be valid and up-to-date if viewed on the intranet. Please visit the intranet for the latest version.

Purpose of Agreement	This policy is to provide guidance to managers on the importance of supporting employee health & wellbeing and procedure to be followed when managing both long- and short-term sickness absence. It also explains the process to be followed when the individual returns to work.
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5	April 2021	26	Note: Addendum - Extension to sickness pay entitlement for eligible employees can be found in Appendix B, page 30	April 2021

Review Log

Include details of when the document was last reviewed:

Version Number	Review Date	Lead Name	Ratification Process	Notes
Version 1		Sarah Martin	Policy and NHSLA Group	Policy Re-write
Version 2	July 2019	Hannah West	JCC, Staffside	Policy review and update. Additions made in respect of NHSI guidance. Inclusion of impact of warnings on pay progression.
Version 3	February 2020	Hannah West	Policy Steering Group, TMT	Policy review
Version 4	April 2020	Hannah West	Approved as part of the Covid-19 review of policies	
Version 5	April 2020	Deborah Spreadbury	Chair's action – approved addition of addendum, and Staffside	Addition of addendum (Appendix B)

SUMMARY OF POLICY

The Managing Attendance and Wellbeing policy provides a standard framework for managing absence due to sickness in a fair and consistent manner.

The policy should be read in conjunction with the Managing Attendance & Wellbeing – A Managers Toolkit which provides step by step guidance and templates.

This policy outlines the triggers for formal absence management and the processes for managing short and long term absence.

The triggers for formal sickness management are:

- 3 episodes of sickness absence, of any length, in any rolling 6-month period or
- 4 episodes of sickness absence in any rolling 12-month period or
- Total absence equalling or exceeding a Bradford Index ('BI') score of 150 in any rolling 12-month period.

Long term sickness absence is continuous sickness absence of 28 days or more.

Section 5 outlines the method for calculating the Bradford Index score.

Before any formal sickness absence management process is undertaken informal discussion as part of return to work and an informal review meeting must have taken place.

For short term intermittent sickness absence, if there is still no improvement following informal discussion and one of the formal trigger points is met, and the manager is confident that all support possible has been offered to enable an employee to fulfil their contractual obligations to the Trust, it will be appropriate to move formal management. See section 6.1.

For long term absence the manager should consider arranging a support meeting and referral to Occupational Health. See section 6.2.

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Policy to be used in conjunction with “Managing Attendance & Wellbeing – A Manager’s Toolkit”

1. Introduction

Solent NHS Trust is committed to providing a safe and healthy working environment and to promoting the well-being of its employees. However, it also recognises that, as a large organisation, from time to time employees may experience sickness on either a short and/or long-term basis.

Absences due to sickness can have a detrimental impact not only on the employee but also on quality of services that the Trust provides through covering work, costs to business, and reduction of employees delivering frontline care which ultimately has an effect on employee motivation and morale.

This policy aims to balance the need to deal sympathetically with employees during periods of sickness with the need for consistency and fairness in the treatment of employees to ensure that we are acting as a caring and responsible employer and upholding our values, whilst fulfilling our commitment to provide the best possible quality of service to patients and clients.

This policy should be read in conjunction with its associated document *Managing attendance and wellbeing - a manager's toolkit*. In this way managers can be enabled to actively promote attendance within Solent NHS Trust, in a fair and consistent way and in line with current legislation.

1.1 Purpose and Scope

The purpose of this policy is to provide an equitable, consistent and sensitive approach to the management of sickness absence. Employees are paid on the basis of satisfactory attendance and performance. Whilst it is recognised that most employees will occasionally have acceptable reasons to be absent from work, absence can cause operational difficulties, undermine efficiency and increase costs. Overall, absenteeism has a substantial impact on service delivery and the quality of patient care. It can also have a detrimental effect on the employee themselves and evidence supports that appropriate work is generally good for people's physical and mental health. The aim of this policy is therefore to maximise attendance across the Trust, whilst also providing appropriate support to those absent for legitimate reasons, with the aim of assisting their return to work at the earliest opportunity.

This policy applies to locum, permanent, and fixed term contract employees (including apprentices) who hold a contract of employment or engagement with the Trust and secondees (including students), in line with Solent NHS Trust Equality, Diversity, Inclusion and Human Rights Policy.

1.2 Definitions

For the purposes of this policy the following definitions apply:

Short term sickness absence is defined as an episode of sickness absence, which can be a few hours, one single day, or a number of continuous days, not exceeding 28 calendar days irrespective of working patterns.

Long term sickness absence is classified as absence lasting 28 calendar days or more, irrespective of working patterns.

Intermittent Sickness Absence is defined as recurrent sickness absence which may include a combination of both short-term and long term episodes.

A Bradford Score is defined as a calculation over a 12 month rolling period (described at section 5 of this policy). A Bradford Index of 150 in a rolling 12-month period will be used as one of the trigger points for management of sickness absence under this policy.

For other terms and guidance related to sickness absence, please refer to the accompanying *Managing attendance and wellbeing - a manager's toolkit*.

The definition of 'disability' under the Equality Act 2010

In the Act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial
- 'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping
- within the policy, a week is referred to as a calendar week.

People who have had a disability in the past that meets this definition are also protected by the Act.

2. Roles and Responsibilities

2.1 Managers' responsibilities:

The role of the Manager is to:

- Proactively support and monitor the health and wellbeing of employees using 1:1 meetings and other relevant tools/mechanisms to maintain attendance.
- Ensure employees know where to obtain advice and support in relation to health and wellbeing issues and signpost employees to further support when indicated.
- Ensure clear absence reporting arrangements are in place, locally, which fulfil the needs of this policy.
- Keep accurate records, locally and on the central system, such as the Health roster
- Monitor trends in sick absence and discussing with HR Consultancy.
- Manage sickness absence equitably, consistently and sensitively.
- Manage sickness absence in accordance with this policy and related documents, including the documents in *Managing Attendance and Wellbeing - a Manager's Toolkit*.

- Maintaining regular contact with employees when absent due to sickness and if required ensure that payslips are forwarded to absent individuals.
- Inform employees of their occupational sick pay entitlements and when these change.
- Refer employees to the Occupational Health team in a timely way and in accordance with the stipulated referral triggers in this policy and *Managing Attendance and Wellbeing - a Manager's Toolkit*
- Undertake risk assessments in relation to maternity, manual handling, stress, and offer support to employees appropriately, making appropriate use of Occupational Health and the Employee Assistance programme when required.
- Undertake return to work meetings and associated risk assessments as set out in this policy. See also *Managing Attendance and Wellbeing– a Manager's Toolkit*
- Respond supportively to any health conditions, implementing any reasonable adjustments in the short or longer term to enable an employee to undertake their role/attend work, specifically for those employees with a disability under the Equalities Act 2010.
- Take all reasonable steps to utilise opportunities across the trust to accommodate an early return to work
- Take responsibility for the purchase and supply of specialist equipment/workplace changes as advised by Occupational health
- Remind employees that they must not undertake any secondary employment whilst claiming sick leave/pay without permission.
- Seek HR Consultancy advice with a view to informing the Trust's Local Counter Fraud Specialists where there may be suspicion that any employee is undertaking secondary employment whilst claiming sick leave/pay.

