POLICY UNDER REVIEW

Please note that this policy is under review. It does, however, remain current Trust policy subject to any recent legislative changes, national policy instruction (NHS or Department of Health), or Trust Board decision. For guidance, please contact the Author/Owner.

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<td>CQC Outcome 14, Supporting Staff</td>
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Attendance Management Policy

V4.1

September 2020
Summary

Sickness Absence Procedure Flow Chart

Staff member cannot come to work due to sickness

Has staff member called and reported their absence to line manager as directed by departmental local procedure or at least one hour before shift is due to start?

Yes

Line manager ensures absence start date is recorded appropriately

No

Line manager calls staff member

Reinforce process on return

Is absence likely to exceed 28 calendar days?

Yes

Refer to Section 6.17 and Appendix 5: Long Term Sickness Flow Chart

No

Prepare for staff member’s return

Has staff member’s sickness absence been 8 days or over?

Yes

Staff member must provide Fit Note

No

Staff member must complete and submit self-certificate

Line manager meets with staff member for return to work discussion

Line manager ensures absence return data recorded appropriately and reviews sickness record

No further action

Has staff member met the criteria for entry into the informal process? See Section 6.1.

Yes

Line manager commences informal review process

No

No further action

Has staff member achieved actions agreed to improve and maintain attendance?

Yes

No further action

No

Line manager contacts Employee Relations to review and commence formal process

Refer to Section 6.16 and Appendix 4: Short-term absence procedure flow-chart
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Data Protection Act 2018 (General Data Protection Regulation – GDPR) Legislation

The Trust has a duty under the DPA18 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed and documented. We cannot rely on opt out, it must be opt in.

DPA18 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the DPA18 please see the Information Use Framework Policy or contact the Information Governance Team
rch-tr.infogov@nhs.net
1. **Introduction**

1.1. The Royal Cornwall Hospitals NHS Trust (the Trust) believes in the importance of promoting and supporting the health and wellbeing of its staff whilst, at the same time, achieving excellence in terms of attendance. The aim of this policy is to detail both the support that will be available to staff and the steps the Trust will take to monitor and manage attendance.

1.2. The policy and procedures have been developed in partnership with Staff-Side and fully utilise the professional skills and knowledge of Occupational Health, line management and Human Resources and form part of the Trust’s Health and Wellbeing (HAWB) Strategy.

1.3. Research and benchmarking carried out as part of the development of the HAWB Strategy demonstrate that organisations that adopt a proactive approach with regards to sickness absence have the healthiest workforces. At the Trust this will be enabled through a proactive and flexible approach to both continued working and prompt fitness to work assessments whilst being committed to providing excellent patient care.

1.4. It is the Trust’s intention that each case will be treated sensitively and on an individual basis within the parameters set out in this policy. To support this, joint management training will be provided for all managers who have responsibilities under this policy.

1.5. Through the continual analysis and evaluation of sickness data and feedback the Trust will endeavour to resolve any issues that may affect staff wellbeing.

1.6. Where possible, issues of attendance will be handled informally between the line manager and the members of staff with an aim of supporting the staff member to return safely to work and sustain their attendance.

1.7. Managers must ensure that staff are aware of their responsibilities within the policy and that attendance reporting procedures are agreed and communicated effectively at a local department/ward level. Where staff are unable to attend work, regular contact must be maintained.

1.8. Managers and staff using this policy should refer to the Employee Relations website on the Trust intranet where they can find further information and resources on how to support the wellbeing of staff and manage sickness absence issues.

1.9. This version supersedes any previous versions of this document.

2. **Purpose of this Policy/Procedure**

This document defines the process to support regular attendance and minimise sickness absence in a fair and consistent manner, utilising the services of Occupational Health and other healthcare specialists to promote a fitness to work approach.
3. **Scope**

3.1. This policy applies to all clinical and non-clinical staff including medical and dental.

3.2. The policy does not apply to Kernowflex workers to whom separate provisions apply.

3.3. Medical and dental staff sickness absence will be managed in accordance with this policy in conjunction with the Maintaining High Professional Standards Framework (MHPS). Please see Appendix 3, *Medical and dental staff sickness absence – additional guidance*.

3.4. Any actions taken in line with this policy in respect of a member of staff who has more than one Trust employment may, in appropriate circumstances, apply to all concurrent employment contracts.

4. **Definitions / Glossary**

- **Absence** – the Trust defines periods of sickness absence as follows:
  - short-term sickness absence – staff who are absent from work due to sickness or injury for a period of up to 28 days
  - long-term sickness absence – staff who are absent from work due to sickness or injury for a period greater than 28 days
  - unauthorised sickness absence – any sickness absence that has not been notified to the manager as detailed in the policy or is not covered by an appropriate certificate (regardless of duration). Pay may be withheld if sickness is unauthorised (see Section 6.6).

- **Datix** – the Trust’s safety system for reporting and recording risk management including any incidents, adverse events and near misses.

- **Disabled** – under the Equality Act 2010 a person is classified as “disabled” if they have a “physical or mental impairment which has a substantial and long-term effect on the ability to carry out normal day-to-day activities”.

- **Equality Act 2010** – the Equality Act 2010 harmonises and replaces previous equality legislation and ensures consistency in what employers need to do to provide a fair workplace environment. The Act offers protection to people with “protected characteristics” which include, amongst others, disability, gender re-assignment and pregnancy/maternity. In the context of this policy, provision is made to specifically protect staff in these groups from discrimination.

- **Fit Note (Form Med 3)** – a ‘Fit Note’ is the informal name for the *Statement of Fitness to Work* which was introduced in April 2010 to replace the sick note (medical certificate or doctor’s note). The Fit Note focuses on how the Trust can assist members of staff return to work when they are deemed to be fit for some work.

- **Injury allowance** – NHS staff who are injured or become ill due to their employment may be entitled to financial assistance if their pay is reduced as a result of their health problems. Injury allowance is payable (where eligibility has
been established) when a staff member is on authorised sickness absence, or on a phased return to work, with reduced pay or no pay due to an injury, disease or other health condition that is wholly or mainly attributable to their NHS employment.

- **Managers** – any Trust staff who have line management responsibilities. This includes both clinical and non-clinical staff.

- **RIDDOR – Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (as amended)** – The Trust has a legal duty to formally notify the Health and Safety Executive (HSE) with details of accidents and incidents on Trust premises arising out of, or in connection with, work activities involving patients, all staff, visitors and contractors.

5. **Ownership and Responsibilities**

5.1. **Role of the Director of People and Organisational Development**

The Director of People and Organisational Development has overall responsibility for the implementation, monitoring and review of the policy.

5.2. **Role of the Care Group General Manager/Clinical Director/Head of Service**

Care Group General Managers/Clinical Directors/Heads of Service are responsible for the fair application and implementation of the policy within their Care Groups.

5.3. **Role of Managers**

5.3.1. All managers, including clinical staff who have line management responsibilities, are responsible for the management of absence and are required to attend the training programme and ensure they fully understand and remain competent in carrying out the Trust’s Attendance Management Policy and processes.

5.3.2. They are also required to ensure that the staff they manage are aware of the policy and their responsibilities under it including the attendance standards expected (see Section 6.1). New staff must be made aware of the policy during induction and it is essential that line managers spend time at local induction reinforcing this awareness in more detail particularly in respect of the departmental rules that apply in absence reporting procedures.

5.3.3. They are required to work with their staff, local HR Practitioner, Occupational Health or other healthcare specialists and/or Staff-Side representatives (if appropriate) to identify ways to support the member of staff remain in work or return to work at the earliest possible opportunity. This should include giving their support to finding alternative employment for any staff members who require redeployment on health grounds.

