

Pennine Acute Hospitals NHS Trust Document Control Page										
DOCUMENT NUMBER:	EDH027									
TITLE:	Title: Attendance Management and Sickness and Absence Version: Version 2.4 Document Type: Executive									
SUPERSEDES	Supersedes: EDH027 – issued 21/03/05 (with a review date of March 2006) Description of Amendments: Complete revision									
ORIGINATOR	<table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Name(s) Group</th> <th style="width: 35%; text-align: center;">Designation</th> </tr> </thead> <tbody> <tr> <td>Originated by:</td> <td></td> <td></td> </tr> <tr> <td>Original Copy held by:</td> <td>Yvonne Rogers</td> <td></td> </tr> </tbody> </table>		Name(s) Group	Designation	Originated by:			Original Copy held by:	Yvonne Rogers	
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APPROVAL AND AUTHORISATION	<p>Approved by: Mr. Roger Pickering, Director of Organisational Development and Human Resources Date: 3rd April, 2007</p> <p>Authorised by: Mr. Pete Hinchliffe, Staff Side Secretary Date: 3rd April, 2007</p>									
	<p>Issued by: Yvonne Rogers</p> <p>This document is operational from: 9th April, 2007</p> <p>Issued to (Continue over page if necessary) See Page 2</p> <p>Comments and actions by recipients:</p>									
REVIEW	<p>Review by: Director of Organisational Development and Human Resources</p> <p>Review Date: Initially after 1 year (3rd April, 2008), thereafter every 3 years (or as a result of changes in employment legislation / operational requirements) Review date extended to 01/04/2010 as per Chairman's actions. Further extension to 01/01/11 whilst review ongoing Further extension to 01/04/11 whilst review ongoing</p>									
Issue Date: 09/04/07	Pennine Acute Hospitals NHS Trust									

Pennine Acute Hospitals NHS Trust Attendance Management and Sickness Absence Policy

1.0 Introduction

1.1 The overall objective of this policy is to provide a clear, fair and consistent framework so that all staff know what is expected from them and with which managers can:

- i) effectively support staff who are unable to attend work due to illness,
- ii) identify the mechanisms which may be used to address issues and problems associated with inappropriate attendance levels promptly and effectively;
- iii) ensures that the Trust can work towards securing a service that is fit for the needs of the patients it serves and improves the patient experience.

1.2 In operating this policy the Trust is fully committed to

- i) creating and maintaining a working environment in which the dignity of all employees is respected and to this end managers will ensure that they adopt a reasonable and supportive approach when implementing the requirements of this policy.
- ii) the principle that employees are afforded the right to be accompanied at formal meetings by a staff side representative or work colleague.

2.0 Policy Statement

2.1 The Trust is committed to providing a working environment that promotes staff health and well-being and will work positively to support such staff. The overall aim in these circumstances will be to provide all reasonable help and support to assist an early recovery and return to work.

2.2 Notwithstanding this, there will be occasions where all reasonable support to an individual may have been exhausted. Where this happens the Trust is committed to ensuring that such individuals are managed sensitively and consistently, but with due regard to their personal circumstances.

2.3 The Trust also recognises that it is the responsibility of each employee to provide regular and sustained attendance at work. Where high levels of sickness are identified, the Trust has a responsibility to investigate the reasons for this and to manage issues arising appropriately. The Trust is committed to ensuring such processes are managed fairly and consistently.

This policy will operate in conjunction with the necessary employment legislation, including the requirements of the Disability Discrimination Act 1995 / 2005 (DDA). This includes a duty which is placed on the Trust, as the employer “to take such steps as it is reasonable for it to take”¹ to avoid disadvantaging disabled staff or staff whom become disabled during the course of their employment.

3.0 Coverage

3.1 This policy identifies individual roles and responsibilities and covers:

- i) sickness absence notification procedures,
- ii) return to work interview processes
- iii) management of short-term sickness absence and appropriate guidance
- iv) management of long-term sickness absence procedures and appropriate guidance
- v) the varying levels of support for both managers and staff
- vi) the role of occupational health and
- vii) the role of the staff-side.

¹ taken from the Disability Rights Commission Code of Practice

4.0 Scope

- 4.1 This policy applies to all employees of the Pennine Acute Hospitals NHS Trust. Staff on secondment to the Trust will be required to observe the reporting / notification requirements of this policy. Medical and Dental staff employed by this Trust should read this policy in conjunction with the absence policy relating to career grade medical and dental staff.