2.2 Employee responsibilities:

The role of the Employee is to:

- Maintain regular attendance at work.
- Advise their manager as soon as they are aware of any health issue that may have an impact on their ability to fulfil their duties, leading to absence or not.
- Notify the relevant manager or an agreed alternative manager as soon as they are not fit for work, whether due to be on duty or not, following the local sickness absence reporting procedure for the service they work for. Maintain contact with their manager or agreed alternative manager either on a daily basis or as agreed during any period of sickness absence.
- Notify their manager when they are/will be fit to return to work including on non-working or off-duty days. This should be irrespective of the Fit Note period as employees can return to work at any time subject to agreement and risk assessment when required.
- Attend and engage with Occupational Health appointments and sickness support meetings arranged by their manager. Failure to do so may mean decisions regarding the management of absence without the benefit of information from such meetings will be made based on the information available. Failure to attend without good reason may lead to disciplinary action in line with Trust policy.

- There may be exceptional circumstances where attendance at an Occupational Health appointment is not possible, and when this occurs employees are responsible for contacting the Occupational Health department to notify them of the cancellation. Employees are expected to attend for appointments provided in a timely way and preference of date and venue and/or OH practitioner should not be a reason to reject an appointment date.
- Ensure they are available during their normal working hours if they are off sick but well enough to attend an Occupational Health appointment.
- Promptly provide medical certificates/fit notes on the 8th day of continuous absence to their manager. Failure to do so may lead to the suspension of occupational sick pay until such a document is provided, and possible formal action may be considered for unauthorised absence from work.
- Ensure that they do not undertake paid/unpaid work for another employer, or undertake additional work for Trust via the bank, whilst claiming sick leave/pay from the Trust. Any contravention of this may be treated as fraud. In exceptional circumstances working elsewhere may be permitted if employees have obtained written agreement from their Line Manager in advance with involvement by Occupational Health.
- Ensure that they gain authorisation for annual leave whilst off sick
- Actively engage in working with their manager to keep well at work and contribute to and participate in return to work plans

2.3 HR Consultancy responsibilities:

The role of HR Consultancy is to:

- Work in partnership with the manager in the pro-active management of sickness absence and to ensure a fair and consistent approach has been adopted.
- To ensure that the Trust are acting as a caring and responsible employer and upholding our values.
- Advise and support managers, although the responsibility for the action taken rests with the manager.
- Support managers as and when appropriate at formal meetings under this policy.
- Work in partnership with managers, oversee any long term sickness absence and make recommendations to the manager on appropriate action.
- Provide regular sickness data to managers, including where occupational sick pay is to move to half or to zero rate.
- Monitor and analyse absence across Service lines and Solent NHS Trust and inform service appropriately.
- Provide training and advice to managers in relation to this policy and its application.
- Provide advice and support where necessary to employees when requested regarding the operation of this policy and signpost and highlight avenues of support available to employees such as Occupational health and Employee Assistance Programme

2.4 Role of the Occupational Health & Wellbeing Team

The role of the Occupational Health & Wellbeing Team is to provide an advisory and consultancy service to cover Occupational Health issues as they affect an individual

employee or groups of employees in their workplace environment. The responsibilities will include:

- Advice and information on promoting health and a healthier workplace and support mechanisms available to support this.
- Provide professional advice to the Manager and/or HR Consultancy on an individual's fitness for work, including via a report following an appointment with employees.
- Request `Fast Track` appointments to Consultant/Outpatients or investigations when this is appropriate
- Support managers with workplace risk assessments related to health and fitness against job activities.
- In the event of illness or accident provide support to employees whilst absent from work and to, where possible, help achieve an early return to work promoting physical and psychological wellbeing for the individual.
- Advise Employees and Managers on phased returns in accordance with the policy and toolkit that supports managing attendance
- Advice on reasonable adjustments recommended for an individual's role.
- Provide professional advice on whether an individual is unfit to be able to continue in their role, whether redeployment may be an option and/or whether they would support an ill health retirement application.

Referrals to the Occupational Health Department should be discussed with the employee prior to sending, and a copy given to the individual. It is best practice to seek agreement in advance of the referral being made, but absence of consent should not prohibit the manager seeking Occupational Health advice on the employee's fitness to work to ensure theirs and others safety at work.

If additional information is required from a GP or other Health Professional consent from the individual to approach the third party will be sought by Occupational Health.

2.5 Staff Side Representatives or Companions:

Employees are entitled to be accompanied by a staff-side representative, workplace friend or colleague, at any formal meeting held under this Policy. It is the employee's responsibility to make arrangements for a companion to attend. The employee must be informed of this right at the commencement and all subsequent stages of this procedure.

The companion may:

- address the meeting and confer with the employee, during the meeting
- put forward the employee's case
- summarise the employee's case
- respond on the employee's behalf to any view expressed at the hearing

The representative or workplace colleague or companion may not answer questions on behalf of the employee.

Staff Side Representatives may be from another Trust or a lay official or full time officer as long as they are certified as having experience of or received training in acting as a representative.

Any other companion (a workplace friend or colleague) should always be a member of the Trust. Reasonable time off should be afforded to the workplace friend or colleague, in discussion with their Line Manager.

Any companion must maintain confidentiality during and after the application of this policy.

If the reason given for failing to attend a meeting is due to the non-availability of a trade union representative or workplace friend/colleague and there have been no earlier adjournments in the process for this reason, on only one occasion a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.

2.6 Employee Assistance Programme

The Trust provides a 24 hour, seven day a week confidential helpline which is run by an external organisation called Workplace Options www.workplaceoptions.com. This service provides free confidential assistance with work, personal or family issues. There is also a counselling service available and this is offered both over the phone and face-to face where appropriate. The helpline number is 0800 243 458 and the confidential e-mail address is assistance@workplaceoptions.com.

3. Principles of managing individual sickness absence under this policy

For full details on the processes for managing attendance, reference must be made to the associated document '*Managing Attendance and Wellbeing - a Manager's Toolkit*'. This is a step by step guide for managers to manage employee sickness in line with Policy. Where appropriate, further guidance can be sought from HR Consultancy and Occupational Health.

4. Return to work meeting

Managers must carry out return to work after each and every episode of sickness absence, irrespective of duration. The employee may have limitations on what they can do at work and these can be identified / discussed during these discussions. Managers must refer to the Managers Toolkit for guidance and templates.