5.3.4. The principles of safe and healthy working must be complied with at all times and the policy should be fully implemented in a way that treats all staff consistently, fairly and with dignity.
5.3.5. **Monitoring and record keeping**

Managers are responsible for:

- the accurate recording and monitoring of all absences (dates and causes) using the Trust’s recording and reporting arrangements (paper, electronic or e-roster)
- ensuring all information and records are held securely and confidentially in line with the principles of the Data Protection Act 2018 (General Data Protection Regulation – GDPR legislation). Further information may be obtained from the Trust policies on ‘Information Governance’ and Personal File Management Policy, copies of which are available on the Trust’s document library
- addressing any issues of concern that are identified through monitoring the attendance of all staff for whom they have responsibility as soon as they arise
- maintaining records of proceedings and any reasonable adjustments made
- ensuring, where changes are agreed to terms and conditions as a result of sickness absence, or for other related reasons, that these are recorded accurately on a Trust contract amendment form (CAF) which is forwarded to the Payroll Department, at the earliest possible opportunity, to ensure correct payment of salary at all times
- ensuring that, during a period of sick leave, they discuss any additional employment with the member of staff and, where exceptionally agreed that the work may be undertaken, provide written authorisation to the individual prior to the commencement of any additional activity (see Section 6.9).

5.3.6. **Communication framework**

Managers must ensure:

- they maintain an appropriate, regular and agreed level of contact with staff who are absent from work
- they hold regular review meetings with the member of staff and ensure that progress during review periods is monitored
- they consider making reasonable adjustments either for a temporary period or permanently in order to facilitate a return to work or improvement in attendance
- staff are aware of the support available to them whilst making them aware of the possible implications of continued absence on their employment with the Trust.

5.3.7. **Occupational Health**

Managers must:

- consider, as appropriate, a referral to Occupational Health to identify any underlying reasons that could cause absence such as a disability, working environment, chronic illness
- ensure a copy of the Occupational Health referral is shared with the staff member and that a discussion and/or meeting is held with the staff member
every time an Occupational Health report is received to review the advice/recommendations provided.

5.3.8. **Return to work discussion**
Managers must ensure that:

- on the first day of return from sickness absence, a return to work discussion is held with the member of staff or, if the manager is not available, an appointed deputy. The purpose of the meeting is to consider any possible underlying issues that could cause absence and explore any support mechanisms or temporary adjustments that could assist continued regular attendance at work.
- the appropriate return to work discussion documentation (including certification) has been completed, received and placed in the staff member’s personal file.

5.3.9. **Datix and RIDDOR reporting**
Managers must:

- record, within the same shift, any work-related incidents involving injury or near misses to staff on the Trust DATIX risk management system using the electronic Incident Report Form which can be accessed via the Trust intranet homepage.
- inform the Health and Safety team by telephone or email as soon as it is known (or within one day) when an accident/incident at work results in a staff member being off sick for three days or more after the date of the accident so that they can notify the Health & Safety Executive as required in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).

5.3.10. **NHS Injury Allowance Scheme**
Managers must:

- notify the Payroll Department of any absence directly attributable to an accident at work so that any entitlement to NHS Injury Allowance can be established, ensuring the absence is accurately recorded as such on all absence documentation.

5.3.11. **Conduct concerns**
Where a manager suspects a staff member may be fraudulently claiming sick pay the issue must be discussed with the relevant HR Practitioner and the Trust Counter Fraud Officer. Further details are available from the Trust’s *Counter Fraud and Corruption Policy*, a copy of which can be obtained from the document library.

5.4. **Role of individual staff**
5.4.1. All staff members are responsible for their attendance at work in accordance with their contractual working hours to fulfil their contract and should take appropriate actions to ensure good health and wellbeing is maintained.

5.4.2. All staff have a duty to:
be clear about the detail of this policy, including how sickness absence is monitored, the potential trigger points for concern and any local department/ward rules around reporting absence

attend work unless unfit to do so. Being unwell does not necessarily constitute being unfit for all work and managers and staff must discuss the possibilities of alternative duties, non-patient contact activities or, where appropriate, working from home

report absence promptly. This includes contacting their manager at the earliest opportunity (particularly in respect of out of hours shifts) in line with the agreed local department/ward procedure for the reporting of sickness absence but no later than one hour before the commencement of their shift or rostered duty

advise their manager if their condition is due to an injury sustained at work and follow the appropriate reporting procedures

make their manager aware of any work that requires completion during their absence

agree and maintain appropriate regular contact with their manager during periods of sickness absence, ensuring that their manager is kept up to date with progress and likely return to work date

work with their manager to address matters affecting their attendance and take action to improve attendance, advising their manager of any work concerns or other problems at an early stage to enable support and reasonable adjustments (where possible) to be made to prevent absence occurring

take all reasonable steps to attend and actively participate in meetings organised by management

coop-rate fully with the Occupational Health and/or Counselling Service and other organisations that provide support to the Trust and its staff, ensuring medical advice and treatment, where appropriate, is received as quickly as possible in order to facilitate a return to work

advise their manager if they intend to be away from their normal address during sickness absence and provide alternative contact details

during a period of sick leave, discuss their continued participation in any additional employment with their line manager and, where exceptionally agreed that this may be undertaken, obtain their line manager’s written authority prior to commencing any activity (see Section 6.9)

not fraudulently claim sick pay or abuse the sickness absence procedures. Counter Fraud will investigate any suspected abuses and could instigate criminal action for fraudulently claiming sick pay.

Fraudulently claiming sick pay is also a potential reason for dismissal and will be investigated in accordance with the Trust’s Disciplinary Policy and Procedure, a copy of which can be obtained from the Trust’s document library.

5.5. Role of Employee Relations

The Care Group ER practitioner will:
- support implementation of the policy and advise on interpretation
- ensure consistency of approach promoting good employment practice whilst ensuring compliance with legislation
- use sickness absence data to develop and regularly review the local Care Group attendance management plan to proactively prevent staff absence
- identify areas where attendance is not meeting a set Trust target, working with managers to identify those staff members who require management support and assist them in developing individual absence management plans
- provide appropriate coaching for managers, liaising with the Learning and Development department in respect of training to increase managers’ level of knowledge and understanding.

5.6. Role of Occupational Health and Wellbeing

5.6.1. The Occupational Health and Wellbeing Service will:
- assist staff and managers with professional work-related health advice in order to promote Health and Well Being at work
- where a formal referral is made, provide advice against each question asked as detailed in the referral document
- advise if a staff member is able to return to work to carry out the duties of their contractual role and assess a likely return to work date
- advise managers of any reasonable adjustments that are required and should be considered to facilitate a return to work for staff, eg phased return
- identify if counselling or any other specialist services are recommended to facilitate the return to work of an individual member of staff
- provide advice to staff and help them to understand their illness or condition and how to minimise its impact on their ability to work
- advise if a staff member may be suitable for redeployment - temporary or otherwise - in order to facilitate their early return to work
- provide reports to NHS Pensions regarding ill-health retirement applications where appropriate.

5.6.2. Managers are likely to need to make a referral to the Occupational Health and Counselling Service:
- where work-related stress is given as a reason for absence
- when a concern with an individual’s attendance record is identified and the need for health advice is appropriate and necessary
- where reasonable adjustments to an individual’s role are deemed necessary (if Occupational Health is required to facilitate this adjustment)
- before any final decision is made regarding terminating employment due to a lack of capability on the grounds of ill health.

5.7. Role of Payroll

The Payroll Department is responsible for ensuring:
▪ that the staff member’s sick pay is correctly and accurately administered
▪ that the line manager, staff member and relevant Human Resources Practitioner are notified in a timely manner when the staff member’s pay status is due to change
▪ that on the direction of the line manager, through the Trust’s reporting arrangements (paper or electronic), payment is withheld if absence has not been certified.

6. Standards and Practice

The Trust promotes an initial informal approach to managing absence. Staff members and managers are encouraged to make use of the advice and support available to help staff attend to an acceptable level (see Appendix 1: Related Documents for other Trust policies that may be relevant). Where this approach does not result in improved attendance to an acceptable standard, then the formal policy will be invoked.

Please note: a number of documents have been developed to support the implementation of this policy and are available from the Trust intranet via the Employee Relations website/Managers Shelf.

6.1. Criteria for entering the sickness procedure

6.1.1. In order to fulfil its commitment to provide excellent and safe patient care, the Trust cannot sustain poor levels of attendance and reserves the right, where appropriate, to issue sanctions, up to and including dismissal, to staff who are unable to maintain acceptable attendance levels.

6.1.2. All staff will automatically enter the informal part of the process for managing sickness absence in accordance with any of the following criteria:
▪ the third occasion in a rolling three-month period
▪ a breach of the equivalent of 3.75% absence over a rolling 12-month period
▪ where it can be shown that the staff member’s absence follows a “pattern” (see Section 6.4 - Patterns and Absence)
▪ any reasonable concern over a staff member’s wellbeing (these may be causing absence but may not be sickness related, eg absence connected with debt problems, domestic violence).

6.2. Mitigating circumstances

6.2.1. Before taking any formal action managers should consider previous attendance and their knowledge of the staff member to establish whether it is appropriate to progress to using the formal stages of the procedure.

6.2.2. They may also use their discretion when dealing with staff members who have, for example, a serious on-going medical condition or require a planned absence for an operation or post-operative care.

6.2.3. However, to ensure a consistent approach when considering whether there are genuine mitigating circumstances for a staff member’s sickness
absence, the manager must consult with their local HR Practitioner and Occupational Health. Mitigating circumstances should not be seen as the norm and any accepted mitigating circumstances must be reviewed no later than six months after their identification.

6.3. **First year of employment**

6.3.1. If a staff member’s level of sickness absence is unacceptable within the first year of employment with the Trust, management have the discretion to enter the formal process at any stage (up to and including dismissal) after the appropriate investigation with the relevant parties.

6.3.2. Advice must be sought from the local HR practitioner.

6.4. **Patterns of Absence**

6.4.1. If it can be clearly demonstrated that the staff member’s sickness absence follows a pattern, the Trust reserves the right to enter the procedure at the formal process (based on the particular details of the case).

6.4.2. The following list provides examples of patterns of absence but is by no means exhaustive:

- sickness before or after holidays
- a certain day off sick each week/month
- sickness at a particular time of year
- sickness relating to a sporting event
- repeated sickness following a recovery of a clean record
- before or after the weekend or equivalent breaks in shift pattern
- one/two long durations of sickness each year
- sickness absence related to non-illness, e.g. breakdown in child care, car share colleague on holiday so staff member takes time off sick
- when a staff member is required to perform a particular duty or task.

6.4.3. It is important when looking at patterns of absence to bear in mind that there may be an underlying reason causing a staff member’s absence. The manager should endeavour to explore any cause and offer support, if appropriate, in a fair and consistent manner.

6.5. **Representation**

6.5.1. The informal stages of the procedure will normally be held between the manager and the member of staff.

6.5.2. Staff may be accompanied at all formal stages of the procedure by a work colleague, or an official of any trade union or professional organisation, who is not a family member or acting in a legal capacity.

6.5.3. It is the staff member’s responsibility to arrange such representation. Staff may choose an official/work colleague of their choice but their choice must
be reasonable and cannot be someone previously or currently involved in the matter under consideration or where a conflict of interest exists.

6.5.4. Whilst staff are encouraged to be accompanied, representation arrangements should not unreasonably delay the procedure. Where possible the manager, the staff member and representative should agree a mutually convenient meeting date. Where this is not possible, a maximum of two dates will be offered by the manager and one must be accepted. If a specific representative is not available to attend a meeting then it may be necessary for the staff member to choose an alternative staff representative.

6.6. Reporting procedure

6.6.1. Sickness must be reported at the earliest opportunity, (particularly in respect of out of hours shifts), in line with the agreed local department/ward procedure for the reporting of sickness absence but this should be no later than one hour before the commencement of their shift or rostered duty.

6.6.2. This will enable managers to make the required service adjustments and be reassured of the safe whereabouts of their staff.

6.6.3. Sickness absence must be reported by the staff member. It is recognised, however, that in exceptional circumstances, the individual maybe too unwell to contact their manager, eg when unexpectedly admitted as a hospital in-patient. When this occurs, arrangements should be made for the manager to be updated at the earliest possible opportunity.

6.6.4. All staff must speak directly with their manager as soon as they are able. If their manager is not available, they should leave a message and telephone number so that their manager can call them. The first contact must not be made by texting or e-mail as this will not be deemed sufficient notification of sickness absence unless agreed as part of a local department/ward procedure (ie absence will be recorded as unauthorised and pay may be withheld). By agreement with the manager, subsequent contact may be made via electronic communications.

6.7. Certification

6.7.1. Where sickness absence lasts for less than eight calendar days (including a weekend or rest days) a self-certification form (available from managers) should be completed from the first day of absence. Self-certificates should be sent to the manager by post unless a return to work is anticipated on or before the eighth day. In this case, the self-certificate can be given to the manager at the Return to Work discussion. In all cases, the self-certification form must be received by the appropriate line manager within eight calendar days of the first day of sickness.

6.7.2. On the eighth calendar day a Statement of Fitness to Work (Fit Note Form Med 3) from the staff member’s GP is required. This must be sent as soon as possible and, in any event, no later than seven calendar days from its original requirement date in order to generate statutory and contractual sick pay as per the legal requirement. All subsequent Fit Notes must be received in the same timescales and should provide continuous certification of absence with no gaps.
In the event that certificates are not continuous, entitlement to sick pay may be affected.

6.8. **Sickness occurring before or during annual leave or public holidays**

6.8.1. Members of staff who fall sick whilst on annual leave and report their absence in accordance with the Trust Attendance Management policy and/or their local department/ward procedure will, subject to the provision of a GP Fit Note (Med 3), have the period of absence treated as sick leave, allowing them to take the annual leave at another time. It is the member of staff’s responsibility to comply with the sickness notification rules. A failure to comply will mean the absence will not be treated as sick leave.

6.8.2. In accordance with national terms and conditions of service, staff will not be entitled to an additional day off if they are sick on a public holiday that falls on a day they would normally be required to work as part of their basic week. In this situation, managers and staff should ensure the hours the member of staff would normally have been required to work on the public holiday are also deducted from their total annual leave entitlement.

6.8.3. If a staff member is absent from work due to sickness before a period of planned annual leave, including holiday abroad, the Trust will consider the staff member to be on annual leave if they continue with their holiday.

6.8.4. In circumstances where a medical advisor has recommended that an individual goes away on a pre-booked holiday as part of their rehabilitation, the basis upon which this time is recorded, ie sick or annual leave, will be determined following an assessment by the Trust’s Occupational Health consultant physician.

6.9. **Additional Employment**

6.9.1. Generally, it is not acceptable for staff members to work overtime or bank shifts for the Trust or undertake any work for another employer or on a self-employed basis, including voluntary or unpaid work, during a period of sick leave from their substantive role with the Trust.

6.9.2. In certain circumstances there may be exceptions granted (apart from the hours when the staff member is specifically contracted to work for the Trust) for example, where there are differing job requirements, but this will need to be discussed between the staff member and their line manager.

6.9.3. Due regard will be given to any conditions stipulated on a Fit Note and whether attending the additional work would be detrimental to recovery. However, if the additional work is either the same, or of a similar nature to the staff member’s Trust role in a similar environment, then it is likely that the staff member will be required to refrain from undertaking the additional work. Further advice can be sought from Employee Relations and OH as appropriate.

6.9.4. Staff members are required to agree any additional work during a period of sick leave with their line manager and obtain their written authorisation before commencing the activity.
6.9.5. If a member of staff is under formal review in accordance with the Attendance Management policy, managers have the right to stop the individual undertaking overtime or bank work during the period of review if it is thought to adversely affect improvement in attendance levels. Bank shifts may also not be permitted during periods of a phased return.

6.9.6. Staff members should not fraudulently claim sick pay. Abuse of the sick pay arrangements may be deemed fraudulent behaviour which is a potential reason for dismissal and will be investigated in accordance with the Trust’s Disciplinary Policy and Procedure. Counter Fraud will also investigate any suspected abuses and could instigate further civil or criminal action under the Theft Act (1988) of the Fraud Act (2006) for fraudulently claiming sick pay.

6.9.7. Further information regarding additional employment can be found in the Trust’s Additional Employment Policy, a copy of which is available from the document library.

6.10. **Occupational Health**

6.10.1. In managing sickness absence, the Trust will always take into consideration the provisions of the Equality Act 2010.

6.10.2. If an underlying medical condition is identified as a potential key contributor to poor attendance levels, the manager should refer the member of staff to Occupational Health to seek advice as to whether the condition meets the definition of being disabled under the Equality Act 2010 (for definition please see Section 4) and whether the individual would benefit from changes to their working environment.

6.10.3. The Trust must not discriminate against any staff because of a physical or mental disability and has a duty to consider and make any reasonable adjustments to their working environment and practices.

6.10.4. If Occupational Health identifies that the staff member has a health condition or impairment that is, or may be, covered by the Equality Act 2010, the Trust may seek specialist support and advice. Reasonable adjustments will be considered, where recommended, on a case by case basis. Consideration should also be given to advice from a medical practitioner as identified on a *Fit Note*.

6.10.5. Where a staff member refuses to participate or does not co-operate in gaining medical reports, managers should take advice from their local HR practitioner. Staff members should be advised in writing that all decisions relating to the management of their attendance will be taken on the basis of the information available and that ultimately this could result in the termination of their contract.

6.10.6. The Trust may, at any time, require a member of staff to attend an examination by a medical practitioner whether absent or not. The Trust will meet the cost associated with any medical examination requested.

6.10.7. **Fast track treatment**
6.10.7.1. Fast track treatment is a service that will provide timely access to hospital appointments and treatment for members of staff who have a health condition, which has an actual or potential impact on their ability to attend work or carry out the full duties of their role, following a GP referral to the Trust.

6.10.7.2. Fast track treatment will be implemented to:
- maintain high quality patient care
- reduce the incidence of staff ill health and sickness absence
- minimise the impact of staff ill health.

6.10.7.3. Fast track treatment does not imply immediate and/or unrestricted access to Trust services. Appointments will be offered on the basis of both availability and clinical need. This may include staff being offered late cancellation appointments where they become available.

6.11. Sickness Absence Review Triggers

Managers have a responsibility to explore and discuss every episode of sickness absence with members of staff. Following discussion, managers should take action in line with the procedures outlined in the table below.

<table>
<thead>
<tr>
<th>Trigger</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>All sickness absence episodes, even if only one day.</td>
<td>Self-certification from first day.</td>
</tr>
<tr>
<td></td>
<td>Attendance at a return to work discussion.</td>
</tr>
<tr>
<td></td>
<td>Handle in line with Section 6.12., Return to work discussion and self-certification</td>
</tr>
</tbody>
</table>

Short-term sickness absence
- On the third episode of absence in a three-month rolling period
- Breach of equivalent 3.75% over a rolling 12-month period
- Evidence of a pattern of absence
- Reasonable concern over staff wellbeing

|                                              | Handle in line with Section 6.16., Procedure for handling short-term sickness absence |

Long-term sickness absence
- A period of continuous absence greater than 28 calendar days regardless of working pattern

|                                              | Return to work discussion |
|                                              | Handle in line with long-term (or short-term) procedure (depending on individual circumstances or seriousness of situation) |
|                                              | Consider referral to OH (where necessary, seek advice from OH prior to referral) |
|                                              | Take account of any occupational injury incurred at work for the Trust |
|                                              | Consider any reasonable adjustments where condition falls under the Equality Act 2010 |
6.12. **Return to work discussion and self-certification**

6.12.1. All staff will be required to participate in a Return to Work discussion following any absence due to sickness.

6.12.2. This will be held by the manager or nominated deputy within one day of the staff member’s return from a period of sickness absence.

6.12.3. During the discussion the manager and staff member should identify any health concerns and adjustments that might support attendance. They should also complete the Return to Work form and ensure the appropriate certification has been completed and submitted. The form should be held on the staff member’s personal file and a copy given to them.

6.13. **Industrial injuries, RIDDOR and NHS injury allowance**

6.13.1. Cases of industrial injuries incurred, or diseases contracted in the course of work for the Trust which would endanger the health and welfare of patients or colleagues, will be dealt with in accordance with the circumstances of each case.

6.13.2. Any work related accidents/incidents involving injury or near misses must be recorded, within the same shift, on the Trust DATIX risk management system using the electronic Incident Report Form which can be accessed via the Trust intranet homepage.

6.13.3. Managers must inform the Trust Health and Safety team and Occupational Health department by telephone or email as soon as it is known (or within one day) when an accident/incident at work results in:

- a death, with the exception of suicides, including an act of physical violence to a worker, or
- a member of staff sustaining an injury from the RIDDOR specified injury list, or
- another injury to a member of staff that leads to the staff member being away from work, or unable to perform their normal work duties, for a period of more than seven days’ consecutive absence as a result of their injury.

6.13.4. The Health & Safety team can then notify the Health & Safety Executive as required in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).

6.13.5. An injury to a member of staff that leads to the worker being incapacitated for a period of more than three consecutive days must also be reported to the Health & Safety Team. These incidents are recordable but not necessarily reportable to the Health & Safety Executive.

6.13.6. Where reportable, Occupational Health advice must be sought and the staff member should be actively encouraged to seek the support of his/her trade union or professional organisation representative in circumstances where the medical problem is likely to be long term. Eligibility for, and payment of, NHS
Injury Allowance for workplace injuries or disease will be in accordance with the NHS Injury Allowance Scheme.

6.14. **Pregnancy-related sickness**

6.14.1. Pregnancy-related sickness absence, although recorded as sickness, should be discounted for the purposes of monitoring sickness absence management.

6.14.2. A member of staff undergoing assisted conception, eg IVF is regarded as being pregnant when the fertilised ova have been implanted. If implantation is unsuccessful, any absence more than two weeks after the pregnancy has ended will not be considered as pregnancy related.

6.15. **Medical suspension**

6.15.1. The Trust has a duty to take reasonable steps to ensure the health and safety of its workforce. Exceptionally, where a manager is concerned that a member of staff is unfit on health grounds to undertake the duties of their role, a period of medical suspension may be appropriate.

6.15.2. This is designed to be a short-term measure where the member of staff will be deemed to be suspended on full pay pending action being taken at the earliest opportunity to clarify the sickness absence position.

6.15.3. In every case the manager should urgently refer the staff member to Occupational Health to seek clarification and establish whether temporary redeployment or different duties would enable the staff member to return to work sooner.

6.15.4. The medical suspension should be recorded on the Trust absence reporting system using the appropriate code.

6.15.5. Medical suspension will not affect a staff member’s pay entitlement unless the staff member:

- unreasonably refuses other suitable work offered by the Trust, or
- is not available for other suitable alternative work when required.

6.16. **Procedure for handling short-term sickness absence**

6.16.1. **Informal stage – investigation and assessment**

6.16.1.1. If the staff member’s level of attendance means that they have met the criteria for managing sickness absence (see Section 6.1) it is mandatory that an informal discussion takes place. This discussion should either take place during the return to work meeting or at a separate session with the line manager. At this meeting the staff member should be informed that the discussion is an informal one that automatically takes place once any of the criteria have been met.

6.16.1.2. The line manager should meet with the staff member to discuss their recent sickness absence(s). Areas for discussion should include dates and occasions of absence, the exploration of how absences could have
been avoided, the impact of absence on the team and organisation, the possibility and/or consequence of any underlying health problems and any additional support or adjustments that may be required to improve and maintain attendance.

6.16.1.3. Any actions or agreed support should be recorded, together with a clear time-frame, as an outcome of the meeting. Reasonable adjustments, a referral to Occupational Health and support should all be considered if an underlying health condition is identified.

6.16.1.4. The record of the meeting will be kept by the manager on the staff member’s personal file for reference purposes and a copy provided to the staff member to confirm the discussions that took place. The staff member has no right of appeal but may ask to file a reply if they disagree with the record.

6.16.1.5. Normal monitoring will resume when the criteria are no longer triggered (see Section 6.1).

6.16.1.6. When a staff member reverts to normal monitoring it should be made clear by the manager that, if an absence criteria is breached within six months of the end of the informal monitoring period, the procedure may be re-entered at the formal stage.

6.16.1.7. If any identified mitigating circumstances (see Section 6.2) result in the member of staff not entering the formal stages of the procedure then the line manager must discuss this with the individual and log the details of the conversation. Any accepted mitigating circumstances must be reviewed no later than six months after their identification.

6.16.1.8. If the manager believes there are no mitigating circumstances (based on their knowledge at the time) and the staff member has not met the required improvement set out as a result of the informal stage, then the staff member must be invited to attend a formal Stage One sickness absence review meeting.

6.16.2. **Formal action – procedure**

If informal action does not bring about an improved attendance at work then, after investigation and consideration, the staff member will enter the formal stages.

Formal action consists of three sequential stages.

6.16.2.1. **Stage One – first formal meeting**

- This meeting should be arranged at the earliest convenience.

- The meeting should be confirmed in writing stating the time, date, location and purpose of the meeting, providing the staff member with at least seven calendar days’ notice. The invite must state that a possible outcome of the meeting may result in the staff member
receiving a First Written Warning. The staff member will be informed of their representation options (see Section 6.5).

- This meeting will be held by the line manager and either their nominated deputy or the equivalent level of management colleague. A trade union or professional organisation representative, or work colleague, may accompany the staff member. For medical staff the MHPS process will be followed.

- The aim of the first formal meeting is to:
  - explain the Trust’s attendance management procedure
  - explain that the staff member’s level of attendance has not improved or is such that it may be appropriate to enter the procedure at this stage
  - provide the staff member with an opportunity to state their case, identifying any mitigating circumstances
  - identify the cause(s) of this shortfall and offer any relevant support to enable improvement, including whether any reasonable adjustments or suitable alternative roles should be investigated
  - consider an Occupational Health referral if one has not already been requested.

- If a first written warning is issued it will be effective immediately unless the staff member is absent in which case it will become effective on the return to work date.

- The warning will advise the staff member of the requirements needed to improve attendance. This will be in the form of an Attendance Improvement Plan (AIP). The warning will also advise that a failure to meet the AIP, normally within a 12-month period, may result in the staff member progressing to Stage Two. The warning will remain live on the personal file for 12 months after which, subject to satisfactory attendance, it will be recorded as spent but not removed from the personal file.

6.16.2.2. Stage Two – second formal meeting

- If the staff member fails to meet the actions detailed in the Attendance Improvement Plan set at Stage One, a Stage Two meeting will be arranged.

- This meeting should be arranged at the earliest convenience.

- The meeting should be confirmed in writing stating the time, date, location and purpose of the meeting, providing the staff member with at least seven calendar days’ notice. The invite must state that a possible outcome of the meeting may result in the staff member receiving a Final Written Warning. The staff member will be informed of their representation options (see Section 6.5).
▪ This meeting will be held by the line manager and either the nominated deputy or the equivalent level of management colleague. A trade union or professional organisation representative, or work colleague, may accompany the staff member. For medical staff the MHPS process will be followed.

▪ The aim of the second formal meeting is to:
  ❖ explain the Trust attendance management procedure
  ❖ explain that the staff member’s level of attendance has not improved or is such that it may be appropriate to enter the procedure at this stage
  ❖ provide the staff member with an opportunity to state their case, identifying any mitigating circumstances
  ❖ identify the cause(s) of this shortfall and offer any relevant support to enable improvement, including whether any reasonable adjustments or suitable alternative roles should be investigated
  ❖ request an Occupational Health referral as an outcome of the meeting.

▪ If a final written warning is issued it will be effective immediately unless the staff member is absent in which case it will become effective on the return to work date.

▪ The warning will advise the staff member of the requirements needed to improve attendance. This will be in the form of a further Attendance Improvement Plan (AIP). The warning will also advise that a failure to meet this AIP may result in the staff member progressing to Stage Three. The warning will remain on the personal file for 24 months, after which, subject to satisfactory attendance, it will be recorded as spent but not removed from the personal file.

6.16.2.3. Stage Three - final formal meeting

▪ If the staff member fails to meet the Attendance Improvement Plan set at Stage Two, a Stage Three meeting will be arranged.

▪ The meeting should be arranged at the earliest convenience.

▪ The meeting should be confirmed in writing stating the time, date, location and purpose of the meeting, providing the staff member with at least seven calendar days’ notice. The invite must state that a possible outcome of the meeting may result in the staff member being dismissed under this procedure. The staff member should be informed of their representation options (see Section 6.5).

▪ The meeting will be chaired by the line manager of the manager who chaired the Stage One/Two meetings. In most circumstances it is envisaged that this will be a senior manager within the Care Group. However, if the chair is below the Care Group General Manager level, delegated authority must be sought. The chair will be accompanied by the local HR practitioner. The staff member has the right to be
accompanied by a trade union or professional organisation representative, or work colleague. Medical staff will follow the MHPS process with the Medical Director holding ultimate responsibility for appointing a case manager.

- The meeting will provide the staff member with an opportunity to discuss their sickness absence history which will be summarised by the line manager or nominated deputy who held the Stage One and Two meetings. This should include reference to any support offered by the Trust (eg rehabilitation, phased return, return to work and/or redeployment with or without reasonable adjustments) and the medical advice received.

- After considering all the available information, if the Trust is not assured that the staff member can meet a reasonable and acceptable pattern of attendance for the foreseeable future, they will be dismissed with immediate effect.

- The staff member will be provided with written reasons for dismissal, including confirmation of the date of termination of employment, within 14 calendar days of the date of the Stage Three meeting. Payment in lieu of notice must be given to a staff member whose contract is being terminated (the latter will be in accordance with the staff member’s contract but should be no less than the statutory one week for each year of service up to a maximum of 12 weeks). The staff member will be informed of their right of appeal against the decision.

6.17. Procedure for handling long-term sickness absence

6.17.1. General principles

- Long-term sickness absence (defined as a period of absence greater than 28 calendar days) will be kept under review by the line manager from an early stage.

- Managers are required to maintain contact with staff members on an agreed basis but not less than fortnightly.

- It is recognised that long term sickness may be planned (eg elective surgery) or unplanned.

6.17.2. Planned sickness absence

6.17.2.1. Occupational Health

- It is not always necessary to refer a member of staff to Occupational Health after 28 calendar days’ continuous absence if the prognosis and expected date of return is very clear, eg for planned sickness absence such as surgery and/or convalescence.

- However, it is good practice for managers to seek advice from Occupational Health prior to the period of planned absence and/or
return to work. This will allow any concerns regarding an individual’s fitness to return to their role to be addressed.

- The manager, taking into consideration any recommendations made by Occupational Health, is responsible for discussing with the individual any reasonable adjustments or assessments that may be required to ensure a safe return to work.

6.17.2.2. Review meetings and structured communication

- The line manager should agree with the individual prior to the period of planned absence how they will keep in touch to ensure regular communication on progress, discussion of medical advice and the support the individual would find helpful to assist a return to work.

- At least one formal review meeting must be held before the final review meeting so that a staff member can be made aware of the potential consequences of continued sickness absence.

6.17.2.3. Treatment for non-medical reasons

- Sick pay is not normally payable for absence caused by an accident where contributory negligence is proved or for voluntary procedures, such as cosmetic surgery, which has no medical grounds to support it. Managers and staff should seek advice from Occupational Health and approach their local HR Practitioner for further advice. In addition, any infections or post-treatment care connected with such treatment will also be unpaid unless recommended otherwise by Occupational Health.

- To ensure consistency of approach advice should always be sought from the local HR Practitioner.

6.17.2.4. Surgery and treatment for gender reassignment

- Absence because of gender reassignment should not be treated less favourably than absence for sickness or some other cause with which a reasonable comparison can be made. All staff members undergoing gender reassignment should be referred to Occupational Health for advice. It is important that each case is treated individually with advice being sought from the local HR practitioner and, where appropriate, the Trust’s Human Rights, Equality and Inclusion Lead.

6.17.3. Unplanned sickness absence

6.17.3.1. Occupational Health

- Any member of staff on long-term sickness absence of more than 28 calendar days should be referred to Occupational Health for an assessment of their health position and/or whether any adjustments to the job or working environment are required under the Equality Act 2010.
Throughout the period of absence Occupational Health should continue to assess the staff member and provide regular written reports including the likely date of return to work (see Section 6.5.6).

6.17.3.2. **Review meetings and structure communication**

- The management of long-term sickness absence will require regular and on-going assessment and review meetings co-ordinated by the line manager. The line manager should agree with the individual from the outset how they will keep in touch to ensure regular communication on progress, discussion of medical advice and the support the individual would find helpful to assist a return to work including, eg a phased return, rehabilitation, any reasonable adjustments or redeployment.

- At least one formal review meeting must be held before the final review meeting so that a staff member can be made aware of the potential consequences of continued sickness absence.

6.17.4. **Occupational sick pay**

- Occupational sick pay will be provided in line with the respective NHS Terms and Conditions of Service.

- Where it becomes evident after investigation, consultation and consideration of other alternative posts, that there is no reasonable prospect of the staff member returning to work, the staff member’s contract may be ended on the grounds of capability, through the final review process, prior to the exhaustion of their sick pay entitlements.

- Advice must be sought from the local HR Practitioner and Occupational Health in all such cases.

6.17.5. **Annual leave entitlement and carry forward during long-term sick leave**

6.17.5.1. **Annual leave**

- Staff can accrue and request to take annual leave during a period of long-term sickness absence and line managers should promote awareness of this option to staff who have been absent for a minimum continuous period of 28 calendar days.

- Members of staff should request leave in the usual way by using the application form (available from the Trust’s Annual Leave Policy) and following the annual leave process of their department/ward. Periods of approved leave to be taken during periods of long-term sickness absence should be clearly recorded as such on departmental returns (electronic or paper).

6.17.5.2. **Carry forward leave**

- Staff on long-term sick leave (for all or part of the leave year) who are genuinely unable to take their remaining leave before the end of the
leave year are entitled to carry forward up to four weeks of their contracted weekly hours to the following year.

- Accrued annual leave may be used as part of a supportive return to work but only where there is a requirement for a phased return exceeding four weeks.

- Staff who are unable to return to work before they have had the opportunity to take any accrued leave (due to termination of their employment) will be entitled to a payment in lieu.

6.17.6. **The final review process**

- When there is an indication that a member of staff will not be able to return to their contractual role or, at the latest, when they have had four months’ absence from work, the manager must arrange a final review meeting where a decision will be made on the appropriate way forward.

- The staff member should be informed of the final review meeting date in writing, reminding them of their right to representation and that their contract may be terminated on the grounds of ill health.

- During the final review the manager must consider what, if any, reasonable adjustments could be implemented to support the staff member returning to their contractual role. The manager must ask Occupational Health if a return to work is likely within the foreseeable future. Foreseeable future will be defined in accordance with service requirements but could be up to three months. If a return to a substantive post is not possible at this time or within the foreseeable future, the following options must be considered.

6.17.6.1. **Redeployment**

- On the advice of Occupational Health, redeployment may be considered on the grounds of ill health.

6.17.6.2. **Termination of contract**

- Where (after investigation, consultation, and consideration of medical advice, reasonable adjustments and other alternative posts) there is no reasonable prospect of the staff member returning to work in any capacity, their contract may be ended on the grounds of lack of capability due to ill health. This may be prior to the exhaustion of their sick pay entitlement.

- A final review meeting to consider terminating the contract of employment should be arranged at the earliest convenience. This will be held by the manager who has managed the long-term sickness absence through all the different stages but who may not have the power to dismiss.

- A final referral to Occupational Health must have been made and the advice received prior to the meeting taking place. The meeting
should be confirmed in writing stating the time, date, location and purpose of the meeting, providing the staff member with at least seven calendar days’ notice. The invite must state that a possible outcome of the meeting may result in the staff member’s contract being ended on the grounds of a lack of capability due to ill health. The staff member should be informed of their representation options (see Section 6.5).

- The meeting will review the following:
  - up-to-date medical evidence
  - the prospects of a likely return to the contractual post, with or without reasonable adjustments, in the foreseeable future
  - a phased return to work with or without reasonable adjustments
  - redeployment with or without reasonable adjustments
  - the possibility of ill health retirement under the NHS Pension Scheme (if the staff member is a member of the scheme).

- If appropriate, after considering all the available information, the manager will make the recommendation for dismissal in writing to a senior manager who has the power to dismiss.

- The senior manager who has the right to dismiss will consider all the information made available and, if in agreement with the decision, will formally issue notice to terminate the staff member’s contract of employment by letter within 14 calendar days of the date of the final review meeting.

- The letter will include the reasons for dismissal and confirmation of the date of termination. Notice must be given to a staff member whose contract is being terminated on the grounds of ill health (the latter will be in accordance with the staff member’s contract but should be no less than the statutory one week for each year of service up to a maximum of 12 weeks). The staff member will be informed of their right of appeal against the decision.

- If the staff member refuses to attend Occupational Health, review meetings or a final review meeting without explanation that is satisfactory to the Trust, the process will proceed and a decision will be taken on the information that is available at the time.

6.18. **Ill health retirement**

6.18.1. Staff who are members of the NHS Pension Scheme, and have the requisite service (two years) may be entitled to apply for ill health retirement if they become permanently incapable of undertaking the duties of their current role because of ill health.

6.18.2. This option must be fully discussed at a meeting between the manager and staff member taking appropriate advice from Occupational Health, the Pensions Department and the local HR practitioner.
6.18.3. Staff members in this situation are encouraged to seek advice from their trade union or professional organisation representative and the Trust Pensions Department who can be contacted via e-mail rch-tr.PensionEnquiries@nhs.net or on telephone number 01872 258423.

6.18.4. The Trust cannot apply for ill health retirement on behalf of a staff member but will assist the individual in their application process.

6.18.5. The decision to grant ill health retirement pension lies solely with the medical advisors to the NHS Pension Scheme and termination of the employment contract may not automatically lead to early payment of pension.

6.18.6. Wherever possible, an application for ill health retirement should be submitted before employment is terminated.

6.18.7. When an application for ill health retirement has been made, the termination date of employment with the Trust (with notice) will be agreed between the manager and staff member and will be determined by the circumstances on a case by case basis. This could include payment in lieu of notice.

6.19. Authority to take formal action

It is expected that, in the vast majority of cases, warnings will be issued by first and second line managers.

| First written warning               | Immediate line manager |
|                                    | Ward manager/matron    |
|                                    | Head of Service (clinical/non-clinical) |
|                                    | Care Group General Manager/Head of Nursing |
|                                    | Clinical Director      |
|                                    | Any other senior member of staff who reports directly to an Executive Director including the Medical Director or delegated representative. |

| Final written warning               | As above. |

| Dismissal                          | Any Care Group General Manager/Head of Nursing (or other managers within the line with delegated authority) |
|                                    | Any senior member of staff who reports directly to an Executive Director |
|                                    | Deputy Director         |
|                                    | Clinical Director       |
|                                    | Medical Director or nominated deputy |
|                                    | Executive Director or nominated deputy |
|                                    | Chief Executive (for cases involving executive directors) |

| Appeal against a formal warning    | Next in seniority to the person issuing warning or manager at the same level who has not been previously involved |
6.20. **Right of appeal**

6.20.1. A staff member has the right of appeal against any formal decision made during a procedure.

6.20.2. The remit of the appeal is to validate the procedure and/or the process followed in the original hearing, hear any new evidence (that demonstrably was not available at the time the decision was made), review any points raised in the appeal letter and review the overall decision made as being fair and reasonable.

6.20.3. An appeal must be submitted in writing and should clearly state the purpose for the appeal and the remedy that the individual is seeking, eg re-engagement or re-instatement, reasonable adjustment and/or additional support. An appeal cannot proceed without this information.

6.20.4. Appeals against a first and/or final formal warning should be put in writing to the manager next in seniority above the person issuing the warning, and who has not been previously involved, within 14 calendar days of the date of the letter confirming the warning.

6.20.5. An appeal against dismissal should be put in writing to the Care Group General Manager or Head of Service (unless previously involved in the proceedings in which case an equivalent senior manager will hear the appeal) within 14 calendar days of the date of the letter which confirmed their dismissal on the grounds of capability due to ill health or inability to attend work on a regular basis.

6.20.6. The Trust will conduct the appeal within a reasonable timescale and, as a guide-line, every attempt will be made to conduct the appeal within four calendar weeks unless mutually agreed otherwise.

6.20.7. The staff member will be informed that they have the right to be accompanied by an official of any trade union or professional organisation, or work colleague.

6.20.8. The hearing will normally be chaired by the next most senior manager, who has not previously been involved in the matter, supported by a member of the HR department who has also not been previously involved.

6.20.9. The chair must receive a statement of case prior to the hearing which sets out the arguments of individual parties. The management statement of case must be made available to the staff member at least seven calendar days prior to the appeal meeting and the staff statement of case must be made available to management at least five calendar days prior to the appeal.

6.21. **Attending medical/dental/counselling/specialist appointments**

6.21.1. All staff are expected to arrange medical appointments outside their normal working hours. Where this is not possible, staff are asked to arrange appointments at the beginning or end of the working day and will be required to
make the time up. Occupational Health appointments can be attended during working hours.

6.21.2. Where a staff member has a physical or psychological health condition covered by the Equality Act 2010, or where serial appointments or planned treatment programmes are needed, they will still be asked to book regular appointments outside their normal working hours or at the beginning or the end of the working day wherever possible. Where this cannot reasonably be achieved the manager and staff member should explore ways to arrange work patterns around regular appointments. Where suitable working patterns to accommodate regular appointments cannot be achieved there will not be a requirement to make the hours up and this will constitute a reasonable adjustment. (This may, on occasion, apply to regular clinic appointments where the condition does not fall under the Equality Act 2010).

6.21.3. Reasonable adjustments for health conditions that fall under the Equality Act 2010 will be considered on a case by case basis.


7. Dissemination and Implementation

7.1. A copy of the policy will be stored electronically in the Human Resources folder on the Trust’s document library.

7.2. A copy of the policy will be circulated to ER practitioners to enable them to participate in and support the implementation of the policy.

7.3. All new staff members must be made aware of the policy during induction and line managers must reinforce awareness in more detail at local induction, particularly in respect of any departmental rules that may apply.

8. Monitoring compliance and effectiveness

<table>
<thead>
<tr>
<th>Element to be monitored</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sickness in each Care Group does not exceed 3.75%.</td>
<td></td>
</tr>
<tr>
<td>Line managers have received training on the contents of the policy.</td>
<td></td>
</tr>
<tr>
<td>Members of staff featuring on trigger reports are being actively managed and there is documentary evidence of this.</td>
<td></td>
</tr>
<tr>
<td>Terminations of contract for health related reasons have been fair and in line with policy and have not been successfully challenged.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lead</th>
<th>Care Group General Managers supported by HR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tool</td>
<td>ESR</td>
</tr>
<tr>
<td>Frequency</td>
<td>Sickness absence rates will be monitored on a monthly basis</td>
</tr>
<tr>
<td>Reporting arrangements</td>
<td>Care Group performance review</td>
</tr>
<tr>
<td>Acting on recommendations and Lead(s)</td>
<td>The Head of Employee Relations will ensure subsequent recommendations are undertaken including the development of an action plan for any deficiencies within an agreed time frame.</td>
</tr>
<tr>
<td>Change in practice and lessons to be shared</td>
<td>Any system improvements agreed via the action planning process will be actioned in partnership with Staff-Side within six months. Lessons will be shared with all the relevant stakeholders. Any revision to policy will be communicated to staff.</td>
</tr>
</tbody>
</table>

9. **Updating and Review**

   The policy will be reviewed every three years or earlier in view of any developments which take place that may include legislative changes, national policy instruction (NHS or Department of Health), Trust Board decision, or request by either management or Staff-Side.

10. **Equality and Diversity**

    10.1. The Royal Cornwall Hospitals NHS Trust is committed to a policy of equal opportunities in employment. The aim of this policy is to ensure that no job applicant or employee receives less favourable treatment because of their race, colour, nationality, ethnic or national origin, or on the grounds of their age, gender, gender reassignment, marital status, domestic circumstances, disability, HIV status, sexual orientation, religion, belief, political affiliation or trade union membership, social or employment status or is disadvantaged by conditions or requirements which are not justified by the job to be done. This policy concerns all aspects of employment for existing staff and potential employees.

    10.2. The Initial Equality Impact Assessment Screening Form is at Appendix 2.
## Appendix 1. Governance Information

<table>
<thead>
<tr>
<th>Document Title</th>
<th>Attendance Management Policy V4.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>This document replaces (exact title of previous version):</td>
<td>Attendance Management Policy V4.0</td>
</tr>
<tr>
<td>Date Issued/Approved:</td>
<td>September 2020</td>
</tr>
<tr>
<td>Date Valid From:</td>
<td>September 2020</td>
</tr>
<tr>
<td>Date Valid To:</td>
<td>July 2022</td>
</tr>
<tr>
<td>Directorate / Department responsible (author/owner):</td>
<td>Helen Strickland, Employee Relations</td>
</tr>
<tr>
<td>Contact details:</td>
<td>01872 258594</td>
</tr>
<tr>
<td>Brief summary of contents</td>
<td>The aim of the policy is to detail both the support that will be available to staff and the steps the Trust will take to monitor and manage attendance.</td>
</tr>
<tr>
<td>Suggested Keywords:</td>
<td>Absence, sick leave, absence management, long-term sick leave, medical certificate, certification, RIDDOR, NHS Injury allowance, DDA, Disability, Equality Act, 2010 self-certificate, Fit Note, reasonable adjustments, redeployment</td>
</tr>
<tr>
<td>Target Audience</td>
<td>RCHT</td>
</tr>
<tr>
<td>Executive Director responsible for Policy:</td>
<td>Director of People and Organisational Development</td>
</tr>
</tbody>
</table>
| Approval route for consultation and ratification: | ▪ Joint Consultative Negotiating Committee (JCNC)  
▪ Policy Review Group (PRG) |
| Senior Manager confirming approval processes | Head of Employee Relations |
| Links to key external standards | CQC Outcome 14, Supporting Staff |
| Related Documents: | ▪ Additional Annual Leave Purchase Scheme  
▪ Additional Employment Policy  
▪ Annual Leave Policy  
▪ Counter Fraud and Corruption Policy  
▪ Dignity at Work Policy  
▪ Disciplinary Policy and Procedure  
▪ Electronic Rostering Policy  
▪ Equality, Diversity and Human Rights Policy  
▪ Flexible Working and Work Life Balance Policy  
▪ Fraud Act 2006  
▪ Information Governance Policy  
▪ Maternity and Adoption policies  
▪ National Terms and Conditions of Service  
▪ Personal File Management Policy and Procedure |
### Policy and procedure in case of an under or overpayment of salary, allowances or benefits
- Policy for the management of work-related stress
- Policy and Guidance for Risk Assessment and Risk Registers
- Special Leave Policy

### Training Need Identified?
Yes – management training. Learning and Development department have been informed.

### Publication Location (refer to Policy on Policies – Approvals and Ratification):
- Internet & Intranet
- **✓** Intranet Only

### Document Library Folder/Sub Folder
- Human Resources

### Version Control Table

<table>
<thead>
<tr>
<th>Date</th>
<th>Version No</th>
<th>Summary of Changes</th>
<th>Changes Made by</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 2009</td>
<td>V1.0</td>
<td>General principles reformatted to meet the requirements of NHSLA</td>
<td>Helen Strickland</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>HR Manager</td>
</tr>
<tr>
<td>March 2014</td>
<td>V3.0</td>
<td>Complete policy review in partnership</td>
<td>Paul Hargreaves</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Helen Strickland</td>
</tr>
<tr>
<td>June 2014</td>
<td>V3.1</td>
<td>Minor amendments (including formatting) identified</td>
<td>Helen Strickland</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>HR Business Partner</td>
</tr>
<tr>
<td>July 2019</td>
<td>V4.0</td>
<td>Full review resulting in minor amendments:</td>
<td>Helen Strickland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- re-formatted in line with current Trust template</td>
<td>HR Business Partner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- references to divisions replaced with Care Groups</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- reference to additional guidance removed</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- process flow-charts refreshed</td>
<td></td>
</tr>
<tr>
<td>July 2020</td>
<td>V4.1</td>
<td>Amended in line with recommendations following formal investigation. Changes include:</td>
<td>Helen Strickland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Sections 5.3.5 and 5.4.2 - reference to the requirement to seek authorisation from</td>
<td>Policies and Projects</td>
</tr>
<tr>
<td></td>
<td></td>
<td>the Line Manager (LM) prior to undertaking any additional employment that may be</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>agreed during sick leave</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Introduction of Section 6.9 on Additional Employment which makes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1) specific reference to the requirement to obtain LM authorisation prior to</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>undertaking any additional employment and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) the civil and criminal actions that may be taken for abusing sick pay</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>arrangements or for fraudulently claiming sick pay.</td>
<td></td>
</tr>
</tbody>
</table>
Appendix 2. Initial Equality Impact Assessment

Section 1: Equality Impact Assessment Form

<table>
<thead>
<tr>
<th>Name of the strategy / policy / proposal / service function to be assessed</th>
<th>Attendance Management Policy V4.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directorate and service area:</td>
<td>Human Resources</td>
</tr>
<tr>
<td>Is this a new or existing Policy?</td>
<td>Existing</td>
</tr>
<tr>
<td>Name of individual/group completing EIA</td>
<td>Helen Strickland</td>
</tr>
<tr>
<td>Contact details:</td>
<td>01872 258594</td>
</tr>
</tbody>
</table>

1. Policy Aim
Who is the strategy / policy / proposal / service function aimed at?
The purpose of this policy is to set out the principles by which the Trust will manage attendance at work and minimise absence due to sickness.

2. Policy Objectives
It aims to ensure that attendance and absence through sickness is managed in a fair, reasonable, non-discriminatory and consistent manner throughout the Trust.

3. Policy Intended Outcomes
To maximise attendance of staff at work and support staff when they are unable to attend work due to ill health.

4. How will you measure the outcome?
Through monitoring absence levels across the Trust. Please refer to section 8 of the policy.

5. Who is intended to benefit from the policy?
Staff, the Trust and patients.

6a). Who did you consult with?

<table>
<thead>
<tr>
<th>Workforce</th>
<th>Patients</th>
<th>Local groups</th>
<th>External organisations</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b). Please list any groups who have been consulted about this procedure.
JCNC/JLNC

c). What was the outcome of the consultation?
Policy approved.

7. The Impact
Please complete the following table. If you are unsure/don't know if there is a negative impact you need to repeat the consultation step.
Are there concerns that the policy could have a positive/negative impact on:

<table>
<thead>
<tr>
<th>Protected Characteristic</th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
<th>Rationale for Assessment / Existing Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sex (male, female non-binary, asexual etc.)</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gender reassignment</strong></td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------</td>
<td>---</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Race/ethnic communities/groups</strong></td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Disability</strong>&lt;br&gt;(learning disability, physical disability, sensory impairment, mental health problems and some long term health conditions)</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Religion/other beliefs</strong></td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Marriage and civil partnership</strong></td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Pregnancy and maternity</strong></td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Sexual orientation</strong>&lt;br&gt;(bisexual, gay, heterosexual, lesbian)</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The policy is very supportive of staff who fall within the remit of the Equality Act 2010 and includes provisions for any 'reasonable adjustments' to be made to ensure a fair workplace environment.

The policy states that any pregnancy-related absences will be discounted for absence monitoring purposes.

If all characteristics are ticked ‘no’, and this is not a major working or service change, you can end the assessment here as long as you have a robust rationale in place.

I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.

**Name of person confirming result of initial impact assessment:** Helen Strickland

If you have ticked ‘yes’ to any characteristic above OR this is a major working or service change, you will need to complete section 2 of the EIA form available here: [Section 2. Full Equality Analysis](#).

For guidance please refer to the Equality Impact Assessments Policy (available from the document library) or contact the Human Rights, Equality and Inclusion Lead debby.lewis@nhs.net
Appendix 3. Medical and dental staff sickness absence – additional guidance

▪ All Care Groups should have a local procedure that makes it clear to whom a doctor should report in the first instance when they are unable to attend for work. This may be a speciality lead, rota co-ordinator or secretary. This person should be able to take immediate action to cover a clinical service, know how to escalate any issues of concern and follow the requirements of the Trust’s Attendance Management Policy for recording (completion of absence returns form), reporting, filing self-certificates and Fit to Work notes (Med 3) and subsequent return to work arrangements or make arrangements to delegate these duties as appropriate.

▪ The Clinical Director is responsible for keeping a record of who is sick and for ensuring there are mechanisms for a return to work meeting (normally via one of the speciality directors). Immediate arrangements for cover can usually be managed locally but can be escalated to the Clinical Director if required. Clinical directors will be provided with sickness absence information on a monthly basis as part of the Human Resources sickness absence management information report.

▪ If the absent doctor is a junior doctor (doctor in training or Trust doctor equivalent) they are responsible for contacting their specialty lead and rota co-ordinator. One of the appropriate speciality leads will be responsible for undertaking the duties of the line manager in line with those set out in Section 5.3, Role of Managers which will include monitoring, recording and the return to work discussion. This role, with appropriate agreements determined by Care Group management teams, may be delegated to the relevant college or specialty tutor or educational supervisor.
Appendix 4. Short-term absence procedure flow chart – formal process

Staff member meets criteria for entering formal process:
- third occasion in a rolling three-month period
- breach of 3.75% absence
- pattern of absence
- reasonable cause for concern
- failure to achieve improvement set in informal process

Stage One
First Formal Meeting
- Issue first written warning (current for 12 months)
- Set attendance improvement plan

Has staff member achieved actions agreed to improve and maintain attendance?
- Yes
  - Formal process stops
- No
  - Progress to Stage Two

Stage Two
Second Formal Meeting
- Issue final written warning (current for 24 months)
- Set attendance improvement plan

Has staff member achieved actions agreed to improve and maintain attendance?
- Yes
  - Formal process stops
- No
  - Progress to Stage Three

Stage Three
Formal Hearing
- Consider all available information
- Advise outcome up to and including dismissal
Appendix 5. Long-term absence procedure flow chart

1. Staff member absent/likely to be absent for more than 28 calendar days
   - Line manager to arrange initial review meeting
   - Line manager to obtain Occupational Health advice
   - Review with Employee Relations
     - Yes: Return to work date agreed?
       - Yes: Monitor and review, Prepare for return to work
       - No: Line manager to hold review meeting(s) as required (Consider long-term prospects for continued employment if necessary. See Section 6.17)
     - No: Line manager ensures absence return data recorded appropriately and reviews sickness record
       - Yes: Line manager meets with staff member for return to work discussion
       - No: Has staff member met the criteria for entry into the informal process?
         - Yes: Line manager commences informal review process
         - No: No further action
           - No further action

2. Has staff member achieved actions agreed to improve and maintain attendance?
   - Yes: No further action
   - No: Line manager to contact Employee Relations to review and commence formal process