5.0 General Principles

- 5.1 Employees will be advised of the sickness absence policy via the induction programme. Heads of Departments will be required to ensure that all managers are appropriately trained in both the requirements of the attendance and absence management policy and in respect of all appropriate mandatory training which may impact upon employee's health (e.g. manual handling). Corporate training will be provided to support this principle. Managers will also be responsible for ensuring that all staff understand what is expected from them in respect of this policy.
- 5.2 Employees who suffer ill health will be treated sympathetically and offered support during their absence and on their return to work, which will take account of advice/guidance provided through the occupational health referral processes.
- 5.3 The return to work interview is a supportive process used to discuss the reason for their absence and to identify any required support / associated issues for the absence. The interview is an informal meeting between the manager and the member of staff and must be conducted following each absence. Although informal, a return to work form must be completed to reflect the discussion (see appendix 3) and must be retained on the employee's personal file.
- 5.4 Sickness absence of 3-weeks or more will result in an automatic Occupational Health referral unless the nature of the absence is such that both the line manager and the employee agree that the referral is unnecessary (see section 6.2).
- 5.5 In line with the requirements of the Health and Safety Executive, and reflecting best HR practice, both manual and electronic records of non-attendance due to sickness and the reason for the non-attendance will be maintained (on a monthly basis). Records will be retained to ensure that accurate pay information is retained; absence levels (including the reason for the absence) is monitored, and benchmark data is identified. Managers will be responsible for analysing data so that emerging workplace trends can be identified and discussed at a senior level.
- 5.6 Whilst it is important that trends are analysed as outlined above, it is important to note that i) the reasons for absence is collated in order to comply with the legal requirements associated with health and safety legislation and ii) trends (of absence) are collated to ensure that a supportive infrastructure exists to address absence associated with work place issues. As such it is important that a sensitive, but non-intrusive approach is adopted where appropriate.
- 5.7 Cautions, as referred to in the 'Frequent and / or Persistent Short-Term Sickness Absence Procedure' outlined at Appendix 4, represent action that is comparable to the levels of disciplinary sanctions as identified in the Trust's conduct and disciplinary procedures. A stage 1 caution is regarded as comparable to a first written warning; a stage 2 caution is regarded as comparable to a final written warning and a stage 3 caution is regarded as being the point at which dismissal may take place.
- 5.8 Generally, no member of staff may undertake other work, paid or unpaid, whilst unfit to work, unless it is considered to be of significant benefit to the employee concerned. In such circumstances, the request to work will be supported by the individuals' medical advisor.

Prior to taking any decision, the line manager must seek the advice of both HR and Occupational Health. Failure to observe this requirement will render the employee liable to disciplinary action, including the possibility of dismissal.

- 5.9 Failure to adhere to this policy may be regarded as a breach of the conduct and disciplinary policy and may result in action up to and including dismissal under those procedures.

6 Definitions

- 6.1 There are two distinct types of sickness absence, short-term and long-term and each requires a similar approach in the initial stages.

Short-term absence. This is defined as periodic absences of short duration which may be uncertified, self-certified or medically certified. The procedure for managing short-term absence is set out in appendix 4 and includes the use of trigger points. The reference period for managing short term absence will be 12 months. This period may be extended to address persistent patterns of sickness or behaviour, which extend beyond this period.

Long-term absence. This can generally be defined as medically certified absence of greater than 3 continuous weeks. The procedure for managing long-term absence is set out at appendix 5.

Episode. An episode of absence is the actual period of continuous absence (regardless of length).

- 6.2 Work Related Stress: Irrespective of whether the absence is short-term or long-term, in the case of work related stress, an individual must be referred to occupational health with a copy of any risk assessment which should be available and details of any action taken by the manager to establish the cause. Referral therefore need not be immediate, but must be undertaken after 10 days continuous absence where the cause of the stress is not readily identifiable / remedial action has not been taken. Counselling support can be offered at this stage. Due regard must be given to the requirements of the Stress Policy. Employees may self-refer at any time.

7. Roles

- 7.1 The Role of the Manager: Managers have responsibility for the effective management and control of attendance and must take an active interest in the health, welfare and attendance of employees and identify and address any factors that may contribute to a poor attendance record. This will normally be undertaken via the return to work process. Equally managers must ensure that all new starters are aware of, and fully understand the reporting and sickness absence procedures and the standard of attendance.

- 7.2 The Role of the Employee: Employees are responsible for ensuring that they look after their own health and well being to ensure a sustained attendance at work. Where absence occurs, employees must follow the notification procedures set out in this policy and ensure that they maintain regular contact with their line manager (or other appropriately nominated officer). Employees are required to remain available and make themselves available for meetings when reasonably requested to do so. Notification procedures are set out in Appendix 1.

