

Lead Employer Trust

Management of Attendance

POLICY INFORMATION SHEET

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1 POLICY STATEMENT

At some time during their working life almost all employees will suffer from ill health and be genuinely unable to attend work. When these incidents arise the Lead Employer Trust (LET) will deal with sickness absence in a sympathetic and understanding way. In most cases these absences only last for a few days. If the absence is prolonged it can have a significant effect on both the quality of life of the individual and in the workplace.

The disruption that absence from work causes is both costly and has an adverse effect on the quality of service provided by the Local Education Providers. It is therefore essential that the LET take action to address sickness absence wherever possible and employees familiarise themselves with their obligations under this policy. Research has shown that the longer people are off work, the less likely it is that they will return. It is also accepted that minor and moderate conditions can develop into chronic ones if action is not taken at an early stage to assess the impact of the illness on the individual's ability to work. The NHS is a large and complex organisation that relies upon all staff to regularly attend work to achieve its goal of delivering the best possible healthcare.

This policy has been developed to highlight the importance of the management of sickness absence from the first day of absence and to give guidance on how best employees can be supported during periods of absence and the assistance which can be given to them in achieving an early return to work.

This policy and procedure applies to all LET employees.

Sick Pay entitlements are in accordance with Medical and Dental Terms and Conditions (Agenda for Change for Non-Medic Public Health Trainees and the NHS Primary Dental Services Terms and Conditions for Dental Foundation Trainees).

In cases where there is direct evidence of fraudulent sickness absence, the issue becomes one of conduct for which disciplinary action may be appropriate. A referral should be made to the Trust Local Counter Fraud Specialist, in addition to disciplinary action, criminal or civil action may also be considered.

2 ROLES AND RESPONSIBILITIES

LET Department

- Must keep up to date records of all sickness absence (episodes and reasons) and ensure Employee Staff Record (ESR) is accurate and up to date, also helping to ensure payroll has accurate information to ensure correct pay.
- Must address unacceptable levels of attendance (see Sections 9 – 13)
- Must maintain regular contact with employees during absence from work, including anyone on paid OOP.
- Must use the provisions within the Special Leave /Parental Leave/Flexible Working Policies where appropriate.
- Must document and facilitate return to work plans including any recommended adjustments as necessary.
- Must take appropriate action when a cause for concern arises due to sickness.

Local Education Provider

- Must carry out return to work discussions after every episode of absence.
- Must keep accurate records of all sickness absence (episodes and reasons) and ensure that the LET is notified.

If there are reasons to believe that an employee is abusing the sickness absence scheme, the local education provider should contact the LET HR department to discuss whether action should be taken in accordance with the LET's Conduct and Capability Procedure. Examples might be an employee who was refused a request for annual leave and reports in sick, an employee who undertakes other

paid employment whilst on sick leave, or an employee whose behavior away from work is incompatible with the reason for the absence.

Employee's contractual obligations

- Has a duty to report for work when fit to do so.
- Must maintain regular attendance at work.
- Must comply with absence notification/certification procedures.
- Must maintain regular contact with their supervisor and the LET during their absence.
- Must attend occupational health appointments and meetings with supervisors or LET.
- Must be contactable at their home address during their absence unless an alternative contact address has been notified to the LET or their Supervisor.
- Must ensure that they do not partake in any activity that will have a detrimental effect on their recovery.
- Must return to any suitable alternative duties identified following receipt of recommendations in a Fit Note, where immediate return to their substantive role is not possible.
- Must notify their manager of any holidays occurring during their period of absence.

All employees must take personal responsibility for their own health, recognising that they can make a significant contribution to their own good health and well-being. Employees are expected to take every appropriate opportunity to improve their own health and wellbeing.

Failure to do so, without good reason, will be regarded as a breach of contract, and may result in the employee being subject to the LET's Disciplinary Procedure.

Where employees have failed to comply with the requirements in this procedure, then decisions on their continued employment with the LET may be made in their absence and based on the information available to the LET at that time.

Occupational Health – must assist in the provision of advice to enable the effective management of sickness absence. Occupational Health plays a major role in the health and wellbeing of employees, particularly mental health, musculoskeletal or other locomotion injuries.

