

**MANAGING SICKNESS & ABSENCE POLICY**

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## VERSION CONTROL SUMMARY

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1.0	March 2001	Draft reviewed by Negotiating Sub Committee in March 2001.
2.0		Agreed policy following negotiation above. To be implemented from 1 <sup>st</sup> October 2001
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6.0	November 2012	Revised in advance of review date of February 2013. Includes link between long term chronic and recurrent illness and capability. Further clarifies points of process.

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## Managing Sickness & Absence

### 1. Policy Statement

- 1.1. The East London Foundation NHS Trust, (herein after referred to as “The Trust”) believes that the well being of our staff directly relates to the achievement of our strategic objectives and is committed to achieving excellence in terms of attendance at work. All staff are expected to make a full contribution to delivering services, in support the Trust wants to demonstrate its commitment to enabling a healthy working life for its workforce.
- 1.2. It is in the interests of both employees and service users that sickness absence and its affect upon services is effectively managed and minimised. This can be achieved by the implementation of positive procedures and guidelines. A consistent and proactive approach to improving attendance is needed and managers will need to maintain a continuous and co-ordinated effort in: monitoring the attendance of staff on a regular basis; positively reinforcing the good attendance of staff; showing an understanding towards those who need to be absent from work on a long term basis through sickness; and dealing fairly and consistently with staff whose attendance is of concern.
- 1.3. This policy and its procedures apply to all fixed-term and substantive staff directly employed by the Trust. This policy does not apply to Agency, locum, honorary, Bank staff or students.

### 2. Standards of Attendance and Trigger Points

- 2.1. This policy outlines how to promote good attendance at work and recognise the existence of sickness absence that requires a management intervention.
- 2.2. Short term absence is defined as an episode or occasion of sickness of 1 to 27 calendar days.
- 2.3. Long term absence is defined as any episode or occasion of sickness which lasts or is expected to last 28 calendar days or more.
- 2.4. The Bradford Score is a diagnostic tool that assists in identifying frequent short term absences. This is calculated by multiplying the square of the number of absences over the previous twelve months by the total number of **calendar** days lost. For example, 5 absences with the total of 8 calendar days lost would yield a score of  $5 \times 5 \times 8 = 200$ . It is recommended that a score of **200** should be regarded as the trigger point for a cause for concern. The Bradford Score does not replace the continuous management review of absence and is not the only means for having concerns about sickness absence.
- 2.5. As well as a Bradford score of 200 or more, other points triggering management concern and intervention are:
  - 4 or more occasions in rolling twelve month period;
  - or a clear pattern of absence (e.g. sick days adjoining weekends or annual leave, or sick days falling on the same day(s) of the week/time of the year);
  - Absences which last or are expected to last for 28 calendar days or more.

- 2.6 An employee returning to work from a period of long term sickness and whose Bradford score is 200 or more may also be subject to monitoring etc in accordance with the Inadequate Attendance Procedure. Both inadequate attendance and long-term sickness management processes may apply.

### **3. Disability and Absence**

- 3.1.1 A disability under the Equality Act 2010 is a physical or mental impairment that has a substantial and long-term (expected to last or lasting for 12 months or more) effect on the 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.

- 3.2 If the employee has such a disability the Trust shall, as deemed appropriate, consult with the employee, seek advice and consider making reasonable adjustments to current working conditions, working arrangements and/or the physical environment.

- 3.3 It is the employee's duty to disclose any disability to the Trust or Occupational Health. If an employee chooses not to disclose the nature of their ongoing medical condition, the manager must make a referral to the OH Service for advice on how this individual might be supported to attend work regularly given their condition. If the Trust is not aware of a disability the Trust cannot be expected to provide reasonable adjustments.

### **4. Pregnancy and Absence**

- 4.1 An employee who is absent due to pregnancy-related sickness will not be subject to the formal stages of this policy, however their attendance will be monitored and reviewed as normal.

### **5. Mental Health Illness and Absence**

- 5.1 As a Mindful Employer the Trust has undertaken to treat staff experiencing mental health illnesses fairly and consistently. In order to do this the Trust will seek advice and assistance as appropriate from internal and external resources in order to promote the retention of the employee in the workplace.

- 5.2 An agreement has been reached across London whereby staff living within the catchment area of the Trust and who require access to mental health services may, if they so choose be treated in another neighbouring area. Employees to whom this applies should discuss their treatment options with their GP.

### **6. Recurrent, Chronic Illness and Absence**

- 6.1 The Trust seeks to support staff with recurrent and chronic illnesses and will apply the provisions of the Equality Act 2010 and seek advice from Occupational Health as appropriate.

- 6.2 It is however recognised that unexpected, prolonged and/or repetitive absences may adversely impact upon the quality and continuity of service provision to clients as well as incur additional costs for cover.

- 6.3 In such cases the Trust shall apply the provisions of the long term sickness absence procedure to determine how the individual might be supported in the workplace to attend work regularly, and all prior adjustments that the Trust has already made will

be taken into consideration. Whilst staff may return to work for extended periods, recurrent episodes of absence shall be give cause to examine the individual's ability to attend work regularly.

- 6.4 As a guide, two or more long-term sickness episodes within the space of 24 months or less will give cause for concern.
- 6.5 The Inadequate Attendance Procedure will continue to apply throughout and staff may undergo parallel processes.

## **7. Fitness to Attend Work & Medical Suspension**

- 7.1 Occasionally an employee may wish to attend for work when they are unfit to undertake their core duties and/or have been cleared as conditionally fit via their GP. However, if management have concerns about staff in this scenario compromising the health and safety of themselves, their clients or co-workers, in this instance and following consultation with a HR representative, a manager may medically suspend the employee on full pay from the workplace pending further advice from Occupational Health as to their fitness to undertake their role. Any such suspension should be minimised and last no longer than 2 weeks and be subject to review. The employee should be advised to visit their GP immediately and to obtain medical certification as appropriate.
- 7.2 The employee must comply with reasonable requests to enable the Trust to come to a decision regarding their fitness for work. Failure to comply may result in pay being withheld.
- 7.3 In the event there is a dispute between the opinion of the employee's GP and the Trust Occupational Health Service, and following discussion with the member of staff and HR, the Trust reserves the right to accept the latter's advice on the grounds that they are best placed to consider both the needs of the individual as well as those of the Trust and come to a balanced view.
- 7.4 In circumstances where the situation is ongoing, lasts longer than 4 weeks and/or remains in dispute, the following will apply:
- The period of absence will be retrospectively considered as sickness and any entitlement to occupational sick pay will be applied accordingly;
  - The Managing Long Term Sickness & Absence Procedure (Appendix B) will commence.

