



# Supporting Health and Wellbeing Policy and Procedure

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Lead Author(s):	Head of Human Resources (Business Partnering and Employee Relations)
Responsible Director:	Chief People Officer
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# 1 Introduction

- 1.1 This policy and procedure describes the Trust's commitments in relation to supporting staff to be able to attend work when well, ensuring an environment where employees' health and welfare is a priority and prioritising timely and responsive interventions which are proportionate and facilitate a return to work wherever practicable. This helps the Trust to ensure that everyone's contribution is valued.
- 1.2 Employees who are ill will be treated sympathetically and every effort will be made to assist recovery and safeguard employment, whilst managing health-related absences in accordance with this policy and procedure. The Trust encourages and promotes a culture which ensures that employees are aware that their regular attendance at work and their contribution to their team is valued. This is done through putting in place strategies that minimise the impact of non-attendance on both the employee, their colleagues and operational services.
- 1.3 It is inevitable that some employees will experience periods of ill-health. Each employee will be treated in a fair and reasonable manner with due consideration given to the individual circumstances. In all cases the Trust assumes that health-related absence is genuine and that employees should always be treated with empathy, understanding and compassion. The provisions of the Equality Act 2010 and the Human Rights Act 1998, and other appropriate legislation, will also be applied. As part of its development, this policy and procedure and its impact on equality has been reviewed. The purpose of the assessment is to minimise and, if possible, remove any disproportionate impact on the grounds of race, sex, gender identity, disability, age, sexual orientation or religion/belief. The equality impact assessment is attached as appendix C.
- 1.4 All employees are accountable for attending work and for managing their own health and wellbeing. However, there are also times where additional support is required to do so. Employees should therefore raise concerns affecting their health and wellbeing with their line manager or a member of the people team. The emotional, psychological and physical effects of ill-health will be fully considered. Line managers have an integral role in supporting employees and undertaking health and wellbeing conversations. Line managers and employees will be supported by systems and processes which enable them to undertake their roles effectively.
- 1.5 The Trust is committed to measuring attendance levels for all employees as it recognises that levels of absence are an indicator of the health and wellbeing of employees, the environment in which people work and the performance of the Trust overall.
- 1.6 The Trust will take all available opportunities to learn and live its values in carrying out this policy and procedure.

- 1.7 The Trust has a duty of care to all employees and is committed to providing a working environment which protects and promotes the health, safety and welfare of all employees, including physical and mental wellbeing and psychological safety.
- 1.8 This policy and procedure was formerly known as the sickness absence procedure version 3.2.

## 2 Scope

- 2.1 This policy and procedure applies to all individuals directly employed by the Trust, including visiting lecturers. It does not apply to bank workers, agency workers, locums or students.

## 3 Definitions

- 3.1 **Short-term health-related absence**  
This is a period of health-related absence which has lasted, or is anticipated to last, for between one and 27 days.
- 3.2 **Long-term health-related absence**  
This is a period of health-related absence which has lasted, or is anticipated to last, for more than 28 days.
- 3.3 **Fit note**  
This is a certificate which is required for any health-related absence which lasts over 7 days. It was previously known as a medical certificate or sick certificate. It is issued by a GP, nurse, occupational therapist, pharmacist or physiotherapist who is treating the employee. A hospital doctor can also issue a fit note, for either inpatient or outpatient treatment.
- 3.4 **Self-certificate**  
A form which must be completed by employees for any health-related absence which has lasted between 1 and 7 days (template form A on the intranet).
- 3.5 **Absence review period**  
A 3-month period during which employees are supported to maintain a satisfactory level of attendance at work.
- 3.6 **Threshold point**  
The point at which a line manager should commence an absence review period.
- 3.7 **Occupational sick pay (OSP)**  
OSP is a contractual benefit and is paid in line with the relevant terms and conditions of service (see sections 5.1.1 to 5.1.6).

### 3.8 **Statutory sick pay (SSP)**

SSP is a state benefit and has separate qualifying arrangements to OSP. Employees must meet certain criteria to be eligible for SSP, including providing a fit note for any absences lasting more than 7 days (see sections 5.1.7 to 5.1.9).

## 4 **Duties and responsibilities**

### 4.1 **Directors**

Directors are responsible for:

- promoting the health and wellbeing of the workforce and providing a safe and healthy working environment to enable employees to attend work regularly;
- providing a system to enable line managers to effectively support employees and manage absence, including regular reviews of absence levels within each directorate.

### 4.2 **Line managers**

Line managers are responsible for:

- complying with this policy and procedure to ensure that everyone (including new starts at local induction) understand the standards required;
- ensuring that all health-related absences (including reasons for absence) are recorded in accordance with the procedure at section 6.2, via the appropriate Trust absence management systems;
- ensuring that all health-related absences are managed in accordance with this policy and procedure, including all thresholds and timelines, and that this is done in a sensitive and confidential manner;
- creating a positive working environment which ensures employee health and wellbeing;
- ensuring that both they and their team members are aware of the Trust's employment policies and procedures and trained and updated in their use;
- implementing this policy and procedure fairly and consistently, ensuring that they adhere to the principles of equality of opportunity;
- taking all reasonable steps to maintain confidentiality when applying this policy and procedure;
- maintaining contact with employees who are absent from work, at least fortnightly;
- referring employees with health issues to the Trust's occupational health provider as early as possible so that appropriate support and recommendations can be provided;
- obtaining advice from the Trust's occupational health provider where an employee has been in contact with a transmissible infectious disease;
- keeping appropriate written documentation, ensuring that this is held securely and that confidentiality is maintained;

- conducting return to work meetings with employees after each episode of health-related absence;
- reporting any incidents, via the Trust's quality portal, which result in an industrial injury through an accident at work.

### 4.3 Employees

Employees are responsible for:

- attending work regularly and for taking responsibility for looking after their own health and wellbeing;
- advising their line manager on the first day of their health-related absence;
- communicating effectively with their line manager about progress with their health-related absence and likely return to work date;
- submitting fit notes in a timely manner;
- communicating effectively with their line manager about any issues or concerns relating to their health at work;
- remaining available to attend meetings, including review meetings and occupational health appointments, when on health-related absence;
- complying with all aspects of this policy and procedure;
- arranging their own representation or support for formal meetings;
- not undertaking paid work or activities elsewhere whilst on health-related absence;
- not undertaking paid work or activities elsewhere which could impact on their recuperation;
- having a duty of care to their service users and colleagues by not attending work if they have a transmissible infectious illness that could place others at risk (if in doubt, the line manager must seek advice from the Trust's occupational health provider);
- informing their line manager of any accidents or near misses at work;
- ensuring that their personal contact and next of kin details are kept updated on ESR.

### 4.4 People department

The people department is responsible for:

- advising line managers and employees on the fair and consistent interpretation and application of this policy and procedure, including training;
- monitoring and evaluating the application of this policy and procedure;
- providing advice and guidance to employees and line managers to support the attendance at work of employees who have a disability or long-term health condition;
- attending formal step 3 meetings to act in an advisory capacity (by invite and agreement, a member of the people team may attend other formal meetings for complex cases);

- analysing and reporting on health-related absence information collated through the monthly departmental health-related absence reporting forms submitted by line managers and health-related absence data input directly into ESR.

## **4.5 Staff-side representatives**

Staff-side representatives are responsible for:

- providing advice and/or support to individual members in relation to concerns about attendance and health at work;
- working in partnership with the Trust in addressing concerns about attendance and health at work;
- accompanying members in formal meetings;
- presenting evidence on behalf of members in formal meetings.