5. Triggers for formal sickness management

Intermittent sickness absence:

Triggers for formal sickness management are:

- 3 episodes of sickness absence, of any length, in any rolling 6-month period or
- 4 episodes of sickness absence in any rolling 12-month period or
- Total absence equalling or exceeding a Bradford Index ('BI') score of 150 in any rolling 12-month period. A BI is calculated as follows:

The Bradford Factor is a method of calculating absence in order to put a 'weighting' on the absence and allows you to distinguish between different types of absences. The Bradford Score, for the purposes of Solent NHS Trust policy, is calculated over a 12 month rolling period by using the following formula:

$$S \times S \times D \text{ or } S^2 D = B$$

S = number of occasions of absence in last 52 weeks
D = number of working days absent in last 52 weeks

For example:

One absence of ten days is 10 points (i.e. $1 \times 1 \times 10 = 10$)

Two absences of five days is 40 points (i.e. $2 \times 2 \times 10 = 40$)

Five absences of two days is 250 points (i.e. $5 \times 5 \times 10 = 250$)

Ten absences of one day is 1000 points (i.e. $10 \times 10 \times 10 = 1000$)

Long-term sickness absence (repeated or single episode):

Long term sickness absence is continuous sickness absence of 28 days or more. This absence should be considered alongside any other absence that has been recorded as part of the record for overall absence in any reference period specified under this policy.

Repetitive pattern of sickness absence

This is when absence levels fall short of the parameters above, for example when it appears that an employee's sickness seems to fall regularly on days either preceding or following a day off or annual leave.

Note: Criteria for measuring an improvement in attendance and sickness absence levels

While discretion with the guidance from Occupational Health can be used in monitoring improvement in attendance under this policy, as a baseline managers should be mindful of the triggers that led to the requirement for sickness absence management in the first place. Once initial triggers have been hit, an informal discussion has taken place, or a formal warning has been issued, an employee's overall sickness absence record is not reset to zero, and should still be monitored with reference to the triggers previously outlined.

6. Processes for Managing Sickness Absence

There is an expectation that before any formal sickness absence management process is undertaken that **informal discussion as part of return to work and an informal review meeting** will have taken place. This should include, for example, reviewing reasons for absence and any reasonable support and adjustments implemented to enable/improve attendance at work so the employee is aware their absence levels are of concern. Please refer to the Managing Attendance and Wellbeing – A Manager's Toolkit for further reference.

NB: In all decision-making that may result in the application of a formal sanction, the principle of plurality should be adopted. The decision to issue a formal sanction should be well informed, reviewed from multiple perspectives and never taken by one person alone. Prior to any formal meeting which may have the potential to result in the termination of an employee's employment, the case will have been referred to the People Management Advisory Forum (PMAF) to ensure appropriate senior-level oversight.

6.1 Intermittent sickness absence:

When an employee is approaching one of the triggers for formal sickness management, i.e. after the second period of sickness absence in a rolling six month period, or the third period

of sickness absence in a rolling 12 month period, or when absence appears to be approaching a Bradford Index score of 150 in a rolling 12-month period:

- As part of their return to work interview the manager will meet with the employee to alert them that they are approaching one or more of these trigger points for formal management under this policy. They will explore reasons for absence, confirm a referral to Occupational Health if appropriate, and identify preventative measures to avoid further absence & proactive health and wellbeing support plan for sustained improvement, monitoring and future management processes.
- If after that there is no reduction in sickness absence levels, an informal meeting will be arranged.
- If there is still no improvement and one of the formal trigger points is met, and the manager is confident that all support possible has been offered to enable an employee to fulfil their contractual obligations to the Trust, it will be appropriate to move to the first formal stage of the sickness management process, which may result in a First Written Warning, in relation to capability due to an inability to attend work on a regular basis, which will remain on file for a minimum of 12 months.
- If, during the period of the First Written Warning, there is no acceptable improvement in sickness absence levels, it will be appropriate at that point to move to the second formal stage of the sickness management process, which may result in a Final Written Warning, in relation to capability due to an inability to attend work on a regular basis, which will remain on file for a minimum of 24 months.
- If during the period of the Final Written Warning there is no acceptable improvement in sickness absence levels, it will be appropriate to move at that point to the final stage of the sickness management process. This could result in the employee's dismissal from employment with the Trust on the grounds of ill-health, or on the grounds of capability due to an inability to attend work on a regular basis.
- During the period the written/final written warning remains live the employee may be exempt from any pay progression increases. On expiry of the warning, pay progression increases that would have been applied will be actioned but not backdated. For further information please see the Agenda for Change Starting Pay and Progression Policy.
- Any dismissal in line with this section of the sickness management process must provide for relevant notice in line with the individual's contract of employment.

6.2 Long-term sickness absence

While the responsibility rests with both manager and employee to agree on and engage with regular communication during any period of sickness absence, during long-term sickness absence it becomes essential so that a manager can:

- Remain up-to-date with the employee's condition and progress towards returning to work
- Identify any on-going support that may be necessary
- Provide workplace updates to the employee.

During an employee's long-term sickness absence managers must consider the nature of that absence and therefore:

- Whether a sickness support meeting is appropriate

- Whether a referral to Occupational Health is appropriate. (Further guidance and an Occupational Health referral form can be found in the *Managing Attendance & Wellbeing – a Manager’s Toolkit*.)

Occupational Health advice following a referral may indicate reasonable adjustments, as an example this could include the following:

- A return to work to full duties is appropriate with no phased return or adjustments
- A return to work to full duties is appropriate but with a phased return and/or temporary or permanent adjustments required, with recommendations made for this.
- A return to work is possible, but not in the employee’s current role, with details of what duties the employee might be able to carry out (either on a temporary or permanent basis)
- A return to work in any capacity in the foreseeable future is not possible, with confirmation as to whether an application for Ill Health Retirement Benefit will be supported by the Occupational Health Physician.

(This list is not exhaustive)

6.3 Redeployment on the grounds of ill health

If recommended by Occupational Health, a search for an alternative role within the Trust may take place. Whilst every effort will be made in this respect, if after an initial review of vacancies the likelihood of this is limited, this search may coincide with a notice period to terminate an employee’s contract of employment on the grounds of ill health should no alternative role be found during that time. Such notice period will reflect an employee’s right to one week’s notice for every year of reckonable NHS service, up to a maximum of 12 weeks.

An employee who wishes to engage with the redeployment process will be considered for prior consideration at interview for any roles where their skills meet the essential requirements as laid out in the Person Specification, and where Occupational Health have confirmed that their health would not preclude them from fulfilling the full duties of that role. This may include any advice from Occupational Health around reasonable adjustments necessary to undertake the role.