- 7.3 The Role of HR. HR is responsible for providing appropriate guidance to all staff on the use of this policy and its application generally and specifically (ie in individual cases). Appropriate training for managers in the use of this policy and procedures will be provided. HR will provide support to managers at any stage of the formal procedure, but a HR manager must be consulted before any steps are taken to terminate employment.

- 7.4 The role of Staff Side. Staff side representatives are available to support and advise members throughout the process and have the right to accompany and represent them in all meetings defined within this policy. Members should be reminded of this right when arranging meetings and given adequate opportunity to contact their trade union representative.
- 7.5 The role of Occupational Health. Occupational Health is responsible for providing management advice specifically relating to the occupational issues arising as a result of a particular medical condition and/or absence and will provide a range of available support to staff across a range of health related issues.

Typically (but not exclusively) occupational health will confirm the reason for the absence and the nature or any stated condition (ie medical or otherwise), the likely duration of the absence, relevance of employment legislation (e.g. the DDA) and issues relating to fitness to return to work. Additionally advice on redeployment, rehabilitation and ill health retirement forms part of this remit. Further information can be found at Appendix 7.

Pennine Acute Hospitals NHS Trust will pay due regard to the views of occupational health at all times and where appropriate may rely on this opinion to determine case management issues. Where conflicting medical opinion is received (e.g. from the GP) occupational health will seek to identify reasons for alternative medical opinions, prior to forming an opinion.

8. Managing Absence.

- 8.1 The procedure for managing short-term absence is set out in Appendix 4.
- 8.2 The procedure for managing long term / chronic absence is set out in Appendix 5.

9. Failure to follow the requirements of this policy

- 9.1 All employees are reminded that any failure:
- i) to observe the requirements of the policy (and the associated procedures) and / or
 - ii) to follow a reasonable management instruction associated with the management of this policy

may lead to action under the Trust's conduct and disciplinary procedure.

- 9.2 Employees are advised to contact their HR and / or trade union representative for further advice in relation to their obligations in this regard.

10. Redeployment

- 10.1 Where supported by Occupational Health, all reasonable attempts to secure redeployment will be explored. In considering whether a post is a suitable alternative, the Trust will pay due regard to the personal circumstances of the employee. Employees will however be expected to show some flexibility. Failure to secure reasonable alternative employment may result in the termination of the contract on the grounds of capability due to ill health or on grounds of medical / permanent incapacity (see appendix 5).

11. Manual and Computerised attendance-recording systems

- 11.1 Accurate record keeping is an integral part of each line manager's responsibilities. In order to support a fair and consistent approach to attendance issues, a corporate (interim) attendance management system will be implemented utilising both manual and electronic records. Line managers are responsible for ensuring that the systems are implemented and the data monitored.

11.2 Statistical information will be provided by the Human Resources department and provided to managers in the form of monthly sickness reports. Additional data may be presented from manual systems (e.g. HSE trend analysis). Any individual trends identified will be discussed between line managers and staff, and divisional / corporate trends will be discussed between management and staff side representatives through the Partnership Forum. Such data will be anonymised.

12. Temporary Injury Allowance

12.1 A temporary injury allowance may be payable where an employee is suffering a reduction in their NHS pensionable pay (or equivalent if not in the NHS pension scheme) and is absent from work as a result of an injury or disease (physical or psychiatric) that is wholly or mainly attributable to their NHS duties.

12.2 Entitlement to this allowance is determined by the Trust, with the appropriate input of Occupational Health. Allowances are calculated in line with the guidance produced by the Pensions Agency. Further information can be found at appendix 8,

13. Appeals

13.1 Except in cases resulting in the termination of employment, employees may appeal against any decision under this policy by confirming the intent to appeal in writing to the manager taking the decision.

13.2 The request for an appeal will be acknowledged within 5 working days, with an appeal to a senior manager heard, wherever possible, within a further 10 working days.

13.3 Appeals against dismissal must be made in writing to the Director of HR within 21 days of the notification of the dismissal. The appeal hearing will be heard by a Trust board and will follow the procedures identified under the conduct and disciplinary hearing (appendix 9).

13. Policy Review

13.1 This policy will be reviewed as identified on the document control form, or as a result of changing legislation / operational requirements.