## **8. Sickness Absence During Organisational Change Processes**

- 8.1 Sickness may occur during organisational change processes; whilst the Trust will seek to support staff who are sick it is acknowledged that delays and prolonged uncertainty may negatively impact upon other staff involved and can incur additional costs for the Trust.
- 8.2 Employees may be referred to Occupational Health to assess their fitness to participate in formal meetings or competitive interview as necessary.
- 8.3 The Trust's Managing Long Term Sickness & Absence Procedures will apply as normal.
- 8.4 In the event an employee is unable to participate in selection processes, advice may be sought on the prognosis and prospect of participation in the short term and a decision made as to how the individual's situation might be accommodated.

8.5 The Trust reserves the right to proceed as planned and either seek/send consultation data and responses remotely, or invite staff who are not fit for duty to attend competitive interviews so as not to unduly delay consultation or selection processes. Consultation and subsequent meetings may be undertaken by correspondence as considered appropriate to the circumstances.

## **9. Absence Relating to Misconduct/Unauthorised Absence**

In situations of misconduct it may be necessary to take some form of *disciplinary* action against an employee. This would be where an individual fails to:

- Follow the sickness reporting procedure and having no good reason for not doing so;
- Provide a satisfactory reason for being absent from work.

Issues around poor attendance will be dealt with through the Inadequate Attendance Procedure.

## **10. Injury at Work**

Where an employee is absent as a result of injury or disease caused at work and where their salary falls below their average monthly/weekly pay; the member of staff may apply for temporary or permanent injury allowance (TIA) which if granted may bring their pay up to 85% of average pay.

For more information on TIA refer to the Trusts Temporary Injury Allowance Protocol & Procedure.

## **11. Sick Pay & Records**

11.1. Occupational Sick Pay entitlements are set out in the nationally agreed Agenda for Change NHS Terms and Conditions of Employment.

11.2. Statutory and Occupational Sick Pay is calculated and paid using calendar days.

11.3. 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 recovered from a third party. The employee must notify their line manager of any such accident and legal proceedings.

11.4. Sickness absence information is held on a confidential system in accordance with the Data Protection Act 1998. This information will only be used for the purposes of managing sickness and calculating pay. Employees may request a copy of their sickness record and ask for any errors or omissions to be checked and, where incorrect, rectified.

## **12. Roles and Responsibilities**

This section outlines the roles and responsibilities for the main parties involved in the management of sickness absence. These lists are not exhaustive.

## 12.1. The Trust's Responsibilities

The Trust will ensure that:-

- working conditions are as safe and healthy as possible and meet statutory requirements;
- all staff are dealt with fairly, consistently and confidentially in accordance with the Trust's agreed policies and procedures for managing absence;
- all staff whose attendance is of concern are given the opportunity and support to improve;
- all staff are aware of the procedures for reporting sickness absence which they should follow and the standards of attendance which are expected of them and as standard this should be included in the induction programme for new starters (guidelines are given in Appendix C);
- the Trust Board receive quarterly sickness absence reports including cost of sickness absence and these reports include all substantive staff from Dr's to Chief Executive;
- a Trust target for reducing sickness absence is set and report on these in the Annual Report;
- all managers have the management of sickness absence as one of their personal objectives;
- staff are informed of what sickness absence is costing the Trust as a whole;
- those involved in managing sickness absence receive training and are fully conversant with:
  - their responsibilities within this policy
  - the Trust's agreed procedures

## 12.2. Managers' Responsibilities

In order to ensure the consistent application of this policy and its associated procedures managers have the following responsibilities:

- To promote good attendance at work;
- To communicate with staff about any illness or condition which may affect them at work and to maintain regular contact throughout their absence from work ;
- To show commitment to their staff's health, safety and welfare and understand the links between work and health. The Trust is required to provide safe places and systems of work under the Health & Safety at Work Act 1974. Managers should ensure that regular risk assessments are carried out and that the hours worked by their staff comply with Working Time Regulations;
- To offer staff members practical support and advice and encourage staff to make full and effective use of Counselling services available;
- To apply the guidance contained within this document in a consistent, equitable and sympathetic manner and to ensure all information regarding the reason for absence remains confidential;
- To carry out return to work interviews after all absences to investigate the facts and establish the reason(s) (whether obvious or underlying) for long term, or repeated short-term absence before taking any action as well as complete the self-certification form with the employee;
- To maintain accurate, up to date records of each employee's attendance daily. (These records should include details of other forms of absence: e.g. annual leave, study leave, rostered days off etc.).
- To send the Sickness/Absence Notification forms onto payroll weekly for the collation of statistics and calculation of sick pay. The Human Resources Department can give further advice on this;



- To seek clear medical information, advice and evidence to assist in any decision making process concerning an employee's health. Early involvement of the Occupational Health Service should take place as appropriate;
- To consult their Human Resources contact prior to any action related to sickness absence being considered;
- To discuss absence records at interviews with candidates – as this is a good predictor of future attendance;
- To communicate this policy to all their staff and include as standard as part of the induction for new starters;
- To be aware of the cost of absence for staff they manage i.e. Administration Cost, Replacement Costs and Salary Costs.

### **12.3. Employees Rights & Responsibilities**

- To make every effort to attend work and fulfil the conditions of their contract of employment;
- To communicate with their line manager about any illness or condition which may affect them at work and to maintain regular contact throughout their absence from work ;
- To adhere to the terms of his/her employment contract and the policies of the Trust;
- Employees are entitled to be represented by a recognised Trade Union, professional association or a work colleague not acting in a legal capacity at all formal stage meetings on sickness;
- To comply with this policy and attend all meetings; failure to do so unreasonably will result in formal action being initiated under the Trust's Disciplinary Policy and Procedure and/or may result in occupational sick pay being withheld;
- To act responsibly and take adequate safety precautions when travelling to places where there is a known risk of disease (e.g. malaria) or undertaking activities where there is a possibility of injury (e.g. skiing) by ensuring they have been inoculated as advised by the UK Government's Foreign & Commonwealth Office and/or wear appropriate safety gear;
- Staffs are not able to self-refer directly to the Occupational Health Service, but are encouraged to refer themselves via their line manager. Referral may be made via Human Resources in exceptional circumstances such as to preserve confidentiality. Staff are encouraged to access the Employee Assistance Programme which offers advice, information and counselling 24 hours each day (see Trust intranet for details), which is both free of charge and confidential.