Should the employee be successful in obtaining a new role with an agreed trial period, it will become their substantive role if the trial is successful. Where an alternative post is on a lower band or fewer hours there will be no right to protection of earnings.

If it is not successful, and if the notice period is still in force, the search for a new role will continue. If the notice period has elapsed, the employee’s contract of employment will be terminated on the grounds of ill health, subject to paragraph 6 above.

There is no obligation for an employee to engage with the redeployment process under the terms of this policy. However, the relevant period of notice to terminate their contract of employment will still stand. An employee should be aware that failure to engage with and exhaust any redeployment opportunities may impact any eventual application for Ill Health Retirement Benefit.

6.4 Capability due to an Underlying Medical Condition or Disability

In cases where it is suspected that an employee's performance at work is affected as a result of an underlying medical condition, disability or ill health, it will be appropriate for the manager to discuss the performance concerns with the employee and refer the individual to Occupational Health for further advice.

The manager must arrange to hold a formal meeting with the employee following receipt of this advice. At the meeting the manager must identify the specific areas of performance which are of concern and must include examples to support this.

At the meeting the manager must review the recommendations from Occupational Health, which may include:

- Reasonable adjustments on a temporary or permanent basis subject to ongoing review.
- Temporary or permanent redeployment.
- Ill Health Retirement.
- Dismissal on the grounds of capability due to ill health.

6.5 Termination of the employment under this policy

Depending on the nature of an employee's sickness absence and the corresponding management process, employment can be terminated for one of the following two reasons:

- Capability due to an inability to attend work on a regular basis
- Ill Health.

Where an employee is called to a meeting where either termination or notice to terminate their contract of employment is a possibility, managers must ensure this is outlined in the letter informing the employee of arrangements for the meeting and together with the right to be accompanied. Template letters can be found in the *Managing Attendance toolkit – a Managers guide*.

Any meeting which may result in termination of employment will be conducted by a senior manager who has the authority to dismiss or has been delegated the authority to dismiss and an additional second hearing manager, to ensure a panel approach. At this stage, and following discussions, the employee will be advised that a decision may result in their dismissal. Any decision to dismiss will not be taken by one person alone or by anyone who has an identified or perceived conflict of interest.

With any intention to terminate a contract of employment, either on the grounds of capability due to an inability to attend work on a regular basis, or on the grounds of ill health, contractual notice of termination must be given to the employee, with the right to appeal within two weeks of the letter confirming that notice has been given.

Before giving notice to terminate an employee's employment on the grounds of ill health, the following steps must have been exhausted:

- The employee’s health has been reasonably investigated, with advice from Occupational Health and input from the employee’s GP or consultant where appropriate.
- The employee has been consulted on the results of any investigation and any report.
- Reasonable adjustments identified have been considered and implemented where at all possible.
- They have been notified about the possibility of dismissal.
- If appropriate, adjusted duties and/or redeployment have been authorised.
- Before any decision is taken the employee has been fully consulted and, if necessary, an up to date Occupational Health report has been obtained.
- If appropriate, an application for Ill Health Retirement has been explored
- Advice has been sought from HR Consultancy.
- The senior manager, with HR Consultancy involvement, has referred the case to the People Management Advisory Forum (PMAF) to ensure appropriate senior-level oversight.

An employee may choose to apply for Ill Health Retirement Benefit, the application for which must also be supported either by Occupational Health or the employee’s consultant or GP. Whether or not their application is successful or not is a decision taken by NHS Pensions. A decision on whether an application has been accepted would not prevent the Trust terminating employment.

6.6 Right of Appeal

Appeals should be made in writing against any formal decision under this policy and within the time limits stipulated below:

Sanction	Timescale for Manager’s written response	Appeal to be made to	Employee timescale to submit appeal after Manager’s response	Timescale to hear appeal
Written Warning	1 week	Line Manager	1 week	2 weeks
Final Written Warning	2 weeks	Service Manager or next in line manager if higher	2 weeks	2 weeks
Dismissal/termination of employment on the grounds of ill health or capability due to an inability to attend work on a regular basis	2 weeks	Head of Service or Associate Director /Director if higher	2 weeks	2 weeks

Although the time limits specified are generally to be adhered to, they can be varied by mutual consent in circumstances where adherence would cause undue haste.

The employee must stipulate their full grounds of appeal in writing, which can be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

It is not sufficient merely to disagree with the decision made.

A manager at the same level or more senior to the manager who held previous stages within this policy will hear the appeal, alongside a second hearing manager to ensure a panel approach.

The employee will be invited to an appeal hearing by letter which should be hand delivered to the employee, or sent Recorded Delivery should it not be possible to give it to them in person. This should be given to the employee or be sent so that the employee would normally receive it 1 week prior to the meeting.

The employee has the right to be accompanied at this meeting by a Staff Side representative or by a workplace friend or colleague as previously stipulated.

At the appeal hearing, the employee will state their grounds of appeal and the appeal hearing manager will ask the employee questions surrounding these grounds and the outcome the employee wishes to achieve.

The employee will have the opportunity to provide any further information before the hearing is adjourned and a decision reached.

The employee will be notified in writing of the decision within seven days. The decision will be one of the following:

- Confirm the original decision
- Substitute the sanction for a lesser one
- Overturn the original decision
- Substitute the sanction for a higher one.

There is no further right to appeal under this policy.

7. Annual Leave and Sickness Absence

In line with Agenda for Change terms and conditions and employment legislation, annual leave continues to accrue during any period of sickness absence whether paid or unpaid.

If the employee is receiving half or no pay during a period of sickness and is not returning to work imminently, they may make a request in writing to their manager to take any paid annual leave which has been accrued to date. The manager will then notify the People Services team of the period and hours annual leave to be paid.

When an employee is due to return to work, the employee may need to use some of their accrued annual leave to top up their phased return to work.

If illness results in the cancellation of a holiday, the employee may substitute the annual leave or bank holiday for sick leave on production of a medical certificate provided that the normal reporting procedures have been followed.

8. Certificate of Absence/ GP 'fit note'

Employees are required to submit appropriate certification for their sickness absences. An employee can self-certificate for 7 calendar days (including days when they are not scheduled to work), following this a fit note will be required from the employee's GP.

The Trust reserves the right to stop an employee's pay if the appropriate certification is not received within two weeks of its due date, without good reason. The manager should make the employee aware by letter and the sickness absence will be treated as unauthorised.

On rare occasions, the manager, in discussion with HR Consultancy and Occupational Health reserves the right to request a fit note for absences less than 7 days in circumstances where there is a genuine concern about the nature or level of sickness absences or when sickness is during annual leave.

