

# **SUPPORTING ATTENDANCE**

Policy

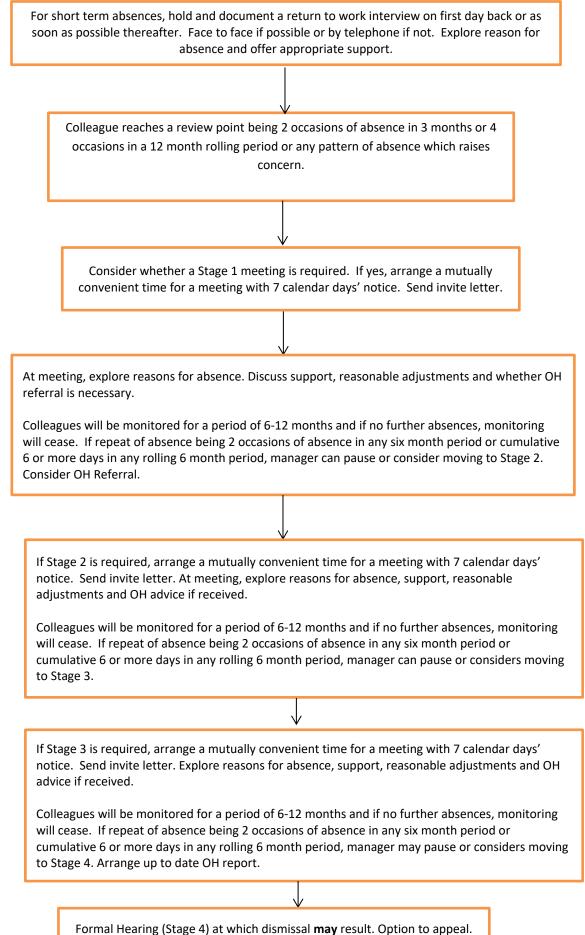
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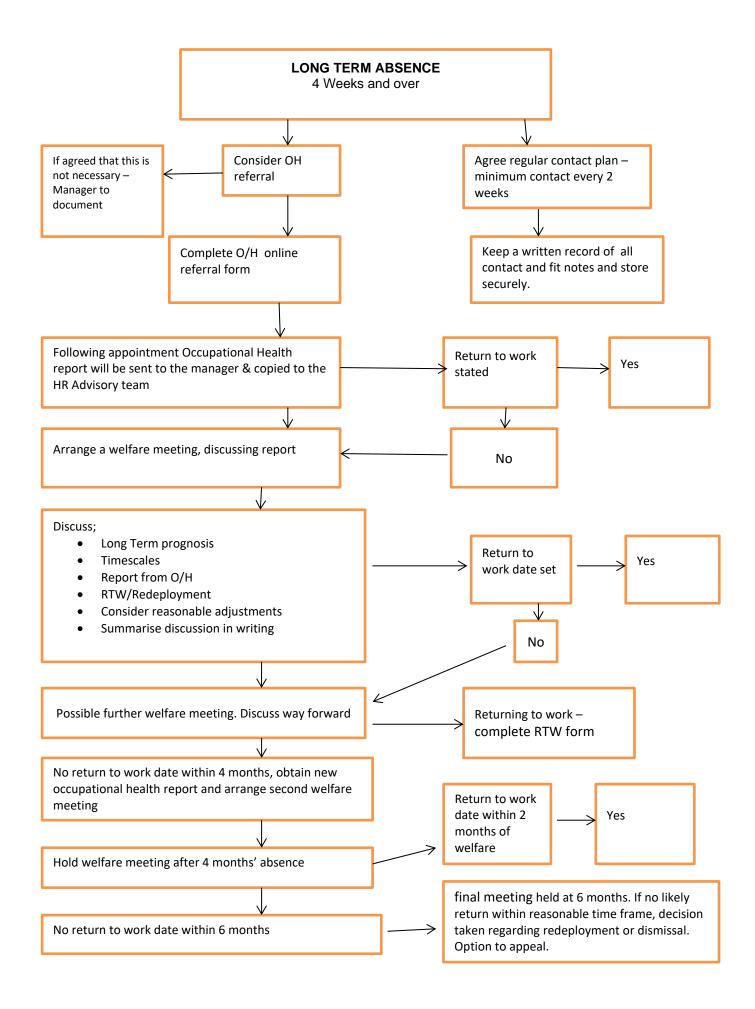
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Applies to	All colleagues	Exclusions	None