### **12.4. The Role of Human Resources**

- To provide advice, guidance and support based upon best practice taking account of service delivery needs, individual contractual rights and legal obligations. Encourage and support managers to manage sickness absence effectively;
- To provide training to managers on this policy and include within return to work interview training;
- To ensure that the pre-employment occupational health screening questionnaires of new employees have been processed prior to sending the offer of employment;
- Employment references should be requested and include information on the employees sickness records for the past 12 months;
- To provide quarterly statistics on sickness absence for Trust Board via electronic

## **12.5. The role of Payroll/ESR**

- To accurately maintain staff records and input sickness data onto the Trust's HR/Payroll database (ESR);
- To ensure the accurate payment of statutory and occupational sick pay to staff;
- To work with HR and line managers to provide accurate and timely sickness reports; To provide the Trust Board with regular updates on sickness data and the cost of sickness at the Trust.

## **12.6 Role of Occupational Health**

- To provide advice on the health/fitness of staff and functional requirements of their work as requested by the Trust;
- To obtain written consent from staff to request medical reports from their General Practitioner or Hospital Specialist to assist Occupational Health in their assessment;
- To store all records confidentially within the service and to ensure no information is given to the Trust's managers without consent from the member of staff;
- To provide advice of an individual's health/fitness and ability to return to work;
- To enable the Trust to comply with its responsibilities regarding regular immunisation of staff and health assessments for night workers.

## **13. Management Referral to Occupational Health**

**13.1.** Prior to making a referral, verbal informed consent is required by the Referring manager informing the employee that they are being referred to Occupational health, the reason for the referral and what the employee can expect from the process. In circumstances where the employee is unavailable this notification may be made in writing.

**13.2.** If the employee is experiencing stress then managers should first undertake the Trust's 'Stress Management questionnaire' and refer to the Trust's Stress Management and Wellbeing Policy before making a referral to Occupational Health.

**13.3.** When a member of staff is referred to the Occupational Health Service a consultation is arranged with an Occupational Health Adviser who will assess whether the referral should be referred to the Consultant Occupational Physician Hotline, onto a third party, whether an Outcome Summary Report should be provided or if further medical evidence is required. Please refer to the Occupational Health Service User Guide for further information.

**13.4.** In circumstances where employees have been consulted and referred as a result of their high level of self-certified absence the Occupational Health Adviser/Physician shall provide a report to management indicating:

- Advice on the employees current health status;
- The prognosis for the condition;
- The likely return to work date or return to full duties;
- Advice on the current functional ability of the employee;
- If work duties are affected advice on whether this is likely to be short term, long term or permanent;
- A specific rehabilitation / return to work plan, advice on adjustments, if appropriate, with clear timescales;
- Advice on disability in accordance with relevant UK legislation;
- Whether there is an underlying reason for the level of absence;

- If so, stating any reasonable suggested temporary or long term adjustments to the individual's workplace or equipment to assist them at work that may be considered;
  - Whether, if practicable, the employee should be considered for temporary or permanent redeployment in another post.
- 13.5.** Where employees have been referred as a result of long-term absence the Occupational Health Adviser/Physician shall provide a report to management indicating:
- The likely date of return to work or an indication of the likely period of absence before such an assessment may be made;
  - Any suggestions of reasonable adjustment(s) that may be possible to assist the member of staff with a disability to undertake their current role;
  - Whether a period of rehabilitation will be necessary before returning to full duties and how this might be possible;
  - Whether, if practicable, the employee should be considered for redeployment in another post.
- 13.1. In all of these circumstances, the manager will need to ensure that they make a timely referral to Occupational Health in advance of an employee returning to work after a lengthy period of absence in order that the feasibility of implementing any changes can be assessed and the necessary arrangements can be made.
- 13.2. If an employee refuses to be referred to the Occupational Health for an assessment, the reasons for refusal will be reviewed; however the employee must be advised that any future decisions that may affect their employment will be based on the information available to the Trust, which may adversely affect any future outcomes.
- 13.3. Employees may apply for access to their Occupational Health records by writing to the Director of Human Resources or directly to the Occupational Health service.
- 13.4. Information received by Occupational Health shall be considered as advisory only and should not unnecessarily delay an employee's return to work.
- 14. Annual Leave and Sickness**
- 14.1. Should an employee fall ill whilst on annual leave, provided the normal reporting arrangements are followed and the absence certified by a GP the leave will be re-credited to the employee from the date they fall ill to the final date of sickness. Staff will forfeit this right should they fail to notify the Trust at the appropriate time.
- 14.2. Staff travelling to places where there is a known risk of disease (e.g. malaria) or undertaking activities where there is a possibility of injury (e.g. skiing) must take adequate precautions to safeguard their health and safety including amongst others adequate inoculations, anti-malarial retro-virals, and use of safety gear.
- 14.3. The Trust reserves the right to seek confirmation of the events leading up to extended and/or repeated periods of sickness from the Trust 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 Occupational sick pay.
- 14.4. Staff on long-term sick leave may request and take annual leave provided it is approved by the appropriate manager in the normal way. Line managers are encouraged to remind staff of this facility and to monitor its take up.

- 14.5. Staff on long-term sick leave whose sickness spans the end of 1 annual leave year and the beginning of the next may carry forward their untaken leave into the next financial year. Staff may be asked to use this annual leave allowance to support any phased return back work programme.
- 14.6. Employees will not be entitled to an additional day off if sick on a bank holiday.
- 14.7. For sickness occurring whilst abroad on holiday, see certification requirements below.
- 14.8. The Trust reserves the right to request and receive original documents to verify intended dates of travel.
- 14.9. Staff becoming sick immediately prior to or following a period of annual leave which means they are unable to attend work as planned must notify the Trust in the normal way and usual certification requirements will apply from the first day of sickness and remain in place until the employee returns to work unless they have notified the Trust that they would be fit to return. Should a pattern emerge of sickness around annual leave then the manager may initiate the Inadequate Attendance Procedure (Appendix A).