The Department of Health Employers guide states that the assessment about whether the employee is not fit to work or remain at 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. <https://www.gov.uk/government/collections/fit-note>

On rare occasions the Trust may feel that that the employee is not fit for work when they have been assessed as fit for work by their GP, or the Trust may think that the employee could do some work when they have been assessed as 'not fit for work' by their GP. In these situations advice should be sought from Occupational Health. The Trust can take the advice of the Occupational Health team instead of the employee's GP providing justifiable reasons can be given and additional information and evidence may be required to make an informed decision about a return to work.

9. Employment Terms and Payments during Sickness

Under NHS terms and conditions of employment, employees are entitled to occupational sick pay during periods of sickness absences.

The Trust reserves the right to withhold the payment of both statutory sick pay and occupational sick pay where the sickness absence is deemed to be unauthorised, for example in cases where the sickness reporting procedures have not been adhered to or a fit note has not been received on time, or where the employee has failed to engage in the process.

Employee's must not take other paid work or engage in other activities such as training either within the Trust or elsewhere whilst in receipt of sick pay, unless this has been explicitly agreed in advance with their line manager, otherwise this could be treated as a disciplinary matter.

An employee who is absent as a result of an accident is not entitled to sick pay if damages are received from a third party. In such cases, on receiving damages, employees are expected to pay back to the Trust any sickness payments already received.

In cases where there is reason to believe that reported sickness absence may not be genuine, or the employee is believed to be working elsewhere, the Trust will contact Counter Fraud for advice.

Sick pay is not normally payable for an absence caused by an accident caused by active participation in sport as a profession, or where contributable negligence is proved.

Note: Addendum - Extension to sickness pay entitlement for eligible employees, appendix B, page 29.

10. Medical Appointments

Where possible, employees should make appointments with a doctor, dentist, Hospital appointments or other health professional outside their normal working hours. Where this is not possible, they should be made at a time which will result in the least impact on the service and should attend work before and after their appointment. For any appointment in working time, employees will be required to use lieu time, make up the time or take annual leave by agreement with the manager.

Should medical or hospital appointments become so regular as to result in significant, regular absence from the workplace with a noticeable impact on an employee's ability to meet the expectations of both their contracted hours and their role, after seeking advice from HR Consultancy and Occupational Health, managers have the right to explore either a temporary or permanent reduction in the employee's contracted hours.

An exception to this may be made where an employee has been fast tracked by the Occupational Health Department when they may be given short notice of the time. On receipt of confirmation of appointment from the Occupational Health Department paid time off will be granted.

Managers can request to see a copy of any employees appointment card/letter.

Any hospital treatment involving local or general anaesthetic or drug administration should be classed as sickness absence.

11. Medical Exclusion

There may be occasions when it is necessary to exclude an employee on medical grounds for their own safety, or the safety of patients, clients or colleagues. In all cases advice from Occupational Health and an HR Consultancy must be obtained before taking this course of action. Exclusion of this nature will not be connected to disciplinary action. The decision to exclude will not be taken lightly and will not be taken by one person alone and should be escalated to the People Management Advisory Forum (PMAF), to ensure plurality and senior-level oversight in decision making.

Any decision to exclude an employee should be a last resort and should be a proportionate response to the situation. The exclusion should be time-bound and only applied where there is full justification for doing so.

The manager may exclude an individual on these grounds, if:

- The manager has doubts about an individual's ability to perform the full range of duties in a safe way following a period of sick absence.
- The employee is unwell or is suffering from a condition which causes the manager a concern, and might present a risk to themselves, or others.
- The employee has been in contact with or is suffering from an infectious disease / condition.
- There is no other suitable alternative work that they can undertake safely.

NB: This list is not exhaustive

In all medical exclusion cases the individual will be placed on full pay until further medical advice can be sought, and thereafter in accordance with sick pay entitlements and be recorded as sick for the purpose of sickness reporting.

If the exclusion is due to an exposure to a substance which is hazardous to an individual's health at work, the individual should remain on full pay for up to 26 weeks irrespective of their length of service.

The employee must produce a fit note on the 8th day of continuous absence. After this time further advice should be sought from Occupational Health if no medical evidence is forthcoming.

12. Overtime/Toil Restriction

The purpose of an overtime/toil restriction is to ensure that an employee does not work additional hours (in excess of their contractual working hours) so that they receive an appropriate recovery period following an episode of sickness absence and therefore does not become detrimental to their health or attendance.

Working overtime will cease following every episode of sickness absence regardless of how many days the episode consists of. Overtime will be restricted for a minimum period of two weeks.

It may be necessary to impose further overtime/toil/bank shifts restrictions if an employee cannot maintain their contracted hours. This will need to be assessed in accordance with the individual's circumstances and attendance record.

13. Referral to a Professional Body

As a consequence of the termination of an employee's employment under this policy it may be appropriate to refer them to a relevant professional body. For example if there is some evidence relating to fitness to practice concerns. Such referrals will be made through the relevant Associate or Operations Director in liaison with the Chief Nurse or Deputy. The employee will be notified of this in writing.

14. Sickness Absence during Pregnancy

If an individual is pregnant and becomes unwell so that they are unable to work, this policy should be read in conjunction with the section of the Special Leave Policy which covers maternity leave provisions and the Maternity Leave and Entitlement Management Guide. A referral to Occupational health should be made in this case.

15. Reporting Requirements when absent from work

Each service or department may have its own individual reporting requirements. It is the manager's responsibility to ensure that all employees are aware of the department's reporting procedures and to ensure it is enforced.

In situations where an employee attends for work and subsequently goes home because they are unwell, the following will apply:

- If they leave work before they have worked 30% of the day or shift the day/shift will be classed as a sickness absence and should be reported as such through the normal processes.
- If they leave after working at least 30% of the day/shift, then the day/shift will be classed as a normal working day. Before leaving work the employee must obtain the permission of their manager. However consideration will be given to this as part of sickness management and monitored if it becomes a regular occurrence.

Failure to follow the correct reporting procedures may result in the loss of pay and/or formal disciplinary action being taken against the employee.

Managers need to ensure they comply with reporting sickness procedures on e-rostering and complete the necessary HR forms to ensure that accurate sickness records are maintained and employees are paid correctly for their sickness absence.

16. Work Related Accidents / Medical Condition (Permanent or Temporary Injury Allowance)

The Manager must ensure an incident report form is completed for any injury/illness sustained at and/or related to work. This form must be forwarded to the Risk Manager, at the earliest opportunity. If the individual is absent on sick leave as a result of this injury/illness, the Absence Reporting Sickness form should be noted that an industrial accident has occurred, and should be forwarded to the People Services team in the normal way. A referral to Occupational health should be made in this case.

If the injury/illness falls within the RIDDOR (Reporting Injuries, Diseases and dangerous Occurrences Regulations) reporting category, then the incident must be reported in accordance with the RIDDOR reporting procedures.