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#### SHORT TERM ABSENCES





# 2.0 INTRODUCTION

- 2.1 This policy has been produced and agreed in partnership between management and Trade Union representatives of both Taunton and Somerset NHS Foundation Trust and Somerset Partnership NHS Foundation Trust to ensure all colleagues are supported and treated fairly if they are absent from work due to sickness.
- 2.2 Taunton and Somerset NHS Foundation Trust and Somerset Partnership NHS Foundation Trust believe fairness and transparency are promoted by developing clear and transparent policies and procedures and ensuring all colleagues regardless of their role understand their content.
- 2.3 Everyone experiences illness from time to time and this policy provides a flexible framework to support colleagues to make a full recovery. The Trust recognises that work is important for all of us and that being at work is good for our wellbeing. Wherever possible the Trust will help colleagues to return to work as soon as possible and maintain regular attendance. For short term absence, review points give an opportunity to consider the effectiveness of the support that a colleague is receiving and whether it is necessary to progress through a formal process.
- 2.4 This policy applies to all colleagues of Somerset Partnership NHS Foundation Trust and Taunton and Somerset NHS Foundation Trust and to any successor organisation.
- 2.5 The Trust aims to actively promote wellbeing and encourages colleagues to engage with health and wellbeing activities both at work and outside work.
- 2.6 This policy should be read in conjunction with the Special Leave Policy as it is recognised that reported sickness absence may indicate that the colleague is experiencing personal pressures that may be better managed under other supported measures, eg compassionate, parental or emergency leave.

It is also recognised that reported sickness may be indicative of workplace conflict so it's important for managers to be able to understand the underlying cause for the absence in order to support with appropriate interventions.

- 2.7 The Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 recognised protected characteristics and gives consideration to socio-economic factors including pregnancy/maternity and marriage/civil partnership.
- 2.8 The Trusts are committed to equality of opportunity and inclusive practices in both the provision of services and our role as an employer. All people have the right to be treated with dignity and respect and the Trusts are committed to the elimination of unfair and unlawful discriminatory practices.
- 2.9 This policy may be reviewed from time to time at the request of management or Trade Unions. It will remain in force until its renewal.
- 2.10 There are a series of helpful guides referenced in this policy and these are available in the People Toolkit on the Intranet. Additional support can be found on the Trusts' intranet under Colleague Wellbeing and Support

# 3.0 **DEFINITIONS**

- 3.1 **Short term absence review points** are either two occasions of absence in three months or four occasions of absence in a twelve month rolling period.
- 3.2 **Long term absence review point** is a period of absence lasting four continuous weeks or more.
- 3.3 **Persistent absence** when a manager identifies that there is an unusual high level of absence, or they have identified unusual patterns of absence which does not fall under short term or long term absence review points.
- 3.4 **Supported return –** when a colleague returns to work on a phased basis, building up their hours steadily to their contracted hours. It may also include temporarily changing or reducing the scope of duties.
- 3.5 **Re-introduction to work** when a colleague has had a period of long term sickness, it may be appropriate to introduce them to new processes and procedures. It also may be necessary to update access to IT systems.
- 3.6 **Employee Assistance Programme (EAP)** a provision that offers free advice and counselling to all colleagues with a range of both personal and workplace issues.
- 3.7 **Medical Suspension** is a suspension of a colleague instigated by the Trust due to a medical related reason, eg a ward closure or outbreak of a contagious disease.
- **3.8 Disability** is a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on the ability to do normal daily activities (as defined by the Equality Act 2010).
- 3.9 **Reasonable Adjustment** any adjustment which would remove or minimise disadvantage for a colleague with a disability.
- 3.10 **Fit Note** is a certificate that is issued by a Doctor or Allied Health Professional stating whether or not a colleague is fit for work. It is required after 7 days' self-certificated absence.
- 3.11 Access to Work is a programme run by the Department of Work and Pensions that provides support to disabled people to help them overcome work-related obstacles arising from their disability, if this is likely to last for 12 months or longer.
- 3.12 **Occupational Health** is a specific branch of medicine dealing with the prevention and treatment of job-related injuries and illnesses. Its advisors will also advise on the impact of non-work related injuries and illnesses on a colleague's ability to perform their job role.