## **4.6 Trust occupational health provider**

The Trust's occupational health provider is responsible for:

- advising on any underlying health conditions and prognosis which will include an assessment of the likely long-term effects;
- detailing whether the condition is likely to recur and, if so, over what timescale;
- confirming whether an employee is medically fit to undertake their duties or if restrictions apply and whether workplace controls or adjustments are required;
- advising whether alternative employment should be sought;
- considering and advising whether an application for ill-health retirement is appropriate;
- providing an assessment of an employee's disability or long-term health condition and advising on reasonable adjustments.

# **5 Health and wellbeing guidance**

## **5.1 Sick pay and records**

- 5.1.1 For employees covered by the Agenda for Change agreement, section 14 of the nationally agreed Agenda for Change NHS terms and conditions of service handbook sets out the occupational sick pay (OSP) entitlements which are based on an employee's amount of continuous service on the first day of their current health-related absence.

5.1.2 For consultant staff covered by the terms and conditions for consultants (England) 2003, paragraph 23 of schedule 18 will apply for the purpose of ascertaining the appropriate allowance of OSP. Previous qualifying service shall be determined in accordance with a consultant's statutory rights and all periods of service, without any break of twelve months or more (unless undertaking voluntary service), with a National Health Service employer shall be aggregated.

5.1.3 For doctors in training covered by the terms and conditions of service for NHS doctors and dentists in training (England) 2016 version 11, section 59 of schedule 10 will apply for the purpose of ascertaining the appropriate allowance of OSP. Previous qualifying service shall be determined in accordance with the doctor's statutory rights and all periods of service, without any break of 12 months or more, with a National Health Service employer shall be aggregated. Previous service with a non-NHS employer where placement is required should be included when calculating the allowance. Where a doctor has broken their regular service for one of the following reasons:

- a) in order to go overseas in a rotational appointment forming part of a doctors' recognised training programme; or
- b) for an approved period of time out of programme (OOP) for clinical training (OOPT), clinical experience (OOPE) or research (OOPR);

then the doctor's previous NHS or approved service shall be taken fully into account in assessing entitlement to OSP, provided that the Trust considers that there has been no unreasonable delay between the training or OOP ending and the commencement of the subsequent NHS post.

5.1.4 For doctors in training, previous contracted locum service shall be recognised, subject to a minimum of 3 months' continuous NHS locum service (see section 59 of schedule 10 of the terms and conditions of service for NHS doctors and dentists in training (England) 2016 version 11).

5.1.5 For all employees, OSP entitlements are as follows:

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

5.1.6 An employee's entitlement to OSP is based on a 12-month rolling year. Any sick pay received in the 12 months preceding the first date of the current health-related absence will be deducted from the overall entitlement.

- 5.1.7 Statutory sick pay (SSP) is a state benefit and has separate qualifying arrangements to OSP. Further information on SSP is available here: [Statutory Sick Pay \(SSP\) : Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/statutory-sick-pay-ssp).
- 5.1.8 Employees must meet certain criteria to be eligible for SSP, including providing a fit note for any absences lasting more than 7 days.
- 5.1.9 The Trust is responsible for paying SSP to employees for up to 28 weeks health-related absence, if the employee meets the qualifying criteria for receiving SSP. After 28 weeks, employees may be able to claim Employment and Support Allowance (ESA) or Universal Credit, which are paid by the Department of Work and Pensions (DWP). Once an employee has been absent for more than 28 weeks, the Trust's payroll provider will send the employee an SSP1 form which allows the employee to make an application to DWP for ESA or Universal Credit.
- 5.1.10 SSP and OSP are both calculated and paid using the number of calendar days the employee is absent, irrespective of an employee being full-time or part-time. This means that all days when an employee is absent count towards the calculation of sick pay, which includes non-working days. Weekend days and/or days on which an employee is not rostered to work will be recorded as health-related absence if the employee does not report fit to resume on their next rostered day.
- 5.1.11 An employee who is absent because of an accident either inside or outside of the workplace is not entitled to sick pay if damages are received from a third party. The employee must notify their line manager immediately of any such accident and legal proceedings so that arrangements can be made for sick pay to be recovered.
- 5.1.12 Health-related absence information is held on ESR in accordance with the Data Protection Act 1998. This information will only be used for the purposes of managing health-related absences and calculating pay. Employees may request a copy of their health-related absence record and ask for any errors or omissions to be checked and, where incorrect, rectified.
- 5.1.13 For those employees covered by the Agenda for Change terms and conditions of service handbook section 14.10 sets out the arrangements for those employees on OSP who have exhausted their sick pay entitlements. Sick pay should be reinstated at half pay after 12 months of continuous health-related absence in the following circumstances:
- employees with more than 5 years' reckonable service – sick pay will be reinstated if sick pay entitlement is exhausted before a step 3 formal hearing for long-term health-related absence has taken place;
  - employees with less than 5 years' reckonable service – sick pay will be reinstated if sick pay entitlement is exhausted and a step 3 formal hearing does not take place within 12 months of the start of the health-related absence;

- reinstatement of sick pay should continue until the step 3 formal hearing has taken place;
- reinstatement of sick pay is not retrospective for any period of zero pay in the preceding 12 months of continuous absence.

5.1.14 These arrangements will only apply where the failure to undertake the step 3 formal hearing is due to delay by the Trust. This provision will not apply where a step 3 formal hearing has been delayed due to reasons other than those caused by the Trust.

5.1.15 There is no obligation on the Trust to wait until OSP is exhausted before terminating employment.

5.1.16 There is an expectation that a final decision on the future employment of any employee will be made within a maximum of 12 months from the date the health-related absence began. In exceptional circumstances, the line manager can extend any of the timeframes stated after consultation with the Trust's occupational health provider and in agreement with a senior member of the people department.

5.1.17 Agreed phased returns to work will be on normal full pay for up to 8 weeks (see section 5.9).

## **5.2 Injury at work/industrial injury**

5.2.1 Where an employee is absent as a result of an injury sustained in the workplace and where their salary falls below their average monthly/weekly pay, then the employee may apply for injury allowance or permanent injury benefit which, if granted, may bring their pay up to 85% of their average pay. In this circumstance, the line manager should seek advice from the people department.

5.2.2 When employees are absent due to an industrial injury, line managers will continue to be guided by this policy and procedure. Consideration should be given to what support can be offered to support the employee to return to the workplace, taking into account the nature of the injury and the impact that this has on the employee (eg temporary redeployment to a different role).

5.2.3 All health-related absences due to an industrial injury will be included in the overall health-related absence record on ESR, but the episode relating directly to the industrial injury will be disregarded for the purpose of determining whether the employee has reached a threshold point.

5.2.4 In order for a health-related absence to be recorded as directly relating to an industrial injury the incident must be reported immediately to the employee's line manager who must complete an incident report, via the Trust's quality portal, referencing the injury at work.

- 5.2.5 If an employee is absent for more than 7 consecutive days as a result of an accident or incident at work, this will be notifiable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013. Further advice can be obtained from the Trust's health and safety manager.