Sickness Absence Notification and Certification Procedure

1. Except in the case of an emergency, employees must agree with their line manager (or appointed deputy) if they wish to leave work during normal working hours, due to sickness. The appropriate IPS procedure for recording leave in these circumstances will be followed.
2. On the first day of sickness, the employee should telephone their line manager as soon as possible prior to their commencement time, to inform them that they are absent due to illness; the reason for the illness and the expected period of absence. Unless it is not reasonably practicable to do so, the employee should contact the line manager.
3. Depending upon the anticipated length of the absence, the employee should maintain regular contact with the line manager. Where possible the regularity of contact will be agreed on receipt of the initial call.
4. It is the responsibility of every employee to maintain regular contact with their line manager during their absence so that regular updates on the progress of the illness and anticipated length of absence can be given.
5. Where an employee fails to maintain regular contact the line manager may contact the member of staff at home to ascertain the reason why and to receive an update. Contact in such circumstances should be reasonable to the situation and not excessive or intrusive.
6. A repeated failure to follow the notification and certification procedure may result in the conduct and disciplinary procedure being invoked.

Sustaining contact during periods of absence

7. Where appropriate the line manager may contact the member of staff at home and / or to arrange home visits to discuss issues associated with their absence including for example work related issues or a return to work strategy. Contact must be supportive and not intrusive.
8. If a member of staff prefers not to receive a personal visit their wishes should be respected. Further advice on managing the member of staff's absence should then be obtained from HR / Occupational Health.

Certification procedure

9. Absence up to 3 days - No certification required
10. Absence between 4 and 7 (calendar) days - A self-certificate of return to work must be completed for each occasion without exception (see appendix 10.).
11. Absence of 8 continuous calendar days or more - Must be supported by a medical certificate. Medical certificates are issued by a GP (med 3) or an NHS consultant (med 4).
12. A certificate must have expired or a signing off note received to support an employee's return to work.
13. Sickness during annual leave is addressed under the annual leave policy.

Sick Pay Entitlement

Entitlement to sick pay is in accordance with AfC terms and conditions of service. Sick pay entitlements are calculated on the length of continuous NHS service as follows:

1. During the first year of service:
One months' full pay and two months' half pay.
2. During the second year of service:
Two months' full pay and two months' half pay
3. During the third year of service:
Four months' full pay and four months' half pay
4. During the fourth and fifth year of service:
Five months' full pay and five months' half pay
5. After five years of service:
Six months' full pay and six months' half pay

An employee does not have the right to exhaust their entitlement to sick pay if a reasonable decision regarding their fitness to resume work can be made sooner.

The Return To Work Interview (Informal)

1. Where short-term absence occurs, the manager (or appropriate supervisor) will take immediate action that will involve a return to work interview to establish the facts relating to the absence.
2. Prior to the meeting the manager should check to ensure that the trigger points have not been met, as this will determine whether additional (and separate) action alongside the return to work interview is required.
3. The purpose of the meeting will be to ensure that the employee is fit to resume duties and to determine the reason for the absences. The meeting also provides the employee with the opportunity to identify any mitigating circumstances. The principle of the return to work interview is one of staff welfare.
4. The meeting will be convened in private and sufficient time set aside to establish any matters relevant to the absence. Appropriate support and assistance should be identified and where necessary implemented.
5. Where appropriate the manager may raise concerns about the member of staff's repeated absence from work and the impact that absence may have upon the delivery of the service and on immediate colleagues.
6. Return to work interviews will normally (but not exclusively) be carried out by the immediate manager for every period of absence and recorded on the employee's absence record. The standard form at Appendix 3i will be used for absences up to and including the 3rd occurrence. The form at 3ii is optional and may be used for all other purposes.
7. When a manager is concerned about an employee's health, taking into account the trends of absence the line manager may refer to Occupational Health and seek advice from HR. The employee will be informed if a referral has been made and the reason for the referral.
8. Where any other concerns exist managers may wish to remind employees of the right to self-refer.
9. A confidential advisory service, to employees who may not wish to discuss health related problems with their manager, is available via the Occupation Health Department or the HR Department.

THE PENNINE ACUTE HOSPITALS NHS TRUST
RETURN TO WORK INTERVIEW/REASON FOR SICKNESS FORM
Mandatory

NAME:

DEPARTMENT :

I confirm that I was absent from work from to(dates inclusive).

Due to:

.....

Medical Certification (to be completed by Manager)		
No Certificate Required (1-3 days)	SC2 - Self Certificate (3-7 days)	Doctors Certificate (over 7 days)

NB: Certification must cover the first and final day of sickness

Previous sickness/absences during previous 12 months:.....
.....
.....
.....
.....