Payment of State Industrial Injury Benefit is at the discretion of the Department of Work and Pensions, from which details of the scheme are available.

There is also an NHS Injury Benefit scheme run by the NHS Pensions Agency, available equally to pension scheme members and non-members alike. Details of this scheme are available from <http://www.nhsbsa.nhs.uk/pensions>

Employees who are on sick leave as a result of a work related medical condition or accident may be eligible to be considered for temporary injury allowance when their pay drops to below 85% of their average salary, providing the condition is caused wholly or mainly by their NHS duties. This allowance will only be paid in exceptional circumstances, and an employee does not have to be a member of the NHS Pension scheme to be eligible. In circumstances where it is not clear that the absence is due to a work related incident, advice should be sought from the Occupational Health Department. Any claim for temporary injury allowance will not be approved without the express authorisation of the relevant People Services representative. Any payment of injury allowance will be limited to a maximum period of 12 months per episode of relevant sickness absence.

It is the responsibility of the employee to report the incident/accident or absence of 3 days or more to the manager as soon as possible and prompt completion of the incident/accident form.

Managers have a legal duty to complete a RIDDOR form (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, relating to any serious injury sustained whilst at work e.g. fracture (other than to fingers, thumbs or toes) temporary or permanent loss of sight, an injury due to physical violence etc. For further advice and guidance on RIDDOR, please contact the Trust's, Health and Safety Officer. In some cases the employee may be entitled to receive Injury Benefit.

17. Sickness Absences during the Course of an Investigation or Pending a Hearing or during suspension pending investigation

It is acknowledged that participating in an investigation or hearing can be stressful for everyone concerned and the health and welfare of all individuals involved in formal processes should be paramount and continually assessed. It is necessary to manage the situation when individuals are sick during the course of an investigation or hearing they are involved in. In all cases where there is a need to interview an individual who is absent through sickness, an immediate referral must be made to Occupational Health for an opinion on whether they are fit to be interviewed or attend a hearing.

If it is the guidance of the Occupational Health Practitioner that the individual is fit to be interviewed/attend a hearing then it is reasonable to expect them to comply with this reasonable management request. Failure to do so, without good cause may be treated under the disciplinary procedures.

If it is the guidance of the Occupational Health Practitioner that the individual is unfit to be interviewed/attend a hearing, the Trust reserves the right to continue in their absence, up to and including making a decision based on the evidence available. In these circumstances HR Consultancy should be consulted about the appropriateness of proceeding, before any further action is taken.

18. Special cases - Instances of Suspected Drug or Alcohol Misuse

If a manager has reason to suspect an individual is misusing substances such as drugs or alcohol, they must refer the matter to Occupational Health in order to provide help and support in the first instance. If the individual refuses to accept the offer of help or support, or with treatment the condition does not improve, then more formal action may be taken, either under this policy or another Trust policy as appropriate. Please refer to the Drug, Alcohol and Substance Misuse Policy for further guidance.

19. Suspension pending an investigation

Should an employee inform their manager that they are sick during a period of suspension from work; the employee will be paid in accordance with normal sick pay entitlements and managed through the necessary sickness route. The investigation will continue.

20. Processes and Requirements

20.1 Trust Standards

The Trust will establish key performance standards for sickness absence and closely monitor performance through the use of Workforce Report and statistics. The Workforce Report will be reported to the Board on a quarterly basis and directorate figures will be considered as part of performance review meetings.

20.2 Processes to be tested

The application of this policy will be tested to confirm the following:

- That regular contact is maintained with absent employees as provided in this policy
- That plans exist for returning absent employees to work where appropriate
- That reasonable adjustments are made to roles and environments to facilitate the safe return of absent employees
- That sickness absence data is analysed and appropriate action plans are implemented
- That the Trust understands and responds to the levels of absence of employees generally

20.3 Training

Training is provided by the HR Consultancy and Occupational health team in relation to the effective management of sickness absence on a regular basis throughout the year and can be accessed via the Learning and Development Department or by contacting HR Consultancy.

20.4 Equality, Diversity and Mental Capacity

An impact Needs/Requirements Assessment has been completed for this policy and no significant equality or diversity issues were identified. Where English is not the first language or there are difficulties in reading this policy, employees should contact their line/other appropriate manager or senior officer of the Trust, an HR Representative or a staff representative for advice and guidance.

The policy is based on the following principles:

- All employees are treated equally and fairly.
- Employees hold the same rights in relation to the resolution of a concern or complaint regardless of their position in the Trust.
- Appropriate time off will be granted to the individual for all hearings undertaken.

20.5 Monitoring Effectiveness of the Policy

All formal action taken in accordance with this policy will be recorded and the number and nature of cases will be monitored. The effectiveness of this policy will be monitored by the HR Consultancy, Senior Managers and Trust Board.

The Workforce Group will have an overview of the workforce statistics collated.

20.6 Links to other Policies/Procedures

- Managing Attendance and Wellbeing – A Manager’s Toolkit
- Data Protection Compliance Policy
- Records Management and Information Lifecycle Policy
- Improving and Managing Conduct Policy
- Disciplinary Standard Operating Procedure
- Resolution Policy
- Resolution Standard Operating Procedure
- Managing Performance for Medical and Dental Staff
- Special Leave Policy
- Agenda for Change Terms and Conditions
- Medical and Dental Terms and Conditions
- Stress Risk Assessment
- Workplace Risk Assessment
- Investigation Standard Operating Procedure
- Drug, Alcohol and Substance Misuse Policy
- Appeals Standard Operating Procedure
- Equality, Diversity, Inclusion and Human Rights Policy

20.7 Review of Policy

This document may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed 3 years from initial approval and thereafter on a triennial basis unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.

20.8 References

This policy has been drawn up with reference to current UK and European employment legislation and relevant national terms and conditions of employment.

APPENDIX A Equality Analysis and Equality Impact Assessment

Equality Analysis is a way of considering the potential impact on different groups protected from discrimination by the Equality Act 2010. It is a legal requirement that places a duty on public sector organisations (The Public Sector Equality Duty) to integrate consideration of Equality, Diversity and Inclusion into their day-to-day business. The Equality Duty has 3 aims, it requires public bodies to have due regard to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and other conduct prohibited by the Equality Act of 2010;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not;
- **foster good relations** between people who share a protected characteristic and people who do not.