3 DEFINITIONS

Where the word 'absence' appears in the text, it refers to sickness absence.

3.1: Short Term Absence

Short term absence relates to situations where the employee is absent from the normal working environment due to illness for periods of between one day and 27 calendar days. There may be occasions where it is appropriate to link periods of short-term sickness absence when it relates to the same episode of illness and the employee has attempted an unsuccessful return to work. In these circumstances this is counted as one episode of absence for monitoring purposes (but not for recording purposes).

3.2: Long Term/Chronic Absence

Relates to situations where the employee is absent for a prolonged period of time due to illness, or a prolonged period broken by brief returns to work whilst well due to an underlying health problem. The LET considers long term absence as 28 calendar days or more continuous absence for monitoring purposes.

3.3: Statement of fitness

Doctors issue Statements of Fitness as evidence of an individual's fitness for work, commonly referred to as 'Fit Notes'. The 'Fit Note' enables a doctor to advise that a person:

- May be fit for work, considering the doctor's advice.
- Is not fit for work.

3.4: Self-Certificate

The LET requires employees to self-certify for periods of sickness absence up to and including 7 calendar days. This is known as self-certification/return to work form which must be completed when the employee returns to work.

3.5: Disability

The definition of 'Disability' under the Equality Act 2010 defines disability as a physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day to day activities.

3.6: Reasonable Adjustments

Where an employee is disabled for the purposes of the Equality Act 2010, the LET is under a duty to make "reasonable adjustments" to enable the employee to continue working in their existing job, this requires working with the school for training purposes and the local education provider. A failure to do so could amount to discrimination.

4 RECORDING AND REPORTING ABSENCE

Effective management of sickness absence depends on accurate and comprehensive record keeping. Local Education Providers will record individual levels, frequency, and reasons for absence, and must report absence to the LET. The supervisor, LET and local education provider will identify problems or patterns at an early stage and provide support and assistance to improve attendance. Leaders will be trained in the management of sickness absence and promotion of health and wellbeing to understand the link between staff health and wellbeing and attendance at work, quality of patient care and productivity.

Employees are responsible for making themselves familiar with any local/departmental absence notification procedures including the nominated person to contact.

It should be noted that in the case of time off owing to ill-health, such absence is counted in calendar days not working days. So, if at the end of a period of sickness an employee has days off, either rostered or as a weekend not normally worked, **unless they report their fitness to return to work by the last day of their illness, the days off/weekend will be counted.**

Employees and supervisors are reminded that where time off is required for reasons relating to dependents/domestic circumstances, there are separate provisions with the various Work Life Balance Policies, i.e., Special Leave, Out of Programme.

4.1: Notification procedure when reporting sick

Local Education Providers must clearly explain to LET employees who they must contact in the department to report their absence and by what time.

Employees are responsible for making themselves familiar with any local/departmental absence notification procedures including the nominated person to contact.

Employees are expected to personally telephone their manager/nominated person to notify them of their absence as far in advance as possible and before the shift is due to commence. The LET would

expect an employee to notify their manager at least one hour before the shift is due to commence unless the shift is an afternoon or late in which case notification should be given at least three hours before if not earlier where possible.

Only in circumstances where the employee is unable to speak to their line manager for health reasons can a relative or friend contact the manager on their behalf. It is not acceptable for employees to notify their manager of their absence using text messages or emails.

When reporting sick, if an employee is unable to speak directly to their manager/supervisor in the first instance, the manager/supervisor will be expected to telephone the employee at the earliest opportunity.

Depending on the reason being reported e.g., mental health, musculoskeletal, bereavement: the manager must consider in consultation with the LET whether a referral to occupational health would be beneficial.

For a referral to the LET's occupational health provider we should ensure appendix C is completed so the referral can be made without delay to ask for advice on the likely timescale for a return to work and whether adjustments to work or alternative work would enable the individual to return more quickly or even immediately. The LET should ensure that the template (appendix C) is completed together with the trainee and/or supervisor to ensure all the relevant information is included to ensure a best practice referral is made.