# 4.0 ROLES and RESPONSIBILITIES

- 4.1 Line managers are responsible for:
  - promoting colleague wellbeing, participation in health at work activities and use of the EAP
  - getting to know their colleagues and being familiar with issues that may impact upon a colleague's ability to attend work.
  - understanding the underlying cause of the absence which may be different to what has been reported
  - agreeing a consistent and appropriate method and frequency of contact with absent colleagues, to keep in touch and explore ways to support them back to work
  - maintaining secure records of all communication/contact during colleague's absence

- addressing issues with attendance in a timely and supportive way
- assessing whether it is appropriate to progress through a formal process when a colleague has reached a review point
- arranging welfare meetings at regular intervals in the case of long term sickness
- focussing return to work discussions on helping colleagues to return to and remain at work after every period of absence (Appendix A refers)
- to ensure that medical/occupational health advice is considered and any reasonable adjustments are put in place to enable the colleague to recover and return to work
- notifying the Temporary staffing team if any bank shifts should be stopped or restricted
- facilitating a return to work by exploring reasonable adjustments and/or agreeing a supported return to work

## 4.2 Colleagues

Colleagues have a responsibility to:

- take steps to maximise their own attendance by maintaining their own health and wellbeing and to support their own recovery, accessing self-help tools and support that is available to them
- follow the locally agreed process for reporting sickness, explaining the reason for their absence and likely duration
- update their manager regularly on their absence and any change of circumstances
- let their manager know if there are any important tasks or appointments that need to be covered whilst absent
- not to knowingly undertake or participate in out of work activities that may worsen or aggravate their condition
- attend any wellbeing meetings whilst off sick unless incapacitated
- follow Occupational Health advice
- obtain written permission from their manager if they wish to participate in any paid or unpaid work whilst absent from the Trust on sick leave, in line with any GP or OH recommendations
- submit fit notes in a timely manner

#### 4.3 Human Resources Advisors will:

- provide advice and guidance regarding sickness absence cases as required or determined by the policy
- ensuring that this policy is applied fairly and consistently on an individual and organisational levels
- explore reasonable adjustments with the manager

# 4.4 Trade Union Representatives will:

- act as a representative/advocate for their members at informal and formal stages of the process
- suggest any intervention or reasonable adjustment that may help their member to maintain regular attendance or return to work

#### 4.5 **Occupation Health will:**

• provide professional medical advice and guidance on a colleague's ability to attend work

 suggest any intervention or reasonable adjustment which may enable a colleague to return or remain in work

# 5.0 PROCESS DESCRIPTION

- 5.1 The Trust is committed to promoting and supporting colleague wellbeing. Some ways that wellbeing can be improved include:
  - helping colleagues remain in work as work is an important activity in maintaining wellbeing
  - enabling a prompt return to work by providing empathy and support and making appropriate adjustments
  - supporting a change in behaviour by understanding the underlying causes and challenges colleagues face in maintaining their attendance. Causes may include personality clashes, bullying, which if not addressed quickly and effectively can lead to absences, stress and anxiety
  - exploring work life balance options through flexible and agile working
  - taking regular breaks and participation in health at work activities, eg walks
  - working to remove the stigma around mental ill-health and stress so that colleagues feel they can talk openly
  - treating alcohol and substance related absence in a supportive way (refer to guidance note on alcohol and substance misuse which is on the intranet)
  - consider whether Access to Work may be able to offer support

Managers should always consider supportive interventions before starting a formal process and be mindful of individual circumstances, which include disability and previous sickness record. HR Advisors will be available to support all colleagues whenever necessary.