Equality Impact Assessment (EIA) is a tool for examining the main functions and policies of an organisation to see whether they have the potential to affect people differently. Their purpose is to identify and address existing or potential inequalities, resulting from policy and practice development. Ideally, EIAs should cover all the strands of diversity and Inclusion. It will help us better understand its functions and the way decisions are made by:

- **considering the current situation**
- **deciding the aims and intended outcomes of a function or policy**
- **considering what evidence there is to support the decision and identifying any gaps**
- **ensuring it is an informed decision**

Equality Impact Assessment (EIA) *see supporting guidance on pg 3*

Step 1: Scoping and Identifying the Aims

Service Line / Department	People Services / HR Consultancy	
Title of Change:	Managing Attendance and Wellbeing Policy	
What are you completing this EIA for? (Please select):	Policy	<i>(If other please specify here)</i>
What are the main aims / objectives of the changes	Policy review and updates made to align with new policies.	

Step 2: Assessing the Impact

Please use the drop-down feature to detail any positive or negative impacts of this document /policy on patients in the drop-down box below:

Protected Characteristic	Positive Impact(s)	Negative Impact(s)	Action to address negative impact: <i>(e.g. adjustment to the policy)</i>
Sex	Y		
Gender reassignment	Y		
Disability	Y		
Age	Y		
Sexual Orientation	Y		
Pregnancy and maternity	Y		
Marriage and civil partnership	Y		
Religion or belief	Y		
Race	Y		

If you answer yes to any of the following, you MUST complete the evidence column explaining what information you have considered which has led you to reach this decision.

Assessment Questions	Yes / No	Please document evidence / any mitigations
In consideration of your document development, did you consult with others, for example, external organisations, service users, carers or other voluntary sector groups?)	No	Minor amendments made at this time.
Have you taken into consideration any regulations, professional standards?	Yes	NHSI recommendations as per Dido Harding letter
In drafting your document have you identified any discrimination issues, and if so how have they been mitigated?	No	

Step 3: Review, Risk and Action Plans

How would you rate the overall level of impact / risk to the organisation?	Low	Medium	High
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What action needs to be taken to reduce or eliminate the negative impact?	Fair and consistent application of policy		

Who will be responsible for monitoring and regular review of the document / policy?

HR Consultancy

Step 4: Authorisation and sign off

I am satisfied that all available evidence has been accurately assessed for any potential impact on patients and groups with protected characteristics in the scope of this project / change / policy / procedure / practice / activity. Mitigation, where appropriate has been identified and dealt with accordingly.

Equality Assessor:

H West

Date:

04/03/2020

This section is to be agreed and signed by the Head of Diversity and Inclusion in agreement with the Diversity and Inclusion Strategy Lead:

Diversity and Inclusion authoriser name:

Date:

Additional guidance

Protected characteristic	Who to Consider	Example issues to consider	Further guidance
1. Disability	A person has a disability if they have a physical or mental impairment which has a substantial and long term effect on that person's ability to carry out normal day today activities. Includes mobility, sight, speech and language, mental health, HIV, multiple sclerosis, cancer	<ul style="list-style-type: none"> • Accessibility • Communication formats (visual & auditory) • Reasonable adjustments. • Vulnerable to harassment and hate crime. 	Further guidance can be sought from: Solent Disability Resource Group
2. Sex	A man or woman	<ul style="list-style-type: none"> • Caring responsibilities • Domestic Violence • Equal pay • Under (over) representation 	Further guidance can be sought from: Solent HR Team
3 Race	Refers to an individual or group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.	<ul style="list-style-type: none"> • Communication • Language • Cultural traditions • Customs • Harassment and hate crime • "Romany Gypsies and Irish Travellers", are protected from discrimination under the 'Race' protected characteristic 	Further guidance can be sought from: BAME Resource Group
4 Age	Refers to a person belonging to a particular age range of ages (eg, 18-30 year olds) Equality Act legislation defines age as 18 years and above	<ul style="list-style-type: none"> • Assumptions based on the age range • Capabilities & experience • Access to services technology skills/knowledge 	Further guidance can be sought from: Solent HR Team
5 Gender Reassignment	" The expression of gender characteristics that are not stereotypically associated with ones sex at birth" World Professional Association Transgender Health 2011	Tran's people should be accommodated according to their presentation, the way they dress, the name or pronouns that they currently use.	Further guidance can be sought from: Solent LGBT+ Resource Group
6 Sexual Orientation	Whether a person's attraction is towards their own sex, the opposite sex or both sexes.	<ul style="list-style-type: none"> • Lifestyle • Family • Partners • Vulnerable to harassment and hate crime 	Further guidance can be sought from: Solent LGBT+ Resource Group
7 Religion and/or belief	Religion has the meaning usually given to it but belief includes religious and philosophical beliefs, including lack of belief (e.g Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. (Excludes political beliefs)	<ul style="list-style-type: none"> • Disrespect and lack of awareness • Religious significance dates/events • Space for worship or reflection 	Further guidance can be sought from: Solent Multi-Faith Resource Group Solent Chaplain
8 Marriage	Marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples under English law.	<ul style="list-style-type: none"> • Pensions • Childcare • Flexible working • Adoption leave 	Further guidance can be sought from: Solent HR Team
9 Pregnancy and Maternity	Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In non-work context, protection against maternity discrimination is for 26 weeks after giving birth.	<ul style="list-style-type: none"> • Employment rights during pregnancy and post pregnancy • Treating a woman unfavourably because she is breastfeeding • Childcare responsibilities • Flexibility 	Further guidance can be sought from: Solent HR team

Appendix B

Solent NHS Trust

Addendum to policy & procedure where an employee is due to exhaust their contractual sickness entitlement and is eligible to be considered for extension as part of a locally agreed “reasonable circumstance”.

Introduction

Currently NHS National Terms and Conditions allow for sickness pay entitlement as follows:

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

Pay during sickness absence is calculated on the basis of what the employee would have received had they been at work. It will include regularly paid supplements, including any recruitment and retention premia, payments for regular work undertaken outside normal hours and high cost area supplements. It will be based on the previous three months at work or any other reference period that may be locally agreed.

When the entitlement is exhausted, typically, an employee would move to a nil pay position. In many cases the transition to nil pay will be appropriate, and in line with the spirit of National Terms and Conditions. In certain circumstances, on day 366 of an extended period of illness (and not prior to that, even in the event of a period of zero pay having been applied) an employee may be entitled to return to half-pay where an employer has failed to meet, or been responsible for a delay in concluding an employee’s sickness management status (Further information can be found in appendix 2).

In line with its values, Solent NHS Trust believe that where circumstances merit, Solent NHS Trust will allow for an application to be submitted in support of an employee having their sickness pay entitlement extended at full or half pay.

NHS National Terms & conditions allow for local discretion when an employee’s contractual sick pay is exhausted. Specifically, what The Trust deems “as other reasonable circumstances”.

“14.13 Employers will also have discretion to extend the period of sick pay on full or half pay beyond the scale set out in paragraph 14.2 in this Section:

- where there is the expectation of return to work in the short term and an extension would materially support a return and/or assist recovery, particular consideration should be given to those staff without full sick pay entitlements.
- in any other circumstance that the employer deems reasonable.”