In exceptional circumstances, and with the knowledge of their supervisor, it is recognised that on occasion's issues of a private or personal nature can be discussed more effectively with the LET's Occupational Health provider or with another supervisor of the same sex. In such circumstances a referral to the LET's Occupational Health can be made without delay.

An indication of the reason or symptoms for absence must be offered, in addition to when they occurred, how they impact on their ability to attend work and the likely duration of absence. The supervisor must identify any support that the employee may need to help with their recovery and/or ability to return to work at the earliest opportunity, which may include alternative duties, adjustments and/or facilitating a return to work if a different location or service is an option this must be discussed with the LET.

By the eighth calendar day of the absence, the employee must submit a 'Fit note' to the LET.

The employee must notify their supervisor of continuing absence and submit a Statement of Fitness for Work (referred to as 'Fit Note') from a registered medical practitioner to the LET. The employee must ensure the Fit Note is received by the LET within 4 calendar days inclusive of the day of issue.

If it is not this will be regarded as an unauthorised absence which may affect their pay and may be dealt with under the LET's Disciplinary Procedure where appropriate.

5 CONTACT WITH ABSENT EMPLOYEES

Keeping in contact with absent employees is a key factor in ensuring they can successfully return to work as soon as is advisable and practicable.

The employee along with the supervisor and LET must maintain regular contact throughout the employee's period of sickness absence. The frequency of this would depend on the reason for absence, on-going treatment/intervention, and the need to ensure the provision of high quality, safe and caring health and care services during the employee's period of absence.

The LET must establish a contact arrangement to ensure regular communication takes place at convenient pre-arranged times. Contact can either be by telephone, virtual meetings, or a home

visit, as mutually agreed, to offer support and help if required and to keep up to date with the employee's progress.

During periods of short-term sickness absence, daily contact may be appropriate and during periods of long-term absence, weekly may be appropriate. The manager and the LET must consider individual circumstances in determining what is reasonable to maintain regular contact with the employee during the period of sickness absence.

In cases of prolonged absence this helps to reduce the feeling of isolation that can otherwise develop and can identify needs for management action on any return to work at an early stage. As a minimum it is reasonable for the LET to have contact a few days before a doctor's certificate or self-certification period is to expire, within a few days after a new certificate is received, after any report from occupational health and during a longer absence at least monthly, in the absence of advice to the contrary from occupational health.

5.1: Monitoring Sickness Absence

The LET provides reports to each of the local education providers. This report contains LET employees based in their organization by department, it includes rate and highlights any areas of concern to be addressed.

The People Manager prepares a monthly KPI report containing sickness information across the LET.

5.2: When to be concerned about an employee's level of sickness absence

Where the employee has been absent on 3 or more separate occasions or for a total of 8 days within a rolling 12-month period. Where an employee has absences defined at this level and on examination of the preceding 12 months' absence history there are no other absences then it is unlikely that a formal review of the employee attendance should occur. However, the LET and supervisor must convey through return-to-work discussions, their concern for the employees' health and ability to provide effective and reliable service and discuss any support that may be required to ensuring the employee can provide effective and reliable service in the future.

5.3: Where an employee has persistent part-day absence

Where there is a discernible pattern. In determining whether there is a cause for concern, supervisors should discuss with the LET whether the absences re-occur on certain days (prior or following weekends, annual leave, bank holidays), the proportion of absence which is self-certified versus medically certified, reasons or symptoms given for previous absences, whether the causes are varied or could indicate an underlying health condition, information gathered from previous return to work discussions and any other evidence that might be available about possible underlying cause of absence.

There is concern about the health of an employee that may be affecting their ability to perform in the role in which they are employed.

6 STATEMENT OF FITNESS FOR WORK (FIT NOTE)

Where a Fit Note indicates absence in months, these should be regarded as calendar months.

- e.g. Fit Note signed on 20th January for 3 months: return to work date is 19th April

Where a Fit Note indicates absence in weeks, these should be regarded as 7-day weeks

- e.g. Fit Note signed on Friday 18th January for 6 weeks: return to work date is Friday 1st March.