## 15. Procedures for Managing Sickness Absence

The Trust has introduced the following procedures for dealing with short and long term sickness absence:

- Inadequate Attendance Procedure (to deal with short term absence) (Appendix A)
- Procedure For Managing Long Term Sickness Absence (Appendix B)
- Sickness Absence Reporting Procedures (Appendix C)
- Return to Work Interview Procedures (Appendix D) and form (Appendix E)

## 16. Sickness Absence Reporting

- 16.1. All managers will be expected to have in place robust **Sickness Absence Reporting Procedures** as outlined in the draft procedure in Appendix C, which should be communicated to all staff.
- 16.2. Staff who are unable to attend for work should follow their local reporting procedure and notify their manager as soon as possible on their first day of sickness (unless there is a substantial and acceptable reason preventing notification) and at regular subsequent intervals. In the absence of any local procedure the default requirement shall be to report any absence to the immediate line manager prior to (or if this is not possible within an hour of) their expected time on duty.
- 16.3. Staff who do not attend for work and fail to make contact in line with the sickness absence reporting procedure will be contacted on their home or personal phone number by their manager in order to confirm their well-being. In cases where there is a real concern for a staff member's welfare, their manager may attempt to contact the staff member's next of kin in order to check their well-being. Discretion must be exercised in judging suitability of this and HR and Senior Line management advice must be sought.

## 17. Certification Requirements

- 17.1. Self-certification is required for any period of absence from Day 1 by signing the sickness certification declaration contained within the Return to Work Form (Appendix E) completed by the line manager on the first day of absence.
- 17.2. Medical certification from a medical practitioner in the form of a Statement of Fitness for Work or 'fit note' is required for absences that last for 8 calendar days or more and should be forwarded to the employee's line manager within 3 working days after the 8th day of absence. If period of sickness continues after this, certification must be continuous without any calendar days' gaps (except for approved annual leave) and must be received by the line manager within 3 working days of the previous certificate's expiry.
- 17.3. Failure to supply either a self-certificate or 'fit note' as set out above will result in the withholding of pay. Exceptionally the Trust reserves the right not to guarantee back payment on backdated certificates from GPs and employees will need to provide detailed reasons for the delay in writing to their line manager if this becomes necessary. If pay is to be stopped the manager will confirm the details in writing to the employee.
- 17.4. For sickness occurring whilst on annual leave out of the United Kingdom (UK), the employee is required to report sickness and provide medical certificates in the normal way within the relevant timeframes. The Trust reserves the right to verify medical certificates from outside the UK. If the period of sickness absence abroad exceeds 4 weeks, the staff member is required to be available to attend an occupational health appointment, unless there are certified travel restrictions.
- 17.5. In the event an employee reports as fit to return to work following a period of sickness absence and becomes unwell and unable to return, regardless of the length of intervening time, this will be considered as one continuous period of sickness and certification requirements will apply as normal.

## 18. Return to Work Interview

- 18.1. An essential component of these procedures must include provision for a **return to work interview** (see Appendix D for a guideline) with the individual member of staff and their line manager following all periods of sickness absence (including those of 1 day). This discussion must be recorded on the Return to Work form (Appendix E). The appropriate guidelines for completion of this form should be observed to ensure consistency of approach.
- 18.2. It must also be stressed that this is not a disciplinary interview but to help managers understand any problems and to ensure staff know what is expected of them and staff have an opportunity to discuss absence in an attempt to identify and address issues affecting health at work.

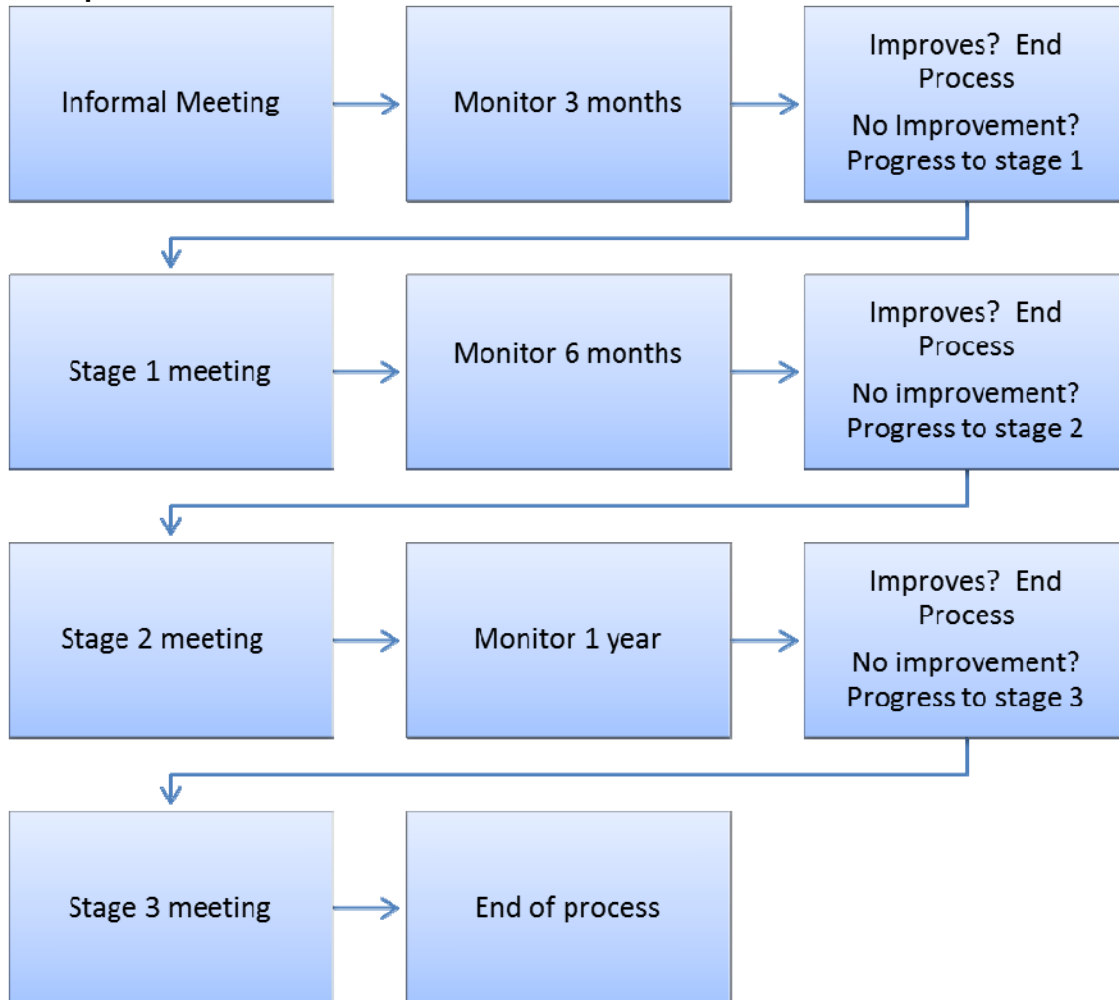
## 19. Policy Review

The Director of Human Resources will ensure this policy is Equality Impact Assessed and will monitor and review the policy by 2015.