Employee referred to Occupational Health? YES/NO

Outline of any action taken
.....
.....
.....

Signed by the employee:.....

Manager's signature:.....

- 1 Copy for Personal File
- 1 Copy for retention by Employee

Frequent and / or Persistent Short-Term Sickness Absence Procedure

1. Short-term sickness is usually categorised as either absence of up to 3 working weeks duration or occasions that are of a much shorter (but more frequent) duration, due to a variety of medical conditions and work place issues.
2. Return to Work Interviews will be completed after each period of absence, as outlined in Appendix 3.
3. Trigger points will be used to identify the point at which it is appropriate to take preventative and/or supportive action to understand and overcome problems that may have contributed to the absence. The trigger points for use are outlined below:

4. Trigger points.

- 4.1 At any of these stages managers may, where appropriate seek a referral to occupational health. Staff may also self refer at any time.
- 4.2 Three separate incidents within a 6-month period. This will generate the need for a sickness review meeting. This is an informal meeting that will take place with the immediate line manager or supervisor and the member of staff as soon as possible after the trigger is reached. The purpose of the meeting will be the provision of support and assistance to overcome any short-term issues or problems that have been identified as contributing to the level of absence. Any management referral to occupational health at this stage should be in circumstances where health or medical issues exist. This does not detract from the availability to self refer.

During this review, the employee will be advised that 2 further sickness absences within the next 6 month period (that is 6 months from the date of the first trigger was activated) will lead to a formal sickness review which may lead to a first written caution.

Although an informal meeting, staff who wish to be accompanied by a staff-side representative or workplace colleague should be permitted to do so. Managers may wish to seek further advice from HR in such circumstances.

- 4.3 It should be noted that the trigger points from this point forward are activated as a consequence of the absence, and not from the date of any meeting held to discuss the absence.
- 4.4 Two further separate incidents within a 6-month period. This will generate the need for a formal sickness review meeting. This will take place with a more senior manager and the purpose of the meeting will be to discuss the level of sickness absence and to identify whether there is any underlying reason for the level of absence. The employee is entitled to be accompanied at this meeting by a workplace colleague or staff side representative, and must be advised of this right in advance of the meeting. Managers should seek any appropriate advice from HR.

Managers must give appropriate consideration to the reasons provided by the employee for their absence levels. Where it is considered that reasonable mitigation exists for the level of absence, the manager may opt not to take any further action or to keep the situation under review. Alternatively a first written caution may be issued at this stage. The employee should be advised that this caution equates to a first written warning under the disciplinary procedure. The warning should be confirmed in writing and will be retained on file for 6 months.

The employee should be advised that their attendance will continue to be monitored, and any further absence within the next 6-month period may result in a final written caution.

- 4.5 Any further absence within a 6-month period. This will generate the need for a second formal sickness review meeting. The same manager may conduct this meeting, and the purpose of the meeting will again be to discuss the level of sickness absence and to identify whether there is any underlying reason for the level of absence. The employee is entitled to be accompanied at this meeting by a workplace colleague or staff side representative, and must be advised of this right in advance of the meeting. Managers must seek any appropriate advice / support from HR and the attendance of an appropriate HR advisor.

Managers must give appropriate consideration to the reasons provided by the employee for their absence levels. Where it is considered that reasonable mitigation exists for the level of absence, the manager may opt not to take any further action or to keep the situation under review. Alternatively a final written caution may be issued at this stage. The employee should be advised that this caution equates to a final written warning under the disciplinary procedure. The caution should be confirmed in writing and will be retained on file for 12 months.

If a final written caution is issued, the employee should be advised that any further absence may result in the termination of their contract of employment.

- 4.6 Any further absence within a 12-month period will result in a further review meeting. The purpose of this meeting will be to review the absence and any mitigation for that absence. Prior to convening this meeting and in advance of any decision taken, the manager will ensure that they have all the relevant information available, including recent occupational health reports, if relevant. If any previous occupational health report is more than 6 months old, the member of staff should, if appropriate, be re-referred to occupational health to obtain the relevant opinion.

The manager conducting this meeting will have had no direct input into the case previously and must have (or been given) authority to dismiss. In recognition that in some circumstances, termination of the contract due to capability caused by absence may result, this should be clearly outlined in the correspondence. Again, the right to be accompanied by a staff side / workplace colleague must be afforded. HR must be in attendance to provide support.