Where a Fit Note indicates actual dates „from“ and „to“, the return to work date is the day after the „to“ date

- e.g. Fit Note indicates absence from 20th to 27th March – the return to work date is 28th March.

The Fit Note empowers GPs to confirm that an employee is either:

- Not fit for work
- May be fit for work with extra support from their employer

This second option may indicate that the employee may be able to carry out some work if adjustments can be made to the employee's existing role such as reduced hours, changes to duties and responsibilities or working from a different location. It is incumbent on the LET to explore such options with NHS England Education (the training provider) and local education provider, with a view to facilitating the employee's return to work and if the local education provider can accommodate this the employee can be expected to make a return to such adjusted work as soon as it can be arranged. Where adjustments cannot be made to the employee's existing role a suitable alternative role will be identified by the school taking account of the restrictions on the Fit Note and the employee will be expected to undertake those duties. If the supervisor cannot accommodate the Fit Note then they must seek advice from the LET who will liaise with the NHS England Education.

Certificates indicating that a period of sickness absence has ended will no longer be issued. Where there is doubt about the nature or extent of adjustments needed or where the GP has suggested an occupational health assessment a referral to the LET's occupational health should be made.

7 Supported Return to Training (SupportTT)

SupportTT is a centrally funded NHS England Education initiative which aims to support **ALL** trainees to safely and confidently return to training after a sustained period of absence. The programme applies to **ALL** trainees who are absent for a period of three months or more, regardless of the reason. Those who are absent for a shorter period may also access support. As returning trainees are a diverse group, SupportTT aims to provide a bespoke, individualised package for each returning trainee. If you are returning to the workplace after a period of absence it is strongly recommended that you follow our guidance, further information can be found here: <https://madeinheene.hee.nhs.uk/education2/Supported-Return-to-Training>

As part of the Supported Return to Training (SupportTT) programme we encourage you to undertake a pre-return meeting with your ES/CS to discuss the extra support you might need on your return to work. This could include training, a supernumerary period or enhanced supervision. You can access the pre-return form here:

<https://madeinheene.hee.nhs.uk/education2/supporttdocuments>

8 RETURN TO WORK

On their first day back on duty following sickness, an employee must report to the person in charge. The local education provider must conduct a return to work discussion on the employee's first day back at work, or at the earliest opportunity. This meeting should be in private on an informal one-to-one basis and is done to welcome the employee back to work, establish the nature and cause of absence and see if any help is needed (It is recognised that this may be difficult to do on the first day of return from absence. However, they can conduct this by phone, or regardless of any time lapse it is important that the interview takes place at the earliest opportunity).

Other issues unrelated to sickness absence should not be discussed (e.g. misconduct/performance issues), but addressed on another occasion.

Sometimes the issues to be discussed may be sensitive and, in these circumstances, staff should have the option of speaking to a supervisor of their own sex or discussing the nature of the absence with a member of the Occupational Health Department. Nevertheless, Occupational Health cannot replace the role of the LET in sickness absence management and any discussions of the sensitive issues would have to be undertaken in the context of an occupational health referral. The individual

should be referred as soon as it is discovered that their health problem is such that they would not wish to discuss it with their supervisor to avoid any delay in ensuring action needed to adjust work or support the individual can be taken.

At the Return-to-Work Discussion the employee's previous attendance record should be reviewed:

- if the employee has had, in the last 12 months, either 3 or more occasions of absence or their absence rate (as at the last date of the most recent episode of absence) exceeds the current Trust target the employee should be informed that a Stage 1 meeting will be arranged.
- If the employee has previously had a Stage 1 or Stage 2 meeting, and their absence rate since that meeting (to the last date of the most recent episode of absence) has reached the target set, they will be informed that a Stage 2 or Stage 3 meeting will be arranged.

9 REFERRAL TO OCCUPATIONAL HEALTH

The role of the Occupational Health Service is advisory and not managerial. Any medical reports provided to the Occupational Health Service are confidential. The employee will be involved at all stages of the referral process. This will involve issuing any copies of correspondence.