## **5.3 Health-related absence during annual leave**

- 5.3.1 If an employee is unwell whilst on annual leave, the annual leave may be regarded as health-related absence provided the employee notifies their line manager as soon as they fall ill and obtains a fit note to cover the entire period of the health-related absence. Employees will forfeit this right should they fail to notify their line manager at the appropriate time as detailed within section 6.1.
- 5.3.2 Employees travelling to places where there is a known risk of disease (eg malaria) or undertaking activities where there is a possibility of injury (eg skiing) must take adequate precautions to safeguard their health and safety, including, amongst others, adequate inoculations, anti-malarial retro-virals and use of safety equipment.
- 5.3.3 The Trust reserves the right to seek confirmation of the events leading up to extended and/or repeated periods of health-related absence whilst on annual leave and to request reasonable safeguards are in place for future trips. In such circumstances, the Trust reserves the right to withhold OSP.
- 5.3.4 Employees on long-term health-related absence may request and take annual leave provided it is approved by their line manager in the normal way. Line managers are encouraged to remind employees of this facility and to monitor uptake.
- 5.3.5 Employees continue to accrue annual leave whilst on health-related absence. If an employee's health-related absence spans two annual leave years and the employee is not able to take annual leave, then this will automatically be rolled over into the next leave year (up to a maximum of 20 statutory annual days as per ACAS guidance, pro rata for part-time employees). Employees can accrue up to a maximum of 18 months' annual leave.
- 5.3.6 Employees will not be entitled to an additional day of leave if their health-related absence is on a designated bank holiday.
- 5.3.7 The Trust reserves the right to request and receive original documents to verify intended dates of travel.
- 5.3.8 Employees who become sick immediately prior to or following a period of annual leave which means that they are unable to attend work as planned must notify their line manager in the normal way and usual certification requirements will apply from the first day of the health-related absence and remain in place until the employee returns to work, unless they have notified their line manager that they would be fit to return to work. Should a pattern emerge of health-related absence around annual leave, then the line manager

should instigate an informal step 1 health-related absence meeting (see section 6.4).

## **5.4 Failure to follow the health-related absence reporting procedure**

- 5.4.1 It is important that employees follow the steps outlined for notifying their line manager of their health-related absence and for providing the appropriate certificates. If the procedure is not followed, and no reasonable cause is provided, the employee may be placed on unauthorised absence and will not be paid. Before taking the decision to place an employee on unauthorised unpaid absence, the line manager will attempt to contact the employee and their next of kin. The line manager will then send the employee a letter informing them that their pay is being suspended and asking them to make contact urgently (template letters 1 and 2 on the intranet). The line manager must also complete a change form suspending the employee's pay and submit this to [payforms@tavi-port.nhs.uk](mailto:payforms@tavi-port.nhs.uk) for processing. Advice is available from the people team if line managers are considering suspending pay.
- 5.4.2 Absence without reasonable cause may lead to action being taken in accordance with the Trust's disciplinary procedure.
- 5.4.3 It should be noted that under current terms and conditions of employment, the Trust can require an employee to produce a fit note from the first day of health-related absence, after due notice has been given. In these circumstances, if the employee occurs a charge for obtaining a fit note, the Trust will reimburse this.
- 5.4.4 This policy and procedure does not impose disciplinary sanctions for high levels of health-related absence and seeks to address health-related absence through absence review and support.

## **5.5 Counterfraud**

- 5.5.1 It is an offence under the Fraud Act 2006 for employees to take sick leave when they are not unwell. This may include paid or voluntary employment whilst on sick leave or using their sick leave to attend academic courses.
- 5.5.2 Employees who dishonestly take sick leave will be referred to the local counterfraud specialist. This could lead to a counterfraud investigation, disciplinary measures, civil or criminal action and, if appropriate, referral to the employee's professional regulatory body.
- 5.5.3 If any employee has concerns that a colleague may be taking sick leave dishonestly, they should refer to the Trust's freedom to speak up policy and freedom to speak up procedure (available on the intranet) which detail options available for raising concerns.

## 5.6 Medical suspension

- 5.6.1 In exceptional circumstances, an employee's health may prohibit them from safely discharging their duties (eg when an individual's clinical practice is impaired or where an employee has been in contact with a notifiable disease). In such circumstances, it may be appropriate to consider medically suspending the employee on full pay and without prejudice until:
- a report can be obtained from the Trust's occupational health provider;
  - a period of clinically recommended isolation expires;
  - a redeployment opportunity is identified; or
  - a health-related absence review meeting or hearing can be scheduled.
- 5.6.2 Medical suspension is a serious matter and, whilst being without prejudice, it is unlikely to feel that way to the employee being excluded from the workplace. Appropriate welfare support should be provided to employees who are medically suspended.
- 5.6.3 Medical suspension can only be undertaken by a manager with sufficient authority to suspend (see appendix A). The manager should discuss the need for medical suspension with a senior member of the people department who will support in completing a checklist to assess whether medical suspension is the correct course of action.
- 5.6.4 Suspensions should be for as short a period as possible and be frequently reviewed, with a plan for how to keep in touch with the suspended employee so that they do not become isolated.

## 5.7 Coronavirus (covid-19)

- 5.7.1 The likelihood of being admitted to hospital directly due to coronavirus (covid-19) is greatly reduced in the general population, with testing in healthcare settings mainly targeted at informing clinical care.
- 5.7.2 Most healthcare staff who have [symptoms of a respiratory infection](#) are no longer asked to test for covid-19.
- 5.7.3 Healthcare staff who do test positive for covid-19 are no longer required to have 2 negative lateral flow device (LFD) tests for covid-19 before they return to work.
- 5.7.4 Healthcare staff whose jobs primarily involve providing direct patient care to severely immunosuppressed patients, and who have symptoms of a respiratory infection and/or a high temperature and/or do not feel well enough to go to work, are advised to stay at home and avoid contact with other people. This applies to cold, flu and other infectious illnesses. Employees should stay at home until they no longer have a high temperature (if they had one) or until they no longer feel unwell.

- 5.7.5 Guidance for line managers is available here: [COVID-19: managing healthcare staff with symptoms of a respiratory infection - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/covid-19-managing-healthcare-staff-with-symptoms-of-a-respiratory-infection).
- 5.7.6 Line managers should continue to report absences due to covid-19 using the reporting form (available on the intranet). Completed forms should be sent to [absence@tavi-port.nhs.uk](mailto:absence@tavi-port.nhs.uk) so that a member of the people department can input the absence onto the employee's ESR record.
- 5.7.7 For up-to-date information, check the NHS website: <https://www.nhs.uk/conditions/covid-19/covid-19-symptoms-and-what-to-do/>.
- 5.7.8 Resources for supporting employees with long covid are available here: [NHS England » Supporting colleagues affected by Long Covid](https://www.nhs.uk/conditions/covid-19/long-term-effects-of-covid-19-long-covid/) and here: <https://www.nhs.uk/conditions/covid-19/long-term-effects-of-covid-19-long-covid/>.
- 5.7.9 Keeping Well NCL have produced a touchpoint video about supporting employees with long covid which is available here: [Keeping Well NCL Long Covid Project Touchpoint Film - YouTube](#)

## **5.8 Return to work meeting**

- 5.8.1 Employees should inform their line manager of their intended date of return to work.
- 5.8.2 Line managers must arrange to meet with employees for a return to work meeting. This should take place on the first day in work following any period of health-related absence.
- 5.8.3 The return to work meeting should be a supportive one to assist the line manager in understanding the employee's issues. The purpose of the meeting is to discuss the employee's health and fitness for work, and to confirm the reason(s) for the health-related absence and to allow the employee to have the opportunity to discuss their health-related absence to help identify and address any issues affecting health and wellbeing at work.
- 5.8.4 Line managers must write to employees to confirm the main points and outcomes of the meeting, including any agreed actions (template form A on the intranet).

## **5.9 Phased return from long-term health-related absence**

- 5.9.1 It can sometimes be difficult for an employee to make the transition back to work following a long-term health-related absence. In such circumstances, the line manager should consider some form of phased return to work, for a period of up to 8 weeks, for an employee to ease back into work. The exact phased return to work period should be agreed, taking into account the nature of the illness and the length of time the employee has been absent from work.