## 5.2 Sickness as a result of Pregnancy or Fertility treatment

Women have the right to be treated fairly at work due to pregnancy or childbirth.

All absences relating to pregnancy, miscarriages and fertility treatment will be recorded in the normal manner but will be disregarded for the purposes of determining whether a review point has been reached. Return to work discussions must be held as usual. Please see Maternity and Special Leave Policies for further information.

# 5.3 Work related Injury/Illness

Any injury or illness covered by the reporting requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) which occurred or was contracted at work will be classified as a work related injury/illness. These will be recorded in the normal manner but will be disregarded for the purposes of determining whether a review point has been reached. Return to work discussions must be held and documented as usual. Work related stress does not come under this category.

Medical suspensions will not be classified as sickness absence. These include situations where a colleague is instructed by a trust manager not to come to work for a medical reason, for example the 48 hour period following the cessation of D&V symptoms or an inability by the trust to incorporate an agreed reasonable adjustment.

Eligible colleagues who have injuries, diseases or other health conditions that are wholly or mainly attributable to their NHS employment will be entitled to an injury allowance, subject to the conditions set out in the Agenda for Change handbook. The injury, disease, or other health condition must have been sustained or contracted in the discharge of the colleague's duties of employment or an injury that is not sustained on duty but is connected with or arising from the colleague's employment. Should an injury allowance be granted, the period of sickness relating to

the injury, disease or other health condition will retrospectively not be included for the purposes of sickness monitoring or calculation of review points.

# 5.4 **Disability**

The Trust is committed to having a representative workforce and will take appropriate steps to support the attendance of colleagues with a disability, making reasonable adjustments as necessary to help colleagues with a disability remain in work.

Under the Equality Act 2010, a reasonable adjustment may include:

- an adjustment to the working environment or equipment that the colleague must use
- an adjustment to the colleague's duties
- an adjustment to the colleague's review points for absences related to their disability or impairment
- reasonable paid time off to attend hospital appointments in connection with disability should be given, taking into account the needs of the service and patient care

Absence related to disability will be recorded as usual and in exploring whether formal meetings are held consideration should be given to the impact of the absence on service delivery, patient care and other work colleagues.

The trust will support colleagues with a disability or underlying health condition. For further information please see the supporting colleagues with long term health conditions and disabilities toolkit. Consider if Access to Work may be able to offer support.

# 5.5 Bank Shifts During Sickness Monitoring and/or Phased Return to Work

It may be necessary for a colleague to be restricted from working additional shifts/hours, including bank shifts. The manager will need to discuss with the individual the potential need for this restriction and document it accordingly. It is the responsibility of the manager to notify the temporary staffing team of any restrictions.

#### 5.6 **Return to Work Discussion**

The return to work discussion is a supportive two way conversation intended to welcome a colleague back, check they are fit to return to their full duties and assess what support can be put in place.

A return to work discussion must be held between the manager and the colleague on the day of their return or as soon after if this is not possible. The discussion should, wherever possible, take place face to face although it is accepted that sometimes this may be via the phone. A text conversation will not constitute a return to work discussion. The conversation must take place in a private area where the conversation cannot be overheard.

The return to work discussion must consider whether:

- a Fit Note (if required) was provided
- the colleague needs any adjustments or referrals
- the colleague has been absent due to mental ill-health including stress. If it's stress, a stress risk assessment must be offered.
- the colleague would benefit from accessing the Employee Assistance Programme.
- there are any difficulties being experienced at work or home which are affecting their attendance
- whether the colleague undertook any secondary paid or unpaid work

Appendix A is the Return to Work form for completion.

#### 5.7 Short Term Absence

When a colleague has been absent from work due to sickness for either two occasions of absence in three months, or four occasions of absence in a twelve month rolling year.