The Occupational Health Service should be used to assist in the management of sickness absence, it is important that the employee is involved at every step and will need to agree with the referral being made. The LET will make the referral to Occupational Health in a timely and appropriate manner.

The Occupational Health Service is not responsible for making any decision regarding employment. It is the role of the Occupational Health to give specialist advice regarding fitness to work and, where necessary and the information is not already available via the employee, they will obtain background information from general practitioners, consultants and other health professionals involved in the care of the employee.

Work accidents should be reported on the local education providers Datix system and Occupational Health should subsequently be informed. Accidents should be monitored, recorded and fully investigated by the local education provider to improve health and safety at work.

In certain circumstances employees may be entitled to NHS injury benefit. If applicable this would be discussed during formal sickness review meetings. Further information is contained within the national terms and conditions of service handbook.

The LET should make decisions based on all the facts available. They will need to weigh the relative expertise of the professionals and others from whom information is received.

10 WHEN SHOULD THE LET TAKE ACTION?

The LET are expected to take action when:

- Employee's absence is 3 or more separate occasions within a rolling 12 month period or the employee's total absence level has exceeded the LET absence % target.
- Where the employee has been **or is likely to be** absent from work for a period of 28 or more calendar days. Employees with a Fit Note taking them up to this duration should be referred to Occupational Health when that certificate is received, without delay, unless there is evidence of a current treatment plan.
- The employees attendance records gives cause for concern and/or the absence pattern does not fall neatly into the above categories - in these circumstances the overall absence history should be reviewed.
- There is concern about the health of an employee, affecting their work performance, this should be discussed with the employee and a referral made to the occupational health department. It is essential that the employee is aware of the reasons for the referral.

- In all these circumstances the LET retains discretion to act directly on receipt of information received from reasonable sources which make the solution for a return to work clear. For example if an employee is given a Fit Note indicating they may be able to do alternative duties and the local education provider can accommodate this and the School (training provider) agree it is appropriate for training then there is no need to make an occupational health referral to verify these arrangements.

The LET will identify the appropriate course of action:

- Procedure for the Management of Short Term/Persistent Sickness (section 12)
- Procedure for the Management of Long Term/Chronic Sickness (section 13)
- Procedure for the Management of Unacceptable Absence Patterns (section 14)

11 REPRESENTATION

Under the *ACAS Code of Practice 2009 - Disciplinary and Grievance Procedures*, the employee has a right to be accompanied by a 'companion' at formal meetings that may result in a warning or some other action. However, the LET will continue to extend the right to be accompanied at any formal meeting which is part of the process e.g. investigatory interviews. The employee may be accompanied by a trade union representative, an official employed by a trade union or a colleague from within the local education provider but not someone acting in a legal capacity. Employees may only have one companion and the companion should not be someone who would prejudice the investigation/hearing process.

The LET also allows employees being investigated, or witnesses, to be accompanied at the investigation stages of the procedure, as long as that will not delay the investigation or the companion is not part of the investigation.

A LET employee who has agreed to accompany a colleague (also employed by the LET) is entitled to take reasonable paid time off to fulfill that responsibility, where possible.

The companion should be allowed to address the hearing and to put and sum up the employee's case, but does not have the right to answer questions on the employee's behalf.

It is the employee's responsibility to arrange their own representation.

12 PROCEDURE FOR THE MANAGEMENT OF SHORT TERM/PERSISTENT SICKNESS ABSENCE

When a cause for concern has been established, the sickness absence review procedure should be followed. The purpose of the sickness absence review process is not to undermine the validity of the absence reason or insist that the employee attends for work if they are unable to do so.

The process should clearly demonstrate care and support about an individual's health problems and seek to establish how the individual and LET can help and support the employee to improve their own health and wellbeing in order to achieve and sustain a successful resumption of duties and the provision of effective reliable service in future.

The Sickness Absence Review procedure has four stages:

- First Stage Sickness Review
- Second Stage Sickness Review
- Third Stage Sickness Review
- Final Stage Sickness Review

Sickness absence review meetings should be convened as soon as practicably possible, and employees should be given at least 5 working days' notice.

All sickness absence review meetings will serve as a formal joint discussion to consider all the relevant facts of the case from all points of view.