The phased return to work may take the form of starting back to work on a part-time basis and increasing back to full-time hours or starting on restricted duties and increasing back to the full range of duties, or a mixture of both of these.

- 5.9.2 Agreed phased returns to work will be on normal full pay for up to 8 weeks. Where a phased return extends beyond 8 weeks, then the line manager should meet with the employee to discuss whether a flexible working request should be submitted so that the employee is paid for the actual hours worked. In this circumstance, the line manager should seek advice from the people department.
- 5.9.3 Line managers must always consider any advice received from the Trust's occupational health provider along with any practical or operational implications. Line managers can also seek advice from the people department before agreeing any phased return arrangements.
- 5.9.4 Line managers must write to employees to confirm the details of the phased return to work agreement (template form A on the intranet).

## **5.10 Retirement on the grounds of ill-health**

- 5.10.1 If an employee has 2 or more years pensionable service, then they may be eligible for retirement on the grounds of ill-health. The employee's agreement is necessary for this option. It may be in the employee's interest to do this if there is no prospect of them returning to work. Early retirement on the grounds of ill-health requires approval from the NHS Business Services Authority Pensions Division and the support of the Trust's occupational health provider.
- 5.10.2 If an employee wants to apply for retirement on the grounds of ill-health, they must complete section A of form AW33E (available from the NHS Pensions website) and forward to their designated HR business partner who will arrange for sections B and C to be completed. Once the form is fully completed, the Trust's occupational health provider will submit it to NHS Pensions for consideration.
- 5.10.3 At the same time, the employee must complete form AW8 (available from the NHS Pensions website). The completed form and supporting documentation, together with a termination form, should be sent to [payforms@tavi-port.nhs.uk](mailto:payforms@tavi-port.nhs.uk) for processing.

## **5.11 Life-limiting illness**

- 5.11.1 Where an employee has been identified as having a life-limiting illness, the absence procedure should cease and the employee will be solely supported through the long-term procedure when they are unable to work and/or work intermittently.

- 5.11.2 The employee will be supported by the line manager and a member of the people department, with input from the Trust's occupational health provider. The line manager must ensure that they keep in regular contact with the employee. If the employee can work in some capacity and wishes to do so, then the line manager will accommodate this as far as is reasonably practicable and where it is safe to do so.
- 5.11.3 An employee who is a member of the NHS pension scheme and who is not expected to live longer than one year can apply at retirement to exchange all of their ill-health benefits for a one off, usually tax free, lump sum payment. To make this exchange, the member must have some of their HM Revenue and Customs (HMRC) personal lifetime allowance (LTA) remaining. If the member takes up this option, their dependants will still get any benefits they are entitled to in full. If an employee wishes to take up this option, they, or their line manager, should seek advice from the people department. Employees should also consider getting independent financial advice before making a final decision.

Further information is also available here: [NHS Pensions factsheet template V1 \(nhsbsa.nhs.uk\)](https://nhsbsa.nhs.uk)

## **5.12 Management referrals to Trust's occupational health provider**

- 5.12.1 Management referrals to the Trust's occupational health provider are made through a secure portal. Line managers should contact the people department to request a login for the portal. The people department will contact the Trust's occupational health provider to arrange for the login to be issued.
- 5.12.2 Before making a referral to the Trust's occupational health provider, the line manager should meet with the employee to discuss the need for the referral, what information will be included in the referral, who will have access to the information and next steps.
- 5.12.3 The line manager should ensure that they provide the employee with a copy of the confidentiality statement which is available here: [Privacy Policy - Optima Health](#).
- 5.12.4 When making the referral, the line manager should include a copy of the current job description to help the Trust's occupational health provider understand the requirements of the role, which could have an impact on the advice they provide.
- 5.12.5 In line with the contract of employment, employees agree to submit to medical examination at any time and by such registered medical practitioner as the Trust may select.
- 5.12.6 Employees should be encouraged to agree to permit the disclosure of the outcome of any medical examination to their line manager and/or the Trust.

However, employees can ask that the medical advisor does not give information that they think could be damaging or is not relevant, ask to see the medical report first or not agree to the medical report being shared with their employer if they do not agree with what it says. In this situation, the line manager must ensure that the employee is aware that decisions on future employment will be made on the basis of available information.

## **5.13 Alternative employment**

5.13.1 If an employee is unable to resume their duties due to ill-health, the Trust has an obligation to ascertain whether the employee's existing role can be modified or if they can be redeployed to another role in the Trust. This will depend on the type of incapacity the employee has, the length and nature of the employee's service and the availability of other suitable work.

5.13.2 If a return to work is anticipated in the near future, the following actions should be undertaken:

- the line manager and employee may agree assistance or reasonable adaptations to aid recovery and assist the return to work;
- the line manager should keep the employee's health-related absence under review;
- the employee should be referred to the Trust's occupational health provider prior to their return to work to assess fitness to return to work and for advice on any reasonable adaptations.

5.13.3 Both the line manager and the member of the people department supporting the absence management episode are responsible for identifying roles which may constitute suitable redeployment for the employee.

5.13.4 The employee should also review the Trust's job vacancies for roles which may offer suitable redeployment.

5.13.5 If an employee is redeployed to a lower banded post, they will be entitled to receive a period of pay protection. The time periods for pay protection will be as detailed in the Trust's change management procedure (available on the intranet).

## **5.14 Disability, absence and reasonable adjustments**

5.14.1 A disability under the Equality Act 2010 is a physical or mental impairment which has a substantial and long-term (expected to last or lasting 12 months or more) effect on an individual's ability to carry out normal day-to-day activities. The Act includes protection for employees with progressive conditions such as cancer, multiple sclerosis and HIV. These groups are also protected from discrimination whilst in remission.

5.14.2 Disabilities can be physical, mental or neurodevelopmental.

- 5.14.3 Employees should discuss their needs with their line manager as it is important that they are aware of what support may be needed. The process for requesting reasonable adjustments depends on whether the employee has a medical diagnosis or formal assessment. Most solutions do not involve a medical diagnosis or formal assessment. A minority of requests cannot be financed from the Trust's central budget. Additionally, employees are encouraged to apply for Access to Work government support grants. For further information, the employee or the line manager should contact [edi@tavi-port.nhs.uk](mailto:edi@tavi-port.nhs.uk).
- 5.14.4 The process for applying for reasonable adjustments is available here: [Human resources \(tavistockandportman.nhs.uk\)](https://www.tavistockandportman.nhs.uk).
- 5.14.5 The Trust wants to foster an environment where employees feel comfortable disclosing details of their disability or ongoing health conditions. However, if an employee chooses not to disclose the nature of their disability or ongoing medical condition, the line manager must make a referral to the Trust's occupational health provider for advice on how the employee might be supported to attend work regularly given their disability or health condition. The employee must also be made aware that any decisions about their employment will be made on the basis of available information.
- 5.14.6 When an employee has a disability and workplace adjustments have been facilitated that enable them to remain in work, the line manager will, as necessary, discuss the adjustments as part of the absence review process. This is to ensure that the employee remains supported and to assist them in remaining in work.
- 5.14.7 The Trust has a disability and long-term health conditions staff network. Further information is available here: [Staff networks and groups \(tavistockandportman.nhs.uk\)](https://www.tavistockandportman.nhs.uk).
- 5.14.8 NHS Employers advice on supporting disabled staff in the workplace is available here: [Supporting disabled staff in the workplace | NHS Employers](https://www.nhs.uk).
- 5.14.9 Maximus is the Access to Work Mental Health Support Service, funded by the Department for Work and Pensions. They can help with providing employees with a personalised wellbeing support plan, ideas for workplace adjustments and nine months of practical advice and guidance. Further information is available here: [Home - Access to Work \(maximusuk.co.uk\)](https://www.maximusuk.co.uk).
- 5.14.10 Genius Within is a psychology-led practice delivering evidence-based solutions for individuals and employers, specialising in inclusion and support for neurominorities. Further information can be found here: [Passionate about Neurodiversity - Genius Within](https://www.geniuswithin.co.uk) and here: [Access to Work - Genius Within](https://www.geniuswithin.co.uk).

## **5.15 Time off for medical, dental and other health appointments**

- 5.15.1 The Trust is committed to supporting employee wellbeing. Wherever possible, medical appointments (especially those which are routine and predictable) should be made outside of employees' normal working hours. However, the Trust is aware that this is not always possible and will support employees to attend appointments with the required time off. Employees need to provide as much notice of appointments as is reasonably possible. Routine dental appointments are excluded from this arrangement.
- 5.15.2 Employees may be granted paid time off for medical assessment, treatment or a rehabilitation period to support their return to work. Arrangements will be discussed and agreed with the employee's line manager.
- 5.15.3 Where an employee opts to undergo elective cosmetic surgery (rather than for medical reasons) annual leave will be taken for the time off required. If annual leave has been exhausted, unpaid leave would need to be agreed.
- 5.15.4 Transgender employees undergoing treatment or surgery as a part of, or in preparation for, their transition will receive reasonable paid time off.
- 5.15.5 Employees undergoing fertility treatment will receive reasonable paid time off.
- 5.15.6 Pregnant employees have the right to reasonable paid time off for antenatal care, which includes antenatal appointments and medical appointments related to their pregnancy. It is not necessary for employees to book annual leave for antenatal appointments, but they should give their line manager adequate notice of the appointments.

## **5.16 Health passport**

- 5.16.1 The Trust has introduced a health passport which employees can use to record information on their disability or long-term health condition and details of what adjustments may benefit them in the workplace. Having this information recorded in one document means potentially difficult conversations do not need to happen numerous times or with multiple line managers.
- 5.16.2 The health passport can be accessed here: [Health passport \(tavistockandportman.nhs.uk\)](https://tavistockandportman.nhs.uk)

## **5.17 Pregnancy and absence**

- 5.17.1 Employees who are absent due to pregnancy-related health-related reasons will not be subject to the formal steps of this policy and procedure. However, their attendance will be recorded, monitored and reviewed as normal.

- 5.17.2 Antenatal appointments – see section 5.15.6.
- 5.17.3 Pregnancy risk assessments should be undertaken once an employee informs their line manager of their pregnancy. Further information on undertaking a pregnancy risk assessment is included in the Trust’s maternity, paternity and adoption leave procedure (available on the intranet).

## **5.18 Mental health illnesses and absence**

- 5.18.1 The Trust has undertaken to treat employees experiencing mental health illnesses fairly and consistently. To do this, line managers should seek advice and assistance from appropriate internal and external resources, including the Trust’s occupational health provider and the people department, to promote the retention of employees in the workplace.
- 5.18.2 The Trust has several trained mental health first aiders whose role is to be a point of contact for employees who are experiencing mental health issues or emotional distress. Mental health first aiders are not trained to be therapists or psychiatrists, but they can offer initial support through non-judgmental listening and signposting.
- 5.18.3 Information on how to contact a mental health first aider is available here: [Health and wellbeing \(tavistockandportman.nhs.uk\)](https://www.tavistockandportman.nhs.uk/health-and-wellbeing)

## **5.19 Recurrent or chronic illnesses and absence**

- 5.19.1 The Trust seeks to support employees with recurrent or chronic illnesses and will apply the provisions of the Equality Act 2010. Line managers should seek advice from the Trust’s occupational health provider as appropriate. When setting targets for improvement in attendance, consideration will be given to chronic conditions to ensure that the targets are supportive and achievable. Efforts will also be made to distinguish disability-related absence episodes from those which are common and incidental.
- 5.19.2 It is however recognised that unexpected, prolonged and/or repetitive absences may adversely impact on the quality and continuity of service provisions as well as incurring additional costs for cover.

## **5.20 Menopause**

- 5.20.1 The Trust is currently developing a menopause policy.
- 5.20.2 Line managers should work proactively to make adjustments were necessary to support employees experiencing any aspect of the menopause and to ensure that the workplace does not adversely affect their symptoms. Line managers should recognise that the menopause journey is a very individual experience, and that employees can be affected in diverse ways and to different degrees, and that this means that different levels and types of support and adjustments may be needed.

- 5.20.3 Line managers will work to promote the fair treatment of employees and to create a working environment which supports a culture of openness and learning by helping employees to feel confident to talk about the symptoms they are experiencing, and the support they need.

## **5.21 Support available to employees**

- 5.21.1 The Trust provides an employee assistance programme for all employees. Further information is available on the Trust intranet.

## **5.22 Workstation assessments**

- 5.22.1 There is an ESR e-learning module available to assist employees and line managers to understand the risks associated with display screen work and the knowledge of how ergonomic principles can be adopted to reduce some of the risks encountered. The module looks at potential ill-health effects from working with display screen equipment and how good posture and simple, effective solutions can be applied. The module also gives an overview of the Health and Safety (Display Screen Equipment) Regulations 1992.
- 5.22.2 Further information on workstation assessments can be obtained from the Trust's health and safety manager.

## **5.23 Workplace stress risk management**

- 5.23.1 The Trust has a management of workplace stress procedure (template form D on the intranet) to assist line managers in meeting their obligations to ensure that employees are kept safe and healthy at work and are not subject to workplace factors which may have a detrimental impact on them, which may result in workplace stress.
- 5.23.2 The management of workplace stress procedure (available on the intranet) assists the Trust in achieving its objectives in relation to the recruitment and retention of staff and improving working lives. In addition, the procedure has been designed to ensure that the Trust meets its legal obligations in relation to the Management of Health and Safety at Work Regulations 1999 and the Equality Act 2010.

## 6 The procedure

### 6.1 Notifying of health-related absence

- 6.1.1 On the first day of health-related absence, employees must contact their line manager (or nominated deputy) to advise that they will not be attending work. This should be done prior to the normal starting time and by phone (text messages or emails are not acceptable). Employees can leave an answerphone message to ensure that the message is received as quickly as possible, but they must ensure that they phone to speak to their line manager in person. If an employee is too unwell to make the initial phone call, it is acceptable for a family member or friend to make the call.
- 6.1.2 Employees will not be expected to return to work before they are fit to do so (especially when they have had a contagious disease, eg norovirus where employees must remain off work until 48 hours have passed since their last episode of vomiting or diarrhoea). In order that line managers can make the appropriate arrangements, employees should provide their line manager with the following information:
- the nature of their illness;
  - how long they think they will be absent from work;
  - whether they will be making an appointment with their GP;
  - whether their condition is as a result of an injury sustained at work.
- 6.1.3 Line managers should conduct all discussions about health-related absence sensitively, given the personal nature of the subject.
- 6.1.4 Employees should contact their line manager on the fourth day of any health-related absence to update on progress.
- 6.1.5 Employees should contact their line manager on the eighth day of any health-related absence to update on progress and must submit a fit note (see section 6.3). The employee and the line manager must agree arrangements for further contact which should take place regularly until the employee is fit to return to work and at least fortnightly.
- 6.1.6 If an employee does not attend work and fails to contact their line manager to confirm their health-related absence, then the line manager will contact the employee on their personal phone number to confirm the employee's wellbeing. Where there is significant concern for an employee's wellbeing, the line manager may attempt to contact the employee's next of kin to check on their wellbeing. Discretion must be exercised in judging the suitability of this course of action and the line manager should seek advice from a senior member of the people department.
- 6.1.7 Employees are responsible for ensuring that they keep their personal phone number and next of kin details updated on ESR using employee self-service.

- 6.1.8 Employees are responsible for ensuring that they provide their line manager with their personal phone number and next of kin details.
- 6.1.9 Failure to follow the procedure for notifying health-related absence, including supply adequate documentation (eg fit notes) may lead to management under the Trust's disciplinary procedure.

## 6.2 Recording health-related absence

- 6.2.1 Each department must have a designated contact who is responsible for collating and submitting the department's health-related absence return monthly or recording absences directly onto ESR (where available). Individual line managers should notify the designated contact of all employee absences so that these can be included in the monthly departmental health-related absence reporting form or directly onto ESR (where available).
- 6.2.2 The monthly departmental health-related absence reporting form is available on the intranet.
- 6.2.3 For all absences, the reason for absence must be recorded on the monthly departmental health-related absence reporting form or directly onto ESR. The list of absence reasons and absence codes is included as appendix B.
- 6.2.4 The completed monthly departmental health-related absence reporting form must be submitted to [absence@tavi-port.nhs.uk](mailto:absence@tavi-port.nhs.uk) by the 5<sup>th</sup> day of each month so that the data can be added to ESR and to ensure that employees are paid correctly during any period of health-related absence and that employees reaching threshold points are identified. A member of the people department will follow up with the designated contacts where a completed return has not been received.
- 6.2.5 Employees who become unwell during work will be recorded as being on health-related absence if less than half of the normal working day has been completed. Employees who complete more than half of their normal working day will not be recorded as being on health-related absence for that day.

## 6.3 Fit notes/self-certificates

- 6.3.1 Employees are required to produce self-certificates and/or fit notes in line with the table below.

Absence Duration	Type of Certificate Required
1-3 calendar days	No self-certificate required
4-7 calendar days	Self-certificate – template form A on the intranet
8+ calendar days	Fit note from GP, hospital doctor, nurse, occupational therapist, pharmacist, or physiotherapist, who is treating the employee (which must be obtained on or before the 8 <sup>th</sup> day of health-related absence)

- 6.3.2 Fit notes should be sent to the employee's line manager within one week of the expiry of the self-certificate or previous fit note (as applicable) to ensure that pay is calculated correctly. The Trust does not accept retrospective certificates.
- 6.3.3 Line managers must hold self-certificates, fit notes and return to work meeting record forms securely, ensuring that confidentiality is maintained.
- 6.3.4 For pay purposes, health-related absence is calculated on the number of calendar days the employee is absent, irrespective of an employee being full-time or part-time. This means that all days when an employee is absent count towards the calculation of sick pay, which includes non-working days. Weekend days and/or days on which an employee is not rostered to work will be recorded as health-related absence if the employee does not report fit to resume on their next rostered day.

## **6.4 Short-term health-related absence**

- 6.4.1 Short-term health-related absence should be managed in line with the below process, when an employee's absence meets one of the following threshold points:
- 4 episodes or 6 days in any 6-month period (whichever threshold is reached first); or
  - a regular pattern of health-related absence (eg regularly sick on Mondays or Friday or following a period of annual leave).

### **6.4.2 Step 1 – informal health-related absence meeting**

- 6.4.2.1 The line manager will invite the employee to an informal step 1 meeting to discuss the following (template letter 3 on the intranet):
- the employee's health-related absence record and their health and wellbeing;
  - any underlying problems at work or home which may be affecting attendance;
  - any help or support which could be provided to improve attendance;
  - whether a referral to the Trust's occupational health provider is appropriate;
  - considering whether an absence review period is required, as defined in section 3.5.
- 6.4.2.2 Following the meeting, the line manager will write to the employee to confirm the main points and outcomes of the meeting, including any agreed actions and details of any absence review period (template letter 4 on the intranet).

6.4.2.3 If the employee's attendance has improved at the end of the absence review period, then the line manager must meet with them to advise that the absence review period has been successfully completed. The line manager will confirm this in writing (template letter 5 on the intranet).

6.4.2.4 If an employee's health-related absence levels rise within 6 months of the end of the absence review period, the absence review process will be re-activated at step 2 of this policy and procedure (see section 6.4.3).

### **6.4.3 Step 2 – formal health-related absence meeting**

6.4.3.1 If the employee does not maintain satisfactory attendance in the 6 months following the step 1 meeting or their health and wellbeing remains a cause for concern, the line manager will invite the employee to a formal step 2 meeting to discuss the following:

- the employee's health-related absence record and why this continues to be unacceptable;
- the employee's health and wellbeing;
- the reasons affecting attendance;
- any help or support which could be provided to improve attendance;
- any advice received from the Trust's occupational health provider, or the need to make a referral;
- considering any reasonable adjustments which could be made to assist the employee in the workplace;
- considering whether an absence review period is required, as defined in section 3.5;
- the potential future implications for continued unsatisfactory attendance (including dismissal on the grounds of ill-health).

6.4.3.2 The employee will be given 7 calendar days' notice of the meeting and has the right to be accompanied at the formal step 2 meeting by a staff-side representative or workplace colleague (template letter 6 on the intranet).

6.4.3.3 Following the meeting, the line manager will write to the employee to confirm the main points and outcomes of the meeting, including any agreed actions and details of any absence review period (template letter 7 on the intranet).

6.4.3.4 If a referral to the Trust's occupational health provider has not been actioned ahead of the formal step 2 meeting, the line manager should arrange for the meeting to be reconvened once the occupational health report is available so that the contents can be discussed and actioned, as appropriate.

6.4.3.5 If the employee's attendance has improved at the end of the absence review period, then the line manager must meet with them to advise that the absence review period has been successfully completed. The line manager will confirm this in writing (template letter 8 on the intranet).

6.4.3.6 If an employee's health-related absence levels rise within 6 months of the end of the absence review period, a further absence review period will be re-activated at step 3 of this policy and procedure (see section 6.4.4).

#### **6.4.4 Step 3 – formal health-related absence hearing**

6.4.4.1 If the employee does not maintain satisfactory attendance in the 6 months following the step 2 meeting, the line manager will request a formal step 3 hearing. The hearing will be chaired by a senior manager with the authority to dismiss (as set out in appendix A). A senior member of the people department will attend the hearing to advise the hearing chair. A notetaker will also be present.

6.4.4.2 The employee will be given 7 calendar days' notice of the meeting and has the right to be accompanied at the formal step 3 hearing by a staff-side representative or workplace colleague (template letter 9 on the intranet).

6.4.4.3 The line manager will submit a statement of case (see section 6.4.4.4 for details of the information to be included in the statement of case) no later than 10 calendar days before the hearing (template form C on the intranet). The statement of case should be forwarded to the employee no later than 7 calendar days before the hearing.

6.4.4.4 The statement of case should include the following evidence:

- the employee's health-related absence record;
- occupational health provider reports;
- GP or other medical reports obtained with the employee's permission, including, where appropriate, underlying medical reasons, disabilities and anticipated further health-related absence;
- details and outcomes of previous health-related absence meetings;
- assistance and adaptations considered and progress made;
- details of any work problems caused by the health-related absence, including service delivery issues;
- recommendations.

6.4.4.5 The employee will have the opportunity to respond at the formal step 3 hearing. If the employee wishes to submit written evidence, this should be submitted to the hearing chair at least 2 calendar days in advance of the hearing.

6.4.4.6 The outcome of the hearing may include, but is not limited to:

- dismissal with full paid notice on the grounds of incapability due to ill-health;
- a further absence review period, at the end of which the formal step 3 hearing will be reconvened;
- reasonable adjustments alongside an extended absence review period;
- redeployment to alternative employment.

6.4.4.7 Following any further absence review period, the formal step 3 hearing will be reconvened and the following options will apply:

- if there is no significant improvement at the end of the absence review period, the employee will be dismissed with paid notice on the grounds of incapability due to ill-health; or
- if a significant improvement has been achieved, the hearing chair will take the decision to take the employee out of the formal process.

6.4.4.8 The panel chair will confirm the outcome of the hearing in writing within 7 calendar days of the meeting.

## **6.5 Long-term health-related absence**

6.5.1 Long-term health-related absence should be managed in line with the below process when an employee reaches the threshold point of having been absent from work for 28 days or more.

6.5.2 There is an expectation that a final decision on the future employment of any employee will be made within a maximum of 12 months from the date the health-related absence began. In exceptional circumstances, the line manager can extend any of the timeframes stated after consultation with the Trust's occupational health provider and in agreement with a senior member of the people department.

6.5.3 For steps 1, 2 and 3 below, a home visit may be appropriate if the employee is unable to attend a meeting in the workplace. Advice should be sought from the people department. Home visits will be arranged with the employee's agreement and will be conducted by the line manager and a member of the people department.

6.5.4 As an alternative to a home visit, meetings at steps 1, 2 and 3 can be held via MS Teams if the employee is unable to attend a meeting in the workplace.

### **6.5.5 Step 1 – informal health-related absence meeting**

6.5.5.1 As soon as it becomes evident that the employee's health-related absence will last for 28 days or more, the line manager will invite the employee to an informal step 1 meeting to discuss the following (template letter 10 on the intranet):

- the employee's health and wellbeing and any progress they are making;
- the likely duration of the health-related absence, including an indication of when they might be able to return to work and/or the anticipated next steps in their treatment;
- any underlying problems at work or home which may be affecting attendance;
- arranging a referral to the Trust's occupational health provider;
- any help or support which could be provided to facilitate a return to work;

- updating the employee on what is happening at work whilst they are away;
- dates on which sick pay reduction will take effect.

6.5.5.2 Following the meeting, the line manager will write to the employee to confirm the main points and outcomes of the meeting, including any agreed actions (template letter 11 on the intranet).

6.5.5.3 The outcome of the informal step 1 meeting may include, but is not limited to:

- if the employee's health-related absence is likely to continue, a formal step 2 health-related absence meeting will be convened;
- if the Trust's occupational health provider indicates that return to work is not anticipated in the near future and all options to facilitate a return to work (including adaptations and medical redeployment) have been fully explored, step 2 of the process can be bypassed by mutual agreement and a formal step 3 hearing will be convened;
- the employee returns to work;
- if the employee has 2 or more years of superannuable service, they may retire on the grounds of ill-health (see section 5.10).

6.5.5.4 If the employee is able to return to work, then the line manager should continue to review any further health-related absences. If an employee's health-related absence levels rise within 6 months of their return to work, the absence review process will be re-activated at step 2 of this policy and procedure (see section 6.5.6).

6.5.5.5 Once the employee is fit to return to work, the line manager should confirm, in writing, the details of any agreed phased return to work plan (template letter 12 on the intranet).

## **6.5.6 Step 2 – formal health-related absence meeting**

6.5.6.1 If the employee's health-related absence is likely to continue, the line manager will invite the employee to a formal step 2 meeting. This meeting will normally be scheduled to follow receipt of the report from the Trust's occupational health provider.

6.5.6.2 During the formal step 2 meeting the following should be discussed:

- the latest report from the Trust's occupational health provider and the employee's anticipated further health-related absence;
- the employee's ability to undertake their role;
- any assistance or reasonable adjustments which may be provided (eg counselling, changes to working hours, modifications to working environment or duties);
- agreeing further review dates;
- where appropriate, the potential future implications for continued long-term health-related absence (including dismissal on the grounds of ill-health);

- where appropriate, exploring the option of alternative employment (see section 5.13) and/or retirement on the grounds of ill-health (see section 5.10).

6.5.6.3 The employee will be given 7 calendar days' notice of the meeting and has the right to be accompanied at the formal step 2 meeting by a staff-side representative or workplace colleague (template letter 13 on the intranet). Where appropriate, a home visit will be arranged for a mutually agreed date. As an alternative to a home visit, the meeting can be held via MS Teams if the employee is unable to attend a meeting in the workplace.

6.5.6.4 Following the meeting, the line manager will write to the employee to confirm the main points and outcomes of the meeting, including any agreed actions (template letters 14a and 14b on the intranet).

6.5.6.5 If an employee's health-related absence levels rise within 6 months of the end of the absence review period, the absence review will be re-activated at step 3 of this policy and procedure (see section 6.5.7).

### **6.5.7 Step 3 – formal health-related absence hearing**

6.5.7.1 A formal step 3 health-related absence hearing will be convened if the Trust's occupational health provider indicates that a return to work is not anticipated in the near future and all options to facilitate a return to work (including adaptations and medical redeployment) have been fully explored.

6.5.7.2 A formal step 3 health-related absence hearing will also be convened if an employee fails or refuses to attend an assessment with the Trust's occupational health provider without a satisfactory reason. In this situation, decisions will be made based on available information.

6.5.7.3 The employee will be given 7 calendar days' notice of the meeting and has the right to be accompanied at the formal step 3 hearing by a staff-side representative or workplace colleague (template letter 15 on the intranet). Where appropriate, a home visit will be arranged for a mutually agreed date. As an alternative to a home visit, the meeting can be held via MS Teams if the employee is unable to attend a meeting in the workplace.

6.5.7.4 The hearing will be chaired by a senior manager with the authority to dismiss (as set out in appendix A). A senior member of the people department will attend the hearing to advise the hearing chair. A notetaker will also be present.

6.5.7.5 The line manager will submit a statement of case (see section 6.5.7.6 for details of the information to be included in the statement of case) no later than 10 calendar days before the hearing (template form C on the intranet). The statement of case should be forwarded to the employee no later than 7 calendar days before the hearing.

6.5.7.6 The statement of case should include the following evidence:

- the employee's health-related absence record;
- occupational health provider reports;
- GP or other medical reports obtained with the employee's permission, including, where appropriate, underlying medical reasons, disabilities and anticipated further health-related absence;
- details and outcomes of previous health-related absence meetings;
- assistance and adaptations considered and progress made;
- details of any work problems caused by the health-related absence, including service delivery issues;
- recommendations.

6.5.7.7 The employee will have the opportunity to respond at the formal step 3 hearing. If the employee wishes to submit written evidence, this should be submitted to the hearing chair at least 2 calendar days in advance of the hearing.

6.5.7.8 The outcome of the hearing may include, but is not limited to:

- dismissal with full paid notice on the grounds of incapability due to ill-health;
- determining a further appropriate absence review period, at the end of which the formal step 3 hearing will be reconvened;
- alternative recommendations.

6.5.7.9 Following any further absence review period, the formal step 3 hearing will be reconvened and the following options will apply:

- if there is still no likelihood of a return to work in the near future, the employee will be dismissed with paid notice on the grounds of incapability due to ill-health; or
- if a return to work has been achieved, the hearing chair will take the decision to take the employee out of the formal process.

6.5.7.10 The panel chair will confirm the outcome of the hearing in writing within 7 calendar days of the meeting.

## **6.6 Appeals**

6.6.1 Employees can appeal against the outcome of any formal step 3 hearing and will be advised of their right of appeal when the outcome of the formal step 3 hearing is confirmed in writing.

6.6.2 Any appeals should be submitted in line with the Trust's employment appeals procedure (available on the intranet).

## 7 Training requirements

- 7.1 There is no mandatory training associated with this procedure. However, there is an ESR e-learning module on conducting workstation assessments.
- 7.2 Ad hoc training sessions based on an individual's training needs will be defined within their annual appraisal or job plan. Members of the people department can provide coaching on request. Requests for coaching should be sent to [HRBPs@tavi-port.nhs.uk](mailto:HRBPs@tavi-port.nhs.uk).
- 7.3 Training on employment policies and procedures will be provided as part of the "back to basics" training for line managers which will be rolled out in 2023 and 2024.

## 8 Associated documents

Please refer to the intranet for up-to-date policies and procedures.

- Employment appeals procedure
- Disciplinary procedure
- Change management procedure
- Health and safety policy
- Maternity, paternity and adoption leave procedure
- Workplace stress risk management procedure
- Freedom to speak up policy
- Freedom to speak up procedure
- Agenda for Change terms and conditions of service handbook
- Managing health-related absence flowchart
- Monthly departmental health-related absence reporting form
- Template letters and forms for line managers' use
- Self-certificate and return to work meeting record form

## 9 Process for monitoring compliance with this procedure

9.1 Data on health-related absence and how this is managed must be collected, audited, published and monitored locally in partnership with staff side, including by protected characteristics and contract status.

<b>Aspect of compliance or effectiveness being monitored</b>	<b>Monitoring method</b>	<b>Frequency of monitoring</b>	<b>Responsibility for monitoring (job title)</b>	<b>Review body</b>
Line managers maintaining contact with employees absent due to ill-health	Random audit of absent employees to ensure contact is being maintained	Minimum annually	Head of human resources (business partnering and employee relations)	People, organisation and development - equality, diversity and inclusion (PODEDI) committee
Line managers managing employees who have exceed the health-related absence thresholds	Random audit to ensure all actions are documented and implemented	Minimum annually	Head of human resources (business partnering and employee relations)	People, organisation and development - equality, diversity and inclusion (PODEDI) committee
Analysis of health-related absence data to ensure actions are being taken	Reports generated from data held on ESR	Monthly	Associate director - HR operations	People, organisation and development - equality, diversity and inclusion (PODEDI) committee
Overview on management of health-related absence to be included in employee relations report	Report generated from data held in ESR ER module	Monthly	Head of human resources (business partnering and employee relations)	Head of human resources (business partnering and employee relations)

9.2 The Trust must also collect and submit the data necessary to support national monitoring of the management of health-related absence.

## 10 References

- NHS terms and conditions of service handbook - [NHS Terms and Conditions of Service Handbook | NHS Employers](#)
- Terms and Conditions – Consultants (England) 2003
- Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 Version 11
- Equality Act 2010
- Human Rights Act 1998
- Management of Health and Safety at Work Regulations 1999
- Health and Safety (Display Screen Equipment) Regulations 1992
- Data Protection Act 1998
- Fraud Act 2006
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- ACAS - [Health and wellbeing | Acas](#)
- ACAS - [Holiday, sickness and leave | Acas](#)
- NHS Employers - [Supporting disabled staff in the workplace | NHS Employers](#)
- [Home - Access to Work \(maximusuk.co.uk\)](#)
- [Access to Work - Genius Within](#)
- [Passionate about Neurodiversity - Genius Within](#)
- [Access to Work: get support if you have a disability or health condition: What Access to Work is - GOV.UK \(www.gov.uk\)](#)
- [COVID-19: managing healthcare staff with symptoms of a respiratory infection - GOV.UK \(www.gov.uk\)](#)
- [People with symptoms of a respiratory infection including COVID-19 - GOV.UK \(www.gov.uk\)](#)

## Appendix A: individuals with authority to suspend and/or dismiss

The following individuals hold the authority to suspend or dismiss:

	<b>Executive Directors</b>	<b>Direct reports to Executive Directors</b>	<b>Direct reports to Divisional, Clinical, Associate or Deputy Directors</b>	<b>All other employees</b>
<b>Medical Suspension</b>	Chair or Chief Executive Officer	Executive Director	Divisional, Clinical, Associate or Deputy Director	Service Manager or equivalent, Head of Corporate Service
<b>Chairing a hearing (ie authority to dismiss)</b>	Chair or Chief Executive Officer	Executive Director	Divisional, Clinical Associate or Deputy Director	Service Manager or equivalent, Head of Corporate Service

## Appendix B: list of absence reasons and absence codes from ESR

Absence Code	Absence Reason
S10	Anxiety/stress/depression/other psychiatric illnesses
S11	Back problems
S12	Other musculoskeletal problems
S13	Cold/cough/influenza
S14	Asthma
S15	Chest and respiratory problems
S16	Headache/migraine
S17	Benign and malignant tumours/cancers
S18	Blood disorders
S19	Heart/cardiac/circulatory problems
S20	Burns/poisoning/frostbite/hypothermia
S21	Ear/nose/throat (ENT)
S22	Dental/oral problems
S23	Eye problems
S24	Endocrine/glandular problems
S25	Gastrointestinal problems
S26	Genitourinary/gynaecological disorders
S27	Infectious diseases (including Covid-19)
S28	Injury/fracture
S29	Nervous system disorders
S30	Pregnancy related disorders
S31	Skin disorders
S32	Substance abuse
S98	Other causes (please specify)

# Appendix C: equality impact assessment

<b>Completed by</b>	Karen Merchant
<b>Position</b>	Head of Human Resources (Business Partnering and Employee Relations)
<b>Date</b>	4 July 2023

<b>The following questions determine whether analysis is needed</b>	<b>Yes</b>	<b>No</b>
Does the policy affect service users, employees, or the wider community? The relevance of a policy to equality depends not just on the number of those affected, but on the significance of the effect on them.	Yes	
Is it likely to affect people with particular protected characteristics differently?	Yes	
Is it a major policy, significantly affecting how Trust services are delivered?		No
Will the policy have a significant effect on how partner organisations operate in terms of equality?		No
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?	Yes	
Does the policy relate to an area with known inequalities?	Yes	
Does the policy relate to any equality objectives that have been set by the Trust?	Yes	
Other?		No

If the answer to all of the above questions was no, then the assessment is complete.

If the answer to all of these questions was yes, then undertake the following analysis:

	Yes	No	Comment
Do policy outcomes and service take-up differ between people with different protected characteristics?	Yes		This policy and procedure potentially impacts on pregnant women and individuals with disabilities. The policy and procedure is designed to ensure that those with protected characteristics are treated fairly and consistently in relation to health and wellbeing in the workplace.
What are the key findings of any engagement you have undertaken?			Not applicable
If there is a greater effect on one group, is that consistent with the policy aims?	Yes		This policy and procedure potentially impacts on pregnant women and individuals with disabilities. The policy and procedure is designed to ensure that those with protected characteristics are treated fairly and consistently in relation to health and wellbeing in the workplace.
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?	Yes		The policy and procedure is designed to ensure that those with protected characteristics are treated fairly and consistently in relation to health and wellbeing in the workplace. Regular reporting and review of health-related absence data plus monitoring of reasonable adjustments which have been implemented.
Will the policy deliver practical benefits for certain groups?	Yes		The policy and procedure is designed to ensure that those with protected characteristics are treated fairly and consistently in relation to health and wellbeing in the workplace.
Does the policy miss opportunities to advance equality of opportunity and foster good relations?		No	Not applicable
Do other policies need to change to enable this policy to be effective?		No	Not applicable
Additional comments		No	Not applicable