Where a colleague has left work early having completed half of their shift due to being unwell, it will not be counted as sickness absence unless their regularity causes concern or a pattern is identified. A return to work interview/discussion will be held, documented and retained in each case.

## 5.8 Long Term Absence

When a colleague is absent from work for 4 weeks or more the long term absence procedure must be followed. Details of the process can be found in the sickness absence toolkits – long term sickness. Managers can, with the agreement of the colleague, or if incapacitated, in agreement with their Lasting Power of Attorney covering their personal welfare, move directly to the final stage of monitoring. This might be appropriate when it is clear that the colleague has a terminal illness/condition and there is no prospect of a return to work.

Colleagues who are members of the NHS pension scheme may be able to apply for an ill-health retirement.

## 5.9 Managing Persistent Absence

Each case that is managed in line with this process will be treated on an individual basis.

If a manager identifies that an individual has a significant high level or pattern of reoccurring absence, which is not hitting any short term review point but is giving cause for concern, the manager should contact a HR Advisor to discuss the case. If necessary, this can be managed through the short term absence route to ensure appropriate action is taken.

#### 5.10 Formal Process

Compassionate leadership by a manager, talking to and supporting colleagues will often be enough to enable good levels of attendance to be maintained and support colleagues to remain at work.

Managers should recognise that every situation is unique and that there are a range of factors to consider when reviewing attendance. The manager should ensure that all reasonable supportive measures are in place to support regular attendance before considering whether a formal review is required. It should be noted that short term sickness absence is sometimes a mask for the underlying causes which may be unrelated to sickness absence, e.g. issues relating to a caring responsibility. Following every absence a return to work interview must be completed as outlined in 5.6. In cases of long term, short term or persistent absence where there remains an ongoing concern and the suggested guidelines have been exhausted, an attendance review meeting may be required.

The attendance review meeting should cover:

- a discussion regarding the sickness absence to date
- identification of any underlying causes, eg workplace relationships, caring responsibilities or secondary employment
- consideration of occupational health advice
- consideration of a stress risk assessment if appropriate
- review of any support measures already in place, such as
  - o EAP
  - o working patterns
  - $\circ$  amended duties
  - $\circ$  training

- reasonable adjustments
- the impact of the absence on service delivery, patient care and work colleagues
- agreeing a new review period

If attendance does not improve and continues to be of concern, an attendance review meeting should be held at stages 1-3 of the formal process up to stage 4, see appendix B.

#### Stage 4 – Formal Hearing

When it is identified that the colleague has reached stage 4 of the short term, persistent absence or will be unable to return to work during a period of long term absence within a reasonable time frame, the manager will consider arranging a final review meeting where a decision can be made on the appropriate way forward.

The colleague must be informed of the final review meeting date in writing giving at least seven calendar days' notice, reminding them of their right to representation and that should their absence from work continue, termination of their contract due to ill health may occur.

The colleague must be given the opportunity to share any new relevant medical evidence before the meeting.

The review meeting will be chaired by a senior manager with the authority to dismiss. During this final review the senior manager, with HR support must consider what, if any, reasonable adjustments could be implemented to support the colleague returning to work, or to maintain regular attendance. The senior manager will make all reasonable attempts to have an up to date Occupational Health report.

With regard to **long term sickness**, if a return to work is not possible or within a reasonable time frame the following options must be considered if appropriate:

#### **Redeployment:**

On the advice of Occupational Health, redeployment can be considered on the grounds of ill health. Colleagues can remain on the redeployment register for a period equivalent to their entitlement to notice up to a maximum of 12 weeks. If a suitable position is not identified, notice in line with their contractual notice/statutory (whichever is the greater) will be served. For more information please see the Redeployment and Pay Protection Policy.

#### Flexible Working

This should be an option that is considered to support the colleague returning to work. For more information on this see the Flexible Working Policy.

#### **Career Break**

This is an option that may enable the colleague to have time and space and can be discussed at the meeting.

#### **Termination of Contract:**

Where a colleague is not able to return to work within reasonable timescales despite all of the above being taken into account, then termination of their contract on the grounds of capability due to ill health will be considered. The impact of the absence on the department/directorate must be explored.