At all sickness absence review meetings, the LET will be present, and the employee will be given the right to be accompanied by a recognized trade union representative or work colleague (not acting in a legal capacity).

It is the employee's responsibility to ensure that they make all reasonable efforts to attend sickness absence review meetings or give appropriate notice where they are unable to attend, along with availability to enable the re-scheduling of the meeting. If an employee indicates that they are unfit to attend an arranged sickness absence review meeting for medical reasons, the LET will seek advice from Occupational Health.

Where an employee's absence gives initial cause for concern as outlined in section 5.2, the employee will be invited to attend a first stage sickness review meeting with the LET.

After a full exploration of all the facts the meeting will conclude with one of the five outcomes.

- Fit to return to work and capable of providing effective reliable service.
- Maybe fit – requires further medical treatment/review before determining whether the employee is fit for work and/or capable of providing effective reliable service.
- Maybe fit – with adjustments/adaptations which would enable the employee to return to work and provide effective reliable service.
- Not fit for role – may be fit for alternative duties.
- Not fit for work

Where the employee continues to be absent and unfit for work, the LET must meet with them on a regular basis (monthly) at the respective stage of policy. Where an employee is deemed fit to return and capable of providing effective reliable service, a period of monitoring will take place, commencing from the date of the employee's return to work following most recent episode of sickness absence.

Where an employee's absence gives further cause for concern as outlined in Section 5.2, during the first monitoring period (12 months), the employee will be invited to attend a second stage sickness review meeting with the LET.

Where an employee's absence gives additional cause for concern as outlined in Section 5.2 during the second monitoring period (18 months), the employee will be invited to attend a third stage review meeting with the LET.

When an employee's absence gives continued cause for concern as outlined in Section 5.2 during the third monitoring period (24 months), the employee will be invited to attend a final stage sickness review meeting.

It may be necessary for the LET to conduct a preliminary final stage sickness review meeting in the first instance to establish the future prognosis and expectations.

In determining arrangements for the final stage sickness review meeting, consideration should be given to the following;

- Employee is absent/unfit for work for the foreseeable future – an appropriate Manager within the LET (with delegated authority) may conduct the final stage sickness review meeting.
- Employee is at work and final stage sickness review meeting convened to consider both health and capability and potential inability to complete their training and provide effective

reliable service – this final stage sickness review meeting will be conducted by a Senior People Officer in the LET in order that full and independent consideration can be given to the absence reasons, any contributing factors over the course of the formal sickness absence review and monitoring period which has occurred since the initial cause for concern arose. The management case should be presented in report format by the appropriate member of staff in the LET who has been involved in previous stages of this procedure.

This meeting may lead to termination of employment on the grounds of health capability and/or an inability to complete training and provide effective reliable service.

Up-to-date Occupational Health advice should be sought, where appropriate and at each key stage of the review process to determine whether any new/changed factors need to be considered.

12.1 Considerations for certain sickness absence circumstances

The LET should take proactive confidential discussions with those employees due to undergo planned elective surgery. The purpose of these discussions is to fully understand likely period of absence, discuss and agree any workplace adaptations that would assist the employee in their return to work, establish whether there is likely to be any on-going health issues relating to the reason for the surgery, and agree the contact arrangements.

There may be occasions where an employee has been absent due to an underlying health condition and is deemed fit to return to work, with the exception of known/planned time off required for treatment/surgery (e.g., reconstruction surgery, chemotherapy, radiotherapy). Where a known planned period of sickness absence is likely to fall within the monitoring period and likely to improve the employee's health condition/ability to provide effective reliable service, the LET should make arrangements to continue to manage and support the employee at the respective stage of the sickness absence review process and convey this during the sickness absence review meeting. Should an unrelated/unforeseen cause for concern arise, a review would take place at the next stage of the sickness absence process.

Where the absence is pregnancy related this would not lead to formal review as outlined in this policy. However, the LET must work with the local education provider to provide a duty of care to the employee and ensure a pregnancy risk assessment has been undertaken and facilitate all reasonable adjustments to ensure the employee is safe and fit to remain at work. A management meeting may be convened to discuss any concerns and support required with the employee. There is no requirement for the LET or union representatives to attend.