## East London Foundation NHS Trust

### Inadequate Attendance Procedure

#### Inadequate Attendance Procedure Flowchart



#### 1. General

1.1 The aim of this procedure is to ensure that staff who fail to meet the standards of attendance expected of them are dealt with fairly and consistently and are given the opportunity to improve their attendance where possible. The fact that short-term absences are for reasons of illness and may be covered by a 'fit note' does not mean that action by management is inappropriate. Occasions will arise when it is reasonable to review the attendance record of an employee because of the effect that the absences are having on the running of the service. However, continued failure to meet the required standards of attendance may result in dismissal on the grounds of capability if the procedure has been correctly followed.

1.2 The Trust is committed to substantially reducing absence levels within the organisation.

1.3 The Trust believes that managing absence is a core component of each and every manager's role and they will be supported and provided with the necessary information to carry out this key task.

## **2. Informal Meeting**

2.1 Where an employee's sickness absence record is a cause for concern because it does not meet the standards set by the Trust or departmental manager, the manager should meet with the employee to discuss the reasons for the sickness and to advise that the sickness record is of concern and its impact on the service. The manager shall give the employee an opportunity to provide an explanation, agree and any action that may alleviate the problem (which may include referral to Occupational Health). There is no right to representation at this informal stage.

2.2 Trigger points are (in a rolling 12-month period):

- Bradford Score of 200 or more; and/or
- 4 or more occasions of one day or more sickness; and/or
- A clear pattern of absence (e.g. sick days adjoining weekends or annual leave, or sick days all falling on the same day(s) of the week/same time of the year etc.)

2.3 The manager and member of staff may come up with options to help improve the sickness absence but notwithstanding this, the manager will inform the member of staff of the sustained improvements expected in the sickness record in the following 3 months i.e. no further sickness during that time. The manager will also inform the member of staff that should the record not improve, the Inadequate Attendance Procedure may be invoked. The outcome of the discussion will be confirmed to the employee in writing within 5 working days. The letter will remain on the employee's personal file.

2.4 Should the employee subsequently report sickness absence at any time within the following three months the line manager does not have to wait three months to escalate the matter, this can happen immediately.

2.5 In the event there is no further sickness during this period the manager shall meet with the employee to confirm the monitoring period has been completed successfully. Should there subsequently be further sickness the trigger points shall be recalculated to ascertain if they have been breached once more which may entail further monitoring. Should a pattern emerge of monitoring, improvement and then further absence once monitoring ceases, line managers may consider escalating this to the formal procedure at this time.

## **Inadequate Attendance Procedure**

### **3. Stage 1**

- 3.1 Where an employee has previously been advised in the informal meeting that their attendance record is unsatisfactory, further periods of absence may trigger the formal Stage 1 of this procedure.
- 3.2 The employee should be interviewed to establish the reason for the absence and to review this absence against the required standards specified by the manager in the initial interview.
- 3.3 Depending on the information forthcoming at this interview, the options available to the manager are: -
- a) A further period of monitoring against set standards of no further occasions of sickness absence within a period of 3 months. Where this is the case, a clear review date should be agreed at the meeting and the employee informed that further failure to meet the standards required may lead to action being taken under Stage 1 of this procedure;
  - b) A *First Formal Caution* under this procedure which will remain in force for 6 months and further monitoring of absence shall be undertaken during that period. During this time it is expected there will be no further periods of sickness absence. The employee should be advised that further failure to meet the standards set may lead to Stage 2 of the procedure and ultimately dismissal. Should the employee report sickness during this time the manager may immediately escalate the matter to the next stage.
- 3.4 Where reasons for absence appear to be related to, or the employee or the Trust would appear to benefit from advice from, Occupational Health, a referral to this service should be made. This action will be in addition to the options outlined in (a) or (b). The Trust may require an assessment of the employee's ability to meet the requirements of their job description and the contract of employment.
- 3.5 The outcome of the meeting will be confirmed in writing to the employee within 5 working days and a copy of the letter will be placed on the employee's file.

### **4. Stage 2**

- 4.1 Where an employee fails to meet the targets set following the issue of a First Formal Caution under Stage 1 of this procedure, they should be interviewed to establish the reasons for the failure to meet the standards required.
- 4.2 Depending on the information forthcoming at this interview, the options available to the manager are: -
- a) A further period of monitoring against set standards of no further occasions of sickness absence within a period of 3 months. Where this is the case, a clear review date should be agreed at the meeting and the employee informed that further failure to meet the standards required may lead to action being taken under Stage 2 of this procedure;
  - b) A *Final Formal Caution* under this procedure that will remain in force for 12 months and further monitoring of absence will continue during that period. During this time it is expected there will be no further periods of sickness absence. The employee



should be advised that failure to meet the standards of attendance required is likely to lead to the employee being dismissed. Should the employee report sickness during this time the manager may immediately escalate the matter to the next stage.

4.3 The same options apply with regard to Occupational Health as at Stage 1.

4.4 The outcome of the meeting will be confirmed in writing to the employee within 5 working days and a copy of the letter will be placed on the employee's file.

## **5. Stage 3**

5.1 Where an employee fails to meet the required standards following the issue of a Final Formal Caution, they should be interviewed and unless there is reasonable cause to decide upon other action they should be dismissed by reason of failure to adequately attend for work. This meeting must be chaired by the manager designated with the authority to dismiss and supported by a Human Resources representative. A note taker may also be present.

5.2 It is advisable to seek Occupational Health advice prior to this meeting taking place.

5.3 The dismissal must be confirmed in writing to the employee, with a copy to his/her representative. A copy must be filed on the employee's personal file, which is held in the Human Resources Department.

5.4 The reason for the dismissal will be failure to adequately attend for work and must be clearly stated.

5.5 The appropriate contractual or statutory (whichever is the greater) notice period should be given but need not be worked at the discretion of the manager and with guidance from the Human Resources Department.

## **6. Human Resources Department Involvement**

A representative of the Human Resources Department should be in attendance at all meetings under Stages 1, 2 & 3 to advise the manager.