#### Appeal

A colleague may appeal their dismissal. The grounds for appeal should be received within 14 calendar days from the date of the outcome letter. Appeals against dismissal should be heard by a more senior manager with the relevant authority for to dismiss independent from the original stage 4 hearing manager

# 5.11 Annual Leave Implications

In accordance with the Working Time Directive, a colleague is entitled to carry forward any unused statutory annual leave up to a maximum of four weeks that they have been unable to take from the current year as a result of long term absence to the following year. Please contact the HR Advisory team for further clarification.

Annual Leave requests whilst on long term sickness absence should be requested in the usual way.

If a colleague falls ill whilst on annual leave, it will be credited back to the colleague for the period in question, provided that it has been properly reported to the manager on the first day and, if over seven days, on production of a fit note or other medical documentary evidence.

Colleagues will not be entitled to an alternative day off if sick on a statutory public holiday and, if using the e-roster system, the statutory holiday will be deducted in the normal way.

#### 5.12 Contact

Colleagues should remain in regular contact with their manager, updating them on any change in their condition and confirmation of likely return date. At the start of the absence, managers will offer support to their member of colleagues and agree when and how contact will take place. As a guideline, this should generally be no less frequently than fortnightly unless circumstances indicate otherwise. In exceptional circumstances e.g. if the reason for absence is alleged conflict with the manager, then either the colleague or manager may request that a different manager becomes the point of contact. The colleague's line manager must however be kept up to date about their absence at all times. All contact must be documented.

#### 5.13 Supported Return to Work

To assist colleagues returning to work after an extended period of absence a supported return to work should be considered. This could include a number of temporary changes for the colleague such as reduced days/hours, workload, work location etc. The recommended amount of time that a colleague can be on a supported return to work, where they will continue to be paid for their full contractual hours, is four weeks within a 12 month rolling period.

Any colleague on a supported return to work will not be entitled to work overtime or bank shifts either with the Trust or for another employer during this time. If it is found that a colleague has worked additional hours the supported return arrangements will cease and the colleague will only be paid for those hours actually worked.

#### 6.0 TRAINING/COMPETENCE REQUIREMENTS

6.1 No mandatory or specific training will be required to implement this policy although regular workshops are held and coaching on a case by case basis will be available from the HR Advisor Team. Communication to all colleagues will be made through normal channels.

# 7.0 MONITORING

Element of policy for monitoring	Section	Monitoring method - Information source (eg audit)/ Measure / performance standard	ltem Lead	Monitoring frequency / reporting frequency and route	Arrangements for responding to shortcomings and tracking delivery of planned actions
Staged process as set out in the Absence flow charts chart-		On an annual basis the HR Advisor team will carry out an audit of all the cases that have not proceeded to the final stages, to identify any common themes or trends.	The nominate d Lead within the HR Team	Annually	If the HR Advisor team identifies any common themes, these will be addressed through either direct one to one support, training, or policy changes.
Short term Long term Overall High Levels of persistent absence.		A sample of 10 departments across the Trust which will include clinical and non- clinical departments and across directorates will be six monthly audited. If during these audits scores fall below the agreed HR Governance Committee scoring criteria the department will be re- audited. Timescales for re- audits are dependent on level of scoring.		Monitoring reported to the HR Governance Committee, six monthly.	If the HR Committee identifies a concern they will oversee the development of an action plan or escalate as appropriate to the Director of HR.