The section quoted above is supplemented by annex 26 of the handbook, which sets out a framework to support employers and staff in the management of sickness absence and in managing the risk of premature and unnecessary ill health retirements. Details of which can be located in appendix 1 of this document (Annex 26 is reinforced by the Health, Safety and Wellbeing Partnership Group (HSWPG) guidelines).

In order to ensure that the identification of eligible employees is consistent, the People &OD Department (P&OD) will monitor long term sickness cases and advise the manager and the employee when their sickness pay entitlement is due to be exhausted and indicate if the employee meets the criteria to apply for a discretionary arrangement. The criteria, which are based upon the criteria provided for by the National Terms and Conditions are:

All Employees should have 5 or more years' service and meet the following criteria in the first instance:

- Good record of employment i.e. no ongoing investigations or formal procedures or live warnings or sanctions.
- All Employees must have engaged with their responsibilities in relation to sickness management procedures – reporting on time and providing medical information as requested.
- Where an employee is likely to be approved for ill-health retirement imminently and the employee is awaiting a response to their formal application for ill health retirement
- The case must have had consistent line management involvement - all applicable early interventions must have been evidenced as in place throughout the period of absence.

The following criteria may also enable an employee to be eligible for consideration, regardless of length of service:

- Where the employee has terminal illness and we are working with the pension scheme or other relevant parties to enable the employee to balance working and/or achieving a quality end-of-life experience.
- Where there is the expectation of a return to work in the short term and an extension would materially support that return and/or assist recovery. Particular consideration should be given to those staff without full sick pay entitlements i.e. staff with less than 3 years' service. Occupational health will need to have confirmed that the return to work plan is fit for purpose and P&OD will need to confirm with service line managers that the proposed phasing and any reasonable adjustments proposed are a realistic and workable solution.
- Short term for the purpose of this procedure is defined as 3 months.
- It would be reasonable, where a return can be achieved, to consider extending sick pay (half or full) for the duration of the prescribed phased return for up to 3 months - where the sickness entitlement utilised to date is related to the same underlying condition (as evidenced by professional clinical opinion).

Where the above criteria apply an application for extension to sickness pay entitlement will be drafted, supported by the employee's manager and their nominated P&OD representative, and then submitted to PAF for consideration.

It will not be possible for PAF to consider cases which reached their conclusion prior to the date on which this provision came into effect.

PROCESS

1. Formal notification is sent to employees notifying them that they have exhausted their full and/or half pay entitlement. These letters will include an explicit paragraph referencing 14.13 of NHS T&C handbook of service i.e. where there is the expectation of return to work in the short term and an extension would materially support a return and/or assist recovery, particular consideration should be given to those staff without full sick pay entitlements
2. Where an employee is planning to return to work and an extension to sickness pay entitlement would materially support their return, and the employee meets the criteria the P&OD Representative supporting the manager and employee in respect of their sickness is responsible for ensuring that the manager and the employee are aware of the ability to apply for a temporary extension in sickness pay entitlement.
3. Employees and managers will be advised that the employee is afforded to apply for an extension to sickness pay entitlement and that the application will be considered. Approval of an extension will be at the discretion of the Trust.
4. For exceptions to be considered an application should be submitted in writing from the employee, supported by P&OD and line manager – outlining the case for extension and evidencing that the appropriate criteria has been met.
5. In the event that the line manager does not support the case, the People & OD representative will make the final impartial decision, as to whether the employee meets the criteria for submission to PAF for consideration.
6. Applications must be submitted no later than close of business on the Friday prior to the PAF meeting.
7. The case will be considered by Pay Advisory Forum (PAF) and the outcome notified to the relevant P&OD representative to communicate to the employee and their manager.

PROVISIONS OF ANNEX 26 OF NATIONAL TERMS AND CONDITIONS

Annex 26: Managing sickness absences - developing local policies and procedures

Key employer responsibilities: employers are expected to:

- communicate appropriately with absent staff
- manage absences under the locally agreed sickness absence procedure
- provide support and advice through the use of occupational health services where appropriate
- develop reporting arrangements, recognising that high levels of sickness absence are a financial risk to the organisation
- have appropriate management systems in place to collect good quality data on sickness absence
- in partnership with Trade Union representatives, regularly monitor and review arrangements to identify where and how policies can be improved.

Key employee responsibilities: employees are expected to:

- ensure regular attendance at work
- communicate appropriately with their employer when absent from work
- co-operate fully in the use of the locally agreed sickness absence procedures.

A structured review process

Regular reviews should be carried out to assess and monitor staff when they are off sick, and determine what action is needed at each stage.

Early interventions

In order to avoid premature and unnecessary ill health retirements employers should also consider the following interventions as early as is practically possible and at the latest within one month of an employee going sick:

- rehabilitation
- phased return
- redeployment
- sick pay entitlements
- occupational health support

PROVISION CONTAINED WITHIN SECTION 14.10 – 14.13 OF NATIONAL TERMS AND CONDITIONS

14.10 Sick pay for those who have exhausted sick pay entitlements should be reinstated at half pay, after 12 months of continuous sickness absence, in the following circumstances:

- staff with more than five years reckonable service: - sick pay will be reinstated if sick pay entitlement is exhausted before a final review meeting for long term absence has taken place.
- staff with less than five years reckonable service: - sick pay will be reinstated if sick pay entitlement is exhausted and a final review does not take place within 12 months of the start of their sickness absence.

N.B :After one calendar year has expired and an individual has been off sick for the entire calendar year on day 366 they will be entitled to half pay (regardless of whether on full pay, half pay or zero pay on day 365) from day 366 – this is not to be applied retrospectively WHERE they have 5 years reckonable service (reckonable means 5 years' service which could have taken place over a period of more than 5 years. ESR calculates reckonable service so this can be verified, it is the same as used for pension and calculation of annual leave entitlement when appointed) OR the individual has less than 5 years and they are awaiting a final stage sick review meeting to take place – due to employer delay only. The extended pay would only continue until the review meeting had taken place.

14.11 Reinstatement of sick pay should continue until the final review meeting has taken place. Reinstatement of sick pay is not retrospective for any period of zero pay in the preceding 12 months of continuous absence.

14.12 These arrangements will be in accordance with local sickness absence procedures, established in accordance with annex 26, and will only apply where the failure to undertake the final review meeting is due to delay by the employer. This provision will not apply where a review is delayed due to reasons other than those caused by the employer.

14.13 Employers will also have discretion to extend the period of sick pay on full or half pay beyond the scale set out in paragraph 14.2 in this Section:

- where there is the expectation of return to work in the short term and an extension would materially support a return and/or assist recovery, particular consideration should be given to those staff without full sick pay entitlements.
- in any other circumstance that the employer deems reasonable.