Where it is considered that reasonable mitigation exists for the level of absence, the manager may opt not to take any further action or to keep the situation under review. Alternatively if it is considered that all options have been exhausted and there is no reasonable indication that the appropriate level of improved and sustained absence is likely, termination of the contract may take place at this point on grounds of incapability due to illness.

5.0 Appeals

- 5.1 Except in cases resulting in the termination of employment, employees may appeal against any decision under this policy by confirming the intent to appeal in writing to the manager taking the decision. The request for an appeal will be acknowledged within 5 working days, with an appeal to a senior manager heard, wherever possible, within a further 10 working days.
- 5.3 Appeals against dismissal must be made in writing to the Director of HR within 21 days of the notification of the dismissal. The appeal hearing will be heard by a Trust board and will follow the procedures identified under the conduct and disciplinary hearing (appendix 9).

LONG TERM AND /OR CHRONIC SICKNESS ABSENCE

Long-term sickness is defined as absence in excess of three weeks where there is no immediate prospect of a return to work. Alternatively, an employee may be absent for shorter but frequent periods due to a debilitating chronic illness.

The following procedure should be followed to address long term/ chronic sickness absence:

1. Whilst a medical certificate provides an indication of the likely timescale for absence, it is reasonable to expect employees to contact their manager to provide an update on their current condition and progress on a regular basis. Regular meetings will be arranged as appropriate to the situation.
2. If an employee cannot attend a meeting, a visit to their home or an alternative place of choice should be discussed with the individual to facilitate a review and staff should be reminded of their right of representation. Consideration should be given as early as possible in the period of absence as to whether a return to work on adjusted or reduced hours for a specified period of time would be appropriate.
3. Contact must be maintained to ensure appropriate management intervention is taken, including the identification and provision of appropriate, reasonable support. Where this is not maintained, managers may contact staff at home, but this must be appropriate to the situation, reasonable and not intrusive.
4. Where it is clear that the employee will be absent for a long time or if there is no way of knowing when they will be able to return to work, the employee will be referred to Occupational Health for a confidential report on their condition. In any case a member of staff should be referred to Occupational Health where an absence is likely to exceed four weeks duration.
5. Upon receipt of the Occupational Health report a meeting should be arranged with the employee wherever practical to discuss the options available. By way of illustration only, these options may include the following:
 - i) The employee will be fit to return to work. In this case no further action is required beyond the continued monitoring of the situation as necessary.
 - ii) The employee may be fit to return to work but not in the near future. The situation should continue to be monitored to ensure that a return to work is achievable within the foreseeable future (and in any event, where possible, before their sick pay entitlement expires).
 - iii) The report states that the employee is unfit to perform their present duties, but is capable of other work (in the same or other department, with or without reasonable adjustments). In this case their manager (in conjunction with HR) will attempt to identify reasonable alternative positions based on the advice of the Occupational Health Department. There is no onus on the employer to create a job but reasonable attempts must be made to identify alternative posts and the redeployment register may be used for this purposes.
 - iv) The outcome of all meetings held will be confirmed in writing.
 - v) Where an agreed alternative post is not available or the medical report states that the employee will be unfit to return to work to their current (or alternative role) or the employee is declared unfit to continue in any capacity for the foreseeable future the individual's employment may be terminated with appropriate notice. This may occur prior to the employee having reached the end of their contractual sick pay period. Due regard must always be placed on the requirements of the DDA.

6. Where termination of the contract is considered to be a possible the relevant manager should ensure that:
 - i) the circumstances of the case have been discussed with the relevant HR Advisor and all the circumstances have been considered.
 - ii) the relevant manager has been provided with the authority to dismiss as defined in Appendix 6);
 - iii) the individual has been formally invited to a meeting to discuss the outcome of the process and is formally advised that one of the outcomes of the meeting may be dismissal. The right to representation is formally confirmed.
 - iv) the circumstances are discussed with the individual and the opportunity to raise issues is provided;
 - v) a decision is based on all of the information available, including that presented on the day.
 - vi) The outcome of the meeting, together with appeal arrangements, is confirmed in writing;
 - vii) The right of appeal against the decision reached is provided.