# 8.0 **REFERENCES**

- Equality Act 2010
- Working Time Directive 2003
- Agenda for Change Handbook
- Flexible Working Policy
- <u>https://www.gov.uk/taking-sick-leave</u>
- ACAS
- Conflict of Interest Policy
- Anti-fraud, Bribery and Corruption Policy
- Sanctions and Redress Policy
- <u>http://fitforwork.org/</u>

# 9.0 APPENDIX A

# **RETURN TO WORK INTERVIEW RECORD**

Name & Address	State reason why you were unfit for work
	I now declare I am fit for work
Department	Yes 🗌
Job Title	No Have you consulted a doctor or visited hospital?
	have you consulted a doctor or visited hospital?
First day of absence from work:	Is there any support or adaptations that need to be put
	in place? (e.g. O/H referral)
Please tick if left part way through shift:	
First day sickness reported [if earlier]:	Was absence due to an accident at work? <b>YES/NO</b>
	If yes, has accident/incident been reported on Trust
Last day absence reported:	Incident Reporting form/system? YES/NO (If
	No, give reasons below)
Date of return to work:	
Was the illness related to Ward closure?	State Incident Number:
Yes/No	
Is the absence counted for monitoring?	
Yes/No	
If No, reasons why?	
Absence notified on:	Was your absence related to your long term
Date:	condition?
Reported to:	
Notes of any additional discussion or action po	ints during return to work interview

Colleague				
I declare that I did not undertake paid or unpaid employment during this period of absence (please tick)				
I declare that the information as discussed at my return to work interview is true.				
Signature: Date:				
5				
Giving false information may result in criminal and disciplinary action and or the loss of sick pay benefits .				
Manager				
Signature: Date:				

# **APPENDIX B**

# Absence Table

The below table summarises the stages of both short term and long term sickness. However it is up to the manager, taking into account the HR Advisor and OH advice (where necessary) as to whether it is appropriate to progress to the next stage of the policy. The manager can decide that the process will be paused at any stage irrespective of the attendance guideline at that stage has been exceeded.

Stage	Short Term/Persistent	Long Term	OH Referral
Informal Stage 1	Following every absence Return to work interview to be completedReview PointConsider a Stage 1 case conference if there have 	Following every absence Return to work interview to be completed Review Point Consider a formal Stage 1 meeting if there have been four weeks' absence. Attendance and Wellbeing will be formally reviewed Line manager will set a monitoring period of between 6 and 12 months. If no further absences will no longer be monitored. If repeat of absence, manager considers moving to Stage 2	Immediate referral with colleague consent where the absence is stress, muscular skeletal or disability associated. Short term – where manager feels that OH referral would help identify underlying reasons or the need for medical treatment. Long term – where it has not been possible to establish a firm return to work date.
Stage 2	Review Point Consider a move to stage 2 if, within the monitoring period at Stage 1 (6-12 months), there is a further 2 occasions of absence in any six month period or cumulative 6 or more days	<b>Review Point</b> Consider a move to stage 2, if there is no likelihood of a return in the near future.	Immediate referral with colleague consent where the absence is stress, muscular skeletal or disability associated. Short term – where manager feels that OH referral would help identify underlying

	in any rolling 6 month period.		reasons or the need for medical treatment. Long term – where it has not been possible to establish a firm return to work date.
Stage 3	<b>Review Point</b> Consider a move to Stage 3 if, within the monitoring period at Stage 2 (6-12 months), there is a further 2 occasions of absence in any six month period or cumulative 6 or more days in any rolling 6 month period.	Review Point Consider a move to Stage 3, if there is no likelihood of a return in the near future.	Immediate referral with colleague consent where the absence is stress, muscular skeletal or disability associated. Short term – where manager feels that OH referral would help identify underlying reasons or the need for medical treatment. Long term – where it has not been possible to establish a firm return to work date.
Stage 4	Formal Hearing Consider a move to Stage 4, if, within the monitoring period at Stage 3 (6-12 months), there is a further 2 occasions of absence in any six month period or cumulative 6 or more days in any rolling 6 month period. Consideration to holding a formal hearing at which dismissal may result. It is important to explain the impact of a colleague's absence on service delivery, patient care and colleagues	Formal Hearing Consider a move to Stage 4, if there is no likelihood of a return in the near future. Consideration to holding a formal hearing at which dismissal may result. HR will be in attendance in an advisory capacity. It is important to explain the impact of a colleague's absence on service delivery, patient care and colleagues.	Prior to holding a formal hearing, an up to date OH report must be sourced (no more than a month old and subject to the colleague's consent).