## **7. Representation**

At Stages 1,2 & 3 of this procedure the employee is entitled to be represented by a recognised trade union, professional association, or a colleague employed by the Trust not acting in an official capacity.

## **8. Status of Caution**

Cautions issued under this procedure do not have any status within the Trust's Disciplinary Procedure.

## **9. Request to Postpone/Failure to attend meetings**

9.1 Employees are required to comply with requests to confirm their attendance at meetings held under this policy. Failure to do so will result in meetings proceeding in their absence.

9.2 In the event an employee is unable to attend a meeting for good reason, and this is accepted by the relevant manager, the meeting will be postponed on one occasion

only. The Trust reserves the right to reschedule the meeting ideally at the earliest possible date and, where appropriate, to seek Occupational Health advice. Should the employee fail or be unable to attend a second time, the meeting will proceed in their absence and the employee will be notified of the outcome in writing.

- 9.3 Failure to attend a meeting without good reason may result in Occupational Sick pay being withheld and the matter being considered as misconduct and actionable under the Trust's Disciplinary Policy.

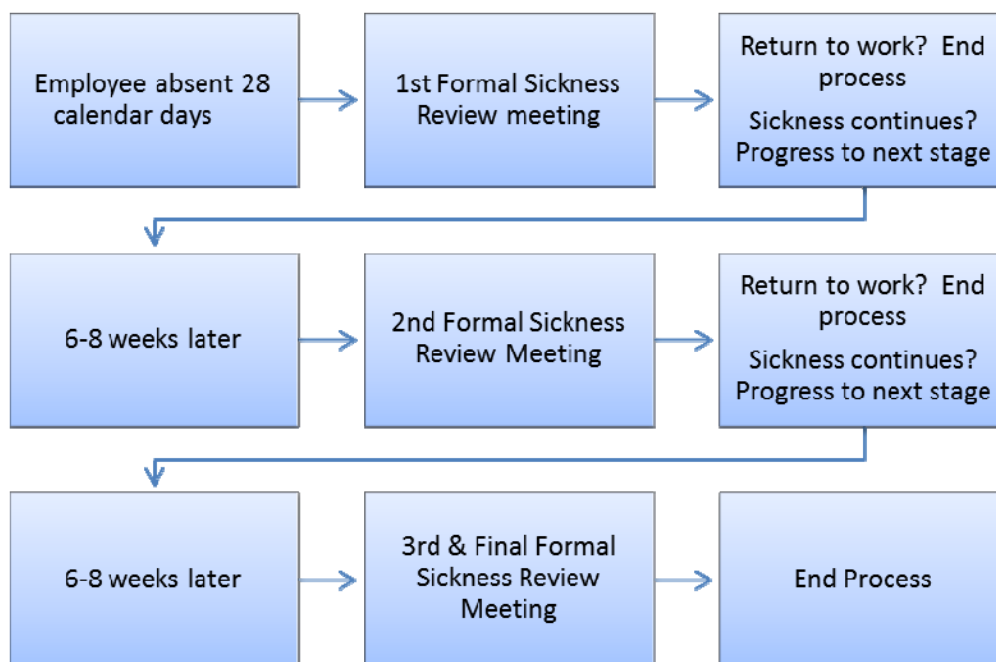
**10. Appeals against Cautions and Dismissal**

- 10.1 The employee will have the right to appeal against cautions and dismissal by writing to the Director of Human Resources within 15 working days of the hearing.
- 10.2. The appeals procedure will comply with the procedure of appeal in the Disciplinary Procedure.

## East London Foundation NHS Trust

## Procedure for Managing Long Term Sickness & Absence

### Managing Long Term Sickness & Absence Flowchart



#### 1. General

- 1.1 The aim of this procedure is to ensure that staff who are absent due to long term sickness (i.e. a period of 28 calendar days or more with no immediate prospect of return to work) are dealt with fairly, consistently and sensitively and are supported as far as possible in making a return to work if and when they are fit and able to do so.
- 1.2 In such cases, it is essential that regular contact should be maintained and in exceptional circumstances, where the employee agrees, this could include home visits. This will enable up-to-date decisions to be made in the best interest of the employee and service. This is a joint responsibility and therefore the line manager and individual should agree early on how this contact will be made and how frequent it will be. Care must be taken to ensure that this regular contact does not place inappropriate pressure on the individual but is sufficient to enable the manager to give and receive adequate information
- 1.3 In advance of this meeting, the line manager is advised to contact payroll to ascertain the sick pay entitlement of the individual and make a referral to Occupational Health. All processes should be completed in good time to minimise the stress such procedures may engender and to enable notice to be given if necessary.
- 1.4 It is anticipated that over the course of the sickness and within the time span of the person's sick pay entitlement, three formal sickness review meetings shall be

convened (it should be noted that in exceptional circumstances it may be necessary to accelerate and shorten this process):

- (i) **The first formal sickness review meeting** will ideally be arranged to immediately once the 28 calendar days has elapsed and follow receipt of the assessment and advice from Occupational Health. The purpose of the meeting is to discuss this assessment, the prognosis, the anticipated date of return (if any) and to set out for the member of staff the stages the Trust shall follow in trying to enable the person to return to work i.e. adjustment of role and redeployment and that if this is not possible the possible outcomes of ill-health retirement and/or dismissal. A further meeting date shall be set up at this time for the second sickness review meeting;
- (ii) **The second formal sickness review meeting** will be held ideally 6-8 weeks later following further referral to Occupational Health and receipt of their advice. The meeting should follow the same outline as (i) above. The employee shall be reminded of the possible outcomes should a return to work not prove possible within a reasonable timescale. A further meeting date shall be set up at this time for the third and final sickness review meeting;
- (iii) **The third and final formal sickness review** meeting shall ideally take place 6-8 weeks later. Please refer to paragraph 7 below.

1.5 The member of staff shall be given at least 5 working day's notice of the sickness review meeting in writing. The outcome of the meeting shall be confirmed in writing within 5 working days.

1.6 In addition, where an employee is absent due to injury or illness caused at work and where their salary falls below their average monthly/weekly pay; the member of staff may apply for temporary or permanent injury allowance which may bring their pay up to 85% of their average salary.

## **2. Referral to Occupational Health and Management Response**

2.1 The early involvement of the Occupational Health Service is essential to determine the prognosis in connection with the absence. Where an employee is absent or is expected to be absent from work on a long-term basis (28 calendar days or more) they will be contacted by their manager to commence the referral to Occupational Health process and invited to a meeting with a view to discussing the prospects for recovery and a return to work.

2.2 In order to see a member of staff, Occupational Health require:

- a completed electronic management referral on which it is indicated the individual member of staff is aware of the referral;
- a current job description;
- details of previous sickness record;
- details of any other relevant information (as appropriate to the case).

2.3 The Occupational Health Service will give the employee information about their rights under the Access to Medical Reports Act 1988.

2.4 If, after discussion with the manager, the member of staff refuses to sign an Occupational Health referral form then they must be clearly advised by their manager of the possible consequences: i.e. that a decision may need to be made on their present and future fitness for work only on the available information, and without the benefit of medical evidence the employee increases the risk of being fairly dismissed.

- 2.5 When the individual is referred, the Occupational Health Service will liaise with the employee's GP or Specialist as necessary and report the likely timescale for return to work, or in more severe cases, whether a return to work is likely or advisable. A formal referral may result in a consultation with the Occupational Health Physician. The Trust will also consider a report from the employees own GP/Specialist as well as Occupational Health.
- 2.6 Employees will be entitled to see any Occupational Health reports and make any amendments with consent from Occupational Health. If Occupational Health does not consent the employee will be entitled to add a personal statement to the report.
- 2.7 Once a health report is received the manager should arrange a meeting with the employee to discuss the contents.
- 2.8 The subsequent management response to the sickness absence will be subject to all the circumstances of the case and may include the need to seek further specialist advice, redeployment to alternative duties on a temporary or permanent basis or an application for ill-health retirement.
- 2.9 However, where an employee is not able to return to work in any capacity within the Trust within a reasonable time frame and other options have been exhausted, it may be that dismissal on the grounds of capability is the only option.

### **3. Adjustment of Current Role**

- 3.1 In order to enable the return of a member of staff to their current role at the earliest opportunity, the Trust shall consider reasonable temporary and/or permanent adjustments such as phased return to work; adaptation/adjustment of current working practices including hours of work; and/or reallocation of duties.
- 3.2 In the main most adjustments shall be temporary and last for no longer than 4 weeks. In instances where staff have not accrued annual leave due to prolonged sickness absence, the Trust will fund one phased return to last no more than 4 weeks in any rolling 12-month period and reserves the right to determine the length of time appropriate in the circumstances whilst giving due consideration to Occupational Health advice. In exceptional circumstances temporary adjustments may be extended for a further 4 weeks, the employee shall be required to offset this against their remaining annual leave or take unpaid leave .
- 3.3 Permanent adjustments to roles should only be considered in exceptional circumstances and with due regard to the needs of the service.

### **4. Redeployment**

- The Trust will endeavour to support employees to return to work following long term
- 4.1 sickness by offering opportunities for temporary or permanent redeployment where possible. Permanent redeployment is appropriate where it is clear that the employee will not be able to return to their substantive post at any time in the future and would be subject to the normal recruitment and selection procedures of the Trust. Any move to a new post as permanent redeployment will be paid at the going rate for the new job and will be by agreement with the employee and thus would not be subject to protection of pay under the normal arrangements.
- 4.2 Temporary redeployment may include a reduction of hours/change of job description and would be suitable for employees who were fit to return to work in some capacity but needed a short period of transition before resuming the full duties of their

substantive post. Temporary redeployment may be within the same department, (eg; by a modification of the substantive post) or elsewhere in the Trust and may be offered to the employee for up to 3 months. In order to provide as much support to the employee as possible, the budget holder in discussion with the Human Resources Department, will have the discretion to approve that the employee is paid at full pay even if they are only working reduced hours (a phased return).

- 4.3 Every effort will be made to facilitate an employee's return to work including making reasonable adjustments under the Equality Act 2010 which may include applications for grants where appropriate and the seeking of advice from external Disability Advisers.
- 4.4 Occupational Health may recommend permanent redeployment to an appropriate post where an individual is no longer able to perform their established role, due to their health.
- 4.5 Permanent redeployment on health grounds, subject to available suitable alternative vacancies:
  - is normally sought for a period of 6-weeks;
  - is offered on a one month satisfactory performance trial basis;
  - does not attract pay protection of previous salary or earnings;
  - may be refused by the individual, but unreasonable refusal of what is deemed 'suitable' redeployment, may lead to dismissal on the grounds of capability due to ill health being considered where there are no other options.

### **5. Ill-Health Retirement (NHS Pension Scheme members only)**

- 5.1 The NHS Pension Scheme sets out that employees will be eligible to apply for ill-health retirement where they have at least 2 years pensions Scheme membership, are under 65 years old and Occupational Health or their GP have advised that they are permanently unfit to carry out their duties. Any decision to grant ill-health retirement lies solely with NHS Pensions.
- 5.2 Where redeployment is not an option for the employee; they will be advised that they may be eligible to apply for ill-health retirement and the procedure for doing so.
- 5.3 Where the employee is a member of the NHS Pension Scheme, and in the opinion of the Occupational Health Physician is considered to be unfit for the foreseeable future, an application can be made to NHS Pensions for the employee to retire early on the grounds of their ill health.
- 5.4 The Manager, with the assistance of Human Resources will liaise with the individual to explain the procedure and monitor the progress of the application.
- 5.5 In these circumstances, the long term sickness management process will continue and the final review will take place however the employee's contract will not be terminated until a decision on the application has been made by NHS Pensions, unless the employee's sick pay expires before this time.
- 5.6 If the employee's first application is not successful, or is deferred, then the Trust will allow up to a maximum of 3-months for NHS Pensions to reconsider the application further, before considering termination of employment. As the final sickness review will have taken place, should sick pay expire during this time it shall not be reinstated. In the event a second application is unsuccessful and the employee is still deemed to be unfit for work and a final review has taken place, then there may be no option but to terminate the employee's employment on the grounds of capability due to ill-health.

5.7 In the event the application is successful, the employee shall then resign from the Trust and receive their ill-health retirement benefits.

## **6. Terminal Illness**

6.1 Where the employee is suffering from a terminal illness there are a variety of options open to the manager/employee. The Trust would aim, as far as possible to give the employee's interests serious attention and would try to provide the most financially beneficial result for the employee and/or his/her relatives. The options open would include:

- That the employee continues to work fully or in a reduced capacity (with corresponding reduced pay and benefits);
- That if the employee is a member of the NHS Pension Scheme and meets the eligibility criteria they may make an application for ill-health retirement or where their life expectancy is 12 months or less, their incapacity pensions may be commuted so that the value of their benefits and paid as a single lump sum.

## **7. Termination of employment**

7.1 Where other options are not available, it may be that the employee will be dismissed for reasons of capability. Before reaching the decision to terminate employment the manager with the authority to dismiss (the chairperson) shall convene a final sickness review meeting and take a balanced view of the following factors;

- The length of the absence to date and the likely length of the continuing absence;
- The nature and likely duration of the illness;
- Any medical advice/prognosis on the individual;
- The effect of the continuing absence on the work that needs to be done.
- The prevailing Agenda for Change or Trust conditions of service relating to sick pay
- Entitlements for the member of staff.
- The need for the worker to do the job for which they were employed to do and the difficulty covering his/her absence

7.2 At the meeting the line manager shall present a chronology of events and description of the efforts made to enable the person to return to work. A full account of any meetings and Occupational Health advice shall be required.

7.3 The employee shall have the right to respond to all of the information presented and to put forward any matters s/he wishes the chairperson to hear.

7.4 Should the outcome be dismissal appropriate notice shall be paid at full pay.

## **8. Human Resources Department Involvement**

A representative of the Human Resources Department should be in attendance at all formal meetings.

## **9. Representation**

At all formal sickness review meetings the employee is entitled to be represented by a recognised trade union, professional association, or a colleague employed by the Trust not acting in an official capacity.

## **10. Request to Postpone/Failure to attend meetings**

- 10.1 Employees are required to comply with requests to confirm their attendance at meetings held under this policy. Failure to do so will result in meetings proceeding in their absence.
- 10.2 In the event an employee is unable to attend a meeting for good reason, and this is accepted by the relevant manager, the meeting will be postponed on one occasion only. The Trust reserves the right to reschedule the meeting ideally at the earliest possible date and, where appropriate, to seek Occupational Health advice. Should the employee fail or be unable to attend a second time, the meeting will proceed in their absence and notified of the outcome in writing.
- 10.3 Failure to attend a meeting without good reason may result in Occupational Sick pay being withheld and the matter being considered as misconduct and actionable under the Trust's Disciplinary Policy.

## **11. Appeals against Dismissal**

- 11.1 The employee will have the right to appeal against cautions and dismissal by writing to the Director of Human Resources within 15 working days of the date of the letter confirming the meeting. The appeal procedure will comply with the procedure of appeal against dismissal in the Disciplinary Procedure.



**SICKNESS REPORTING PROCEDURE**

- Any member of staff who is ill and unable to attend work (other than by pre-arrangement) must notify their manager or other designated person as soon as possible. The notification time will need to be determined locally.
- It is the responsibility of each individual member of staff to ring in and report that they are sick. Only in very exceptional circumstances is it acceptable for someone to ring in on their behalf (e.g. emergency hospitalisation). The set timescales must still be met. **Failure to notify absence properly may lead to the absence being classed as unauthorised absence, which will be unpaid, and may lead to disciplinary action.**
  - The same information is required at the time of ringing in, whether the individual themselves telephones, or someone telephones on their behalf:
    - reason for the absence
    - estimated length of absence
    - immediate work issues needing to be addressed
    - (the manager may also ask for a contact number: only to be used if necessary)
- Absences in excess of 3 continuous calendar days (including rostered days off and weekends) require a self certificate (which is included on the sickness absence form). Where the absence continues, a 'fit note' issued by a recognised medical practitioner will be necessary from the eighth calendar day of absence. It is the individual's responsibility to provide the necessary certification; failure to do so may lead to loss of sick pay and/or disciplinary action.
- In addition to the regular ongoing contact, when an employee becomes well again, they must telephone their line manager or other designated person and provide an indication of their likely return. At the latest, this must be by the day before they wish to return so that appropriate staffing and scheduling arrangements can be made.
- For all periods of absence due to sickness, the line manager is responsible for ensuring the completion of the sickness notification forms for payroll.
- In addition, the line manager should record the sickness absence on an overall attendance sheet for each member of staff which would also record annual leave, study leave, etc.
- If any employee comes into work but subsequently goes home (i.e. only part of the day worked), this should still be recorded by the manager's on the individual's attendance record, although it will not need to be notified to payroll, as only whole sick days count for sick pay purposes.
- On return to work, managers must carry out a return to work interview for all absences, and complete the second part of the carbonised sickness notification form and forward to the payroll department.
- For sick pay purposes, all days lost to sickness including rostered days off and weekends must be counted. However, for the purpose of measuring absence, managers should record the number of days that the employee was expected to work in that period.

## Return to Work Interview

This meeting is designed to aid communication between managers and staff. It is intended to help managers understand any problems and ensure staff know what is expected of them as well as enable staff to have an opportunity to discuss absence in an attempt to identify and address issues affecting health at work.

Following any period of sickness absence the manager should meet with the employee, ideally on the first day back or as soon as possible thereafter.

As a guide, managers are advised to undertake the following:

- Complete the appropriate sickness payroll form the Return to Work form (Appendix E) and collect any outstanding 'fit note's';
- Check the employee's absence record is correct and that the relevant reporting procedure was followed;
- If reporting procedure was not followed, explore the reasons for this and seek advice from HR as necessary;
- Ask how the employee is now, if they are fit to return to work, if there is an underlying medical condition that is likely to recur and if they require any support;
- Update the employee on how their work was covered, on any events of note that happened whilst they were away;
- Calculate the employee's current Bradford Score and check number of occasions and any patterns of sickness absence in past 12 months. If Bradford score is 200 or more and/or the member of staff has been absence on 4 or more occasions and/or if there is a clear pattern of sickness refer the member of staff to Occupational Health and proceed to the Inadequate Attendance Procedure (Appendix A);
- Consider referral to Occupational Health if:
  - (a) Either party has concerns about the individual's fitness to work (refer also to trigger points for cause for concern);
  - (b) Either party identifies any risk associated with the employee's work (also complete a risk assessment);
  - (c) The absence was more than 28 calendar days.

Possible outcomes of the meeting may include:

- Referral to Occupational Health for advice and to support the employee;
- Seek further HR advice;
- Advising the employee to contact the staff counselling and assistance programme for additional support;
- Arranging a meeting in accordance with the Inadequate Attendance Procedures.

Make a record of the meeting using the form at Appendix E and retain this on the member of staff's personal file.