In the unfortunate situation that an employee has a terminal illness or a death in service occurs, please contact the relevant People Officer within the LET who can advise on the 'Death in Service' protocol which will ensure all the necessary, supportive and appropriate steps are taken.

Where the absence is due to suspected or actual alcohol or substance misuse or domestic violence, the LET will refer to the Alcohol and Substance Misuse Policy. In all instances, managers should demonstrate care and support and where necessary work collaboratively with other agencies and professionals to ensure an appropriate support package is put in place.

The LET acknowledges that in the course of day-to-day activities, some staff groups are at a heightened susceptibility to contracting infections as a result of prolonged and frequent patient contact. The LET working with Local education providers are committed to ensuring that infection control remains a high priority and that staff are aware of their individual responsibility in relation to preventing the spread of diseases.

In cases where a recognized flu pandemic/known outbreak (as confirmed by the Department of Health) affects what is considered a significant proportion of the workforce, all or some of the

formal absence procedures for sickness will be suspended, where appropriate. The decision to put the formal absence review procedures on hold and to reinstate them at the appropriate time will be at the discretion of the Trust. Return to work discussions for all absences must continue to be undertaken and recorded.

It would not normally be appropriate for employees to take sick leave where they have chosen to undergo surgery or treatment for cosmetic reasons. However, where the reason for surgery is medical or psychological, then sick pay provisions may be appropriate. In these circumstances a letter would be required from the GP or treating Consultant/Specialist stating the surgery or treatment is essential. The employee will be responsible for meeting the cost of obtaining this letter.

Where an employee may be involved in an employment dispute or misconduct matter, the employee is expected to remain at work where possible during any investigatory/formal proceedings and the LET working with NHS England and the local education providers will provide support to enable the employee in doing so, wherever possible and appropriate.

Guidance on conducting Stage 1, 2 and 3 Absence Review Meetings:

- The employee will be given written notice of the absence review meeting and made aware of the right to be accompanied at the meeting.
- The meeting should take place in private with the Procedure and absence record available for discussion, and it should be an investigation into any underlying problems, medical, work based or domestic, which may be preventing the employee from attending work regularly.
- It is important to remember that the reasons for absence may be sensitive, and that confidentiality is very important. The employee may be given the opportunity to talk in confidence to either Occupational Health or the LET if they prefer.
- Any pattern of sickness absence should be highlighted and explored. If it is a Stage 2 Absence Review Meeting the LET should review the reasons for the employee failing to meet the standards previously set
- The LET should explain the effect the absences are having on the work performance of the department and their colleagues.
- Where appropriate the LET with the local education provider and NHS England Education should discuss and agree with the employee any reasonable adjustments to working practices, hours or environment that may alleviate the problem and support their training.
- There is no requirement to refer an employee to Occupational Health unless there are concerns regarding an underlying medical condition impacting on their attendance or ability to work, the employee's ability to carry out their role, or the employee requests a referral.
- If no underlying medical cause is found the LET needs to continue to monitor and manage the situation. The LET need not refer to occupational health each time the employee has an additional sickness absence if the employee accepts there is no new underlying medical condition (e.g., after a further absence for a cold or flu).
- If an underlying medical condition links the absences and they amount to a substantial proportion of the time but are expected to continue for a limited medium-term timescale, these may be better dealt with under the long-term sickness absence procedure. An example would be an employee absent for a few periods of several weeks undergoing surgery and other treatment expected to give a good chance of cure of an underlying condition.