Other Considerations

7. Due regard must always have been made to the requirements of the DDA (where relevant).
8. Where terminal illness is diagnosed or the absence is related to a disability, managers should discuss the circumstances with HR to ensure that the most appropriate action is taken and that due regard to the DDA has occurred. The employee should always be advised to seek advice in respect of their NHS pension.
9. Employees should not be expected to work additional hours soon after returning from sick leave. If an employee works additional hours on the bank or for another employer, this should be discussed to assess the potential impact on the individual's ability to maintain an acceptable attendance pattern.
10. It is open for the employee to provide their own independent medical report, but the employee will be responsible for making the necessary arrangements and for any costs involved.
11. Following Occupational Health advice, the employee may be able to return to work on a part-time basis or use accrued annual leave to make up their contracted hours.
12. To aid rehabilitation, managers can allow employees to return to work on reduced hours without loss of pay. Managers should take advice from Occupational Health and HR and such a 'phased return' will usually be limited to a maximum period of 4-weeks. There is no right of appeal against any decision taken in respect of rehabilitation arrangements.

RETIREMENT ON THE GROUNDS OF MEDICAL INCAPACITY

13. Under the terms of the NHS Pension Scheme, a member of staff may apply for early release of their pension on the grounds of medical / permanent incapacity at any age after two years' pensionable service.
14. Where permanent incapacity is not supported but where the employee is likely to remain unfit for the foreseeable future, a decision may be made to terminate on the grounds of incapacity caused by ill health. In these circumstances the employee has the right to submit an application to the NHS pensions agency for the early release of pension – this would need to be supported by the employees GP / Consultant or any other specialist.
15. Where it is deemed that Occupational Health can support permanent incapacity, the Trust will support an application for early release of their pensions.

16. Any decision to terminate a contract on the grounds of medical incapacity does not guarantee an ill-health pension payment. The decision on whether or not a pension will be released early is made by the Pensions Agency based on information provided by the employee, and where appropriate the Trust / GP and a relevant clinician.
17. Employees are advised to seek the advice of the Trust's pension advisor.

Delegated Authority

Authority to Dismiss

For the purpose of this policy a senior manager is defined as a head of department / head of service with the responsibility for managing staff.

Authority to potentially dismiss must have been provided in advance by the relevant Associate Director or Director.

The Role of Occupational Health - Managing Expectations and Outcomes

- 1.0 The role of the occupational health specialist is to provide advice on the work-related issues that may be associated with a medical condition / absence. It is not to be confused with the role of the GP which is to manage the actual condition.
- 2.0 In this context occupational health specialists will routinely provide information to managers to help them to determine the reason for the absence / condition and whether or not an individual is fit to return to their job (with or without adjustments). Typically they will also identify the steps that managers should take to support an early return / return to work.
- 3.0 Where it is necessary to obtain further medical information prior to providing advice to managers, Occupational Health will, with the consent of the employee, liaise with the GP (or other medical specialists) prior to providing such advice. Where all the relevant information has been received, Occupational Health will provide advice upon which managers may be entitled to rely.
- 4.0 It is not always appropriate to refer to occupational health where absence relates to occasional and frequent absence matters. The return to work interview as outlined in appendix 4 – “Frequent and / or Persistent Short-Term Sickness Absence Procedure” may be a more appropriate tool to ascertain the required information.
- 5.0 Referral to occupational health should be considered in the following circumstances:
 - i) If as a result of return to work interview or an attendance interview, the employee states that they have an ongoing health problem, which is the cause of their sickness absence;
 - ii) If the managers notice that the sickness absence is with the same health problem;
 - iii) The employee states that their work is causing their health problem (whether or not they have incurred any sick leave or not);
 - iv) The employee incurs sickness absence with stress or anxiety and immediate preventative actions are not agreed;
 - v) If there is deterioration in the quality of an individual’s work, behaviour or persistent poor time keeping and they wish to preclude any underlying medical problem.
 - vi) Where an individual states they are unable to undertake any part of their duty due to health problems;
- 6.0 When referring an employee line managers need to observe the following requirements:
 - i) All formal referrals to OHS must be made **in writing** (copied to the employee).
 - ii) Where possible, the manager must discuss the referral with the staff member **before** any referral is made, and the employee should be advised of the content of the referral letter.
 - ii) If individuals are referred for counselling by their manager, this is in confidence, and the manager will not receive a report from the Counsellor. Should the manager require a report concerning this employee’s health, a formal referral should be made to the Occupational Health Department. This will be dealt with in the normal manner, without breaching confidentiality.
- 7.0 Muscular Skeletal Injuries. Any employee or manager can telephone OHS direct to arrange a physiotherapy appointment. This service is available to staff, whether or not their condition is caused by work. It is useful to refer employees as soon as a problem arises as sometimes prompt physiotherapy can prevent sickness absence occurring. Other free services available for staff at OHS are Counselling. A small fee is charged for Aromatherapy and Reflexology.