- The LET should explain that attendance will be monitored over the following 12-month period and explain what is considered to be a reasonable standard of attendance, using 3 episodes as a standard (setting a nil sickness target is unrealistic). They should not, however, allow the situation to continue indefinitely and must consider the impact of continuing absence on service delivery.
- The LET should give the employee an indication of the consequences of any continued poor work attendance or failure to meet the required standard within the time period.
- If in the 12-month monitoring period (starting from the day after the end date of the period of absence which triggered the Stage meeting) absence levels exceed the target set (3 episodes within a 12-month rolling period), the employee will be moved to the next stage of the procedure. This process would then be repeated at the 18-month and 24-month monitoring periods of Stages 2 and 3.
- **In addition, at a Stage 2 and 3 Review Meetings**
 - Employees will be issued with a Final Caution on the consequences of continued poor attendance or failure to meet the required standard within the time period i.e., that it will place the employee's employment in jeopardy and may lead to their dismissal. The employee will have the right to appeal against the Final Caution.
- All points of the meeting should be put in writing to the employee.

Stage 4: Final Stage Sickness Review

If, following exhaustion of Stages 1, 2 and 3 of the procedure, an employee's attendance fails to meet the required standards previously set out to them, a hearing will be arranged where consideration will be given to the employee's continued employment.

An up-to-date medical opinion from the occupational health department must be sought in advance of the hearing taking place.

The employee will be given written notice of the Absence Review Hearing and made aware of the right to be accompanied at the hearing.

This Stage 4 hearing can take place before the employee exhausts their sick pay.

The hearing will be chaired by a more senior manager of the LET who has had no prior involvement in the case.

The format of the Stage 4 hearing is at appendix B.

The employee will be given every opportunity to state their case.

Minimum periods of notice in accordance with the Employment Rights Act and the employee's contract of employment must be given. The LET must confirm the decision to the employee in writing and advise of their right of appeal (within 10 working days).

13 PROCEDURE FOR THE MANAGEMENT OF LONG TERM OR CHRONIC SICKNESS ABSENCE

This can be defined as situations where the employee is continuously absent for twenty eight calendar days or more or recurrent periods of time or repeatedly absent over a similarly long timescale with a single underlying cause.

Referrals should be made to the LET's occupational health when an employee is absent or is likely to be absent for 28 calendar days or more unless the absence is for 8 calendar days or more and is as a result of stress/anxiety/depression in which case referral should be made as soon as the LET are aware of this reason for the absence.

The LET can refer any employee to occupational health, where there is uncertainty about the reasons for their absence, its likely timescale and any adjustments that may be needed on return to work. The LET can ask for informal advice by phone if they consider the diagnosis and timescale on the Fit Note are incompatible or either is unusual. They may be advised to refer the employee or be reassured that their plans appear appropriate to Occupational Health.

The LET should deal with long-term/chronic sickness absence sensitively and in accordance with these procedures. Even when it is apparent that the sickness absence will be long-term the manager should become involved at an early stage. Where an employee is terminally ill, please refer to section 17 for further guidance.

This type of absence demands quite a different supervisory approach as it requires a balance between acting compassionately to the employee and minimising disruption to the local education provider. In the interests of the individual employee and the organisation, it must be remembered that the chances of an employee returning to work decrease rapidly with the duration of the absence. In the majority of cases, where absence has lasted less than 6 months, employees will be able to return to their normal duties following a long-term absence. However, there will remain a few instances when a return to work will not be possible, and the LET must ensure that they work closely with local education provider and Occupational Health to deal with such situations properly. The People Officer should refer to the LET Rehabilitation/Redeployment Policy for further guidance on phased return to work or redeployment.

The employee will be invited to a formal meeting with the LET and Programme Director or Supervisor to review progress on their situation. Normally this will take place no later than three months after the absence started. It should not be the first contact the employee has had during the absence. The employee will have the right to be accompanied at this meeting. This meeting can take place at the employee's home if that is more convenient, or at a mutually agreed location.

Thereafter there should be regular meetings with the employee to review progress with their condition and to discuss any occupational health reports.

Absence management options

There are several options available when considering how to deal with employees who have been on long term/chronic sickness or had a series of long term episodes. These include:

- a) Secondment
- b) Redeployment
- c) Work Restrictions/ Reasonable Adjustments
- d) Ill Health Retirement Applications
- e) Dismissal

Where any of the above is likely, the LET must seek an opinion from the Occupational Health department, as appropriate, this will need to be considered by NHS England Education as to the impact this may have on the employee and their training.

Termination of Employment on Medical Grounds

Where it has not been possible to identify