THE NHS INJURY BENEFIT SCHEME

1.0 The information contained in this section is intended as a guide only. Further information may be found at the web address at the foot of this page. Employees are also advised to seek further information from the relevant HR / trade union representative.

2.0 Temporary Injury Allowance (TIA)

2.1 The purpose of the Scheme is to guarantee an income to an employee who suffers a temporary loss of NHS earnings (TIA) resulting from an injury or disease wholly or mainly attributable to the duties of their NHS employment.

2.2 To qualify for TIA an employee who is covered by the Scheme must be absent on sick leave and suffering a reduction in their NHS pensionable pay (or what would be deemed to be their pensionable pay) as a result of an injury or disease (physical or psychiatric) that is wholly or mainly attributable to their actual NHS duties.

2.3 The Regulations give permission for NHS employers to decide entitlement to TIA. Staff seeking to apply for TIA should write to their respective managers in the first instance. The responsibility for determining the outcome of applications rests with the Assistant Director of HR, who will take the appropriate advice, from managers and occupational health physicians, as appropriate.

3.0 Permanent Injury Benefit (PIB):

3.1 This scheme is designed for NHS employees who have suffered a permanent reduction in their earning ability as a result of an injury or disease wholly or mainly attributable due to their actual NHS duties. To apply for the PIB the employee must have left NHS work, changed their job, or reduced their hours in their current job.

3.2 PIB can be considered under the following circumstances:

- i) A person has to leave NHS employment because of the injury or disease or they take up a different lower paid employment with a new contract.
- ii) A person has suffered an injury but leaves the NHS for other reasons. They may be entitled to claim PIB at age 60 or earlier if they have suffered a permanent reduction in earnings ability because of the NHS injury or disease.

In both cases a tax-free lump sum is payable and potentially a tax-free annual benefit if the application is successful.

iii) A person takes a permanent reduction of pay in the **same** job (i.e. reduced hours) under the same contract of employment. A lump sum is not payable unless the person subsequently has to leave their employment as a result of the injury or disease. If the application is successful the annual PIB allowance is taxable.

3.3 PIB application form (AW13) must be completed and the following documentary evidence provided: i) all accident reports ii) all Occupational Health Department notes and records iii) reports of any internal investigation connected with the claim; iv) a full job description; v) sick leave records iv) a full statement of events explaining what injury/disease the applicant is claiming for and the circumstances leading to the claim. Employers who do not support the claim must still provide a statement

- 3.4 Although an application for PIB (on form AW13) can be completed whilst an employee is still employed, the outcome cannot normally be decided until they have left their NHS employment or moved to a lower paid job.
- 3.5 The Pensions Agency and its independent medical advisors always decide entitlement to PIB. Further information can be found at the website www.nhspa.gov.uk.

HANDLING AN APPEAL HEARING AGAINST DISMISSAL

This process describes how an appeal against dismissal hearing will be handled. Appeals against dismissal will be heard by a panel of Trust Board members.

Appeals for a lesser penalty will follow the same process with the panel substituted by an appropriate Senior Manager, and Human Resources Representative.

1. The Panel will consist of 3 Trust Directors, to include 1 Non-Executive Director, and 2 Executive Directors supported by the Head of Human Resources or Senior Human Resources Officer.
2. The Chair of the panel will start by introducing those present and the purpose of the hearing.
3. The Chair will ask the Manager to state the nature of the dismissal and present the supporting evidence.
4. The Panel should consider the validity of statements presented without witness support.
5. The individual or their representative can then question the Manager and their witnesses.
6. The Chair will then invite the individual or their representative to state their case and will consider any explanations put forward and any statements by other people involved. These may be written or presented personally by witnesses.
7. The Manager can then question the individual, their representative, and their witnesses.
8. The Panel may choose to ask questions after each or any stage of the above. Whilst every effort should be made to ensure continuity of case presentation, the panel may question the individual, manager or witnesses at any time during the hearing for further information or clarification.
9. The Chair will then ask each party, the manager first, to sum up their case. No new evidence should be introduced at this stage.
10. The Panel will then call an adjournment to consider their decision. There should be no adjournment until all parties are satisfied that they have fully stated their case and that the correct procedure has been followed.
11. In the decision making process the Panel will consider the whether the case was handled in a reasonable and fair manner and that the correct procedure was followed.
12. The Chair of the Panel will then reconvene the appeal hearing to clearly inform the individual and the Manager of the decision.
13. The Human Resources Representative supporting the panel will record the action taken, prepare the letter to the individual confirming the decision, and keep a simple record of the action taken for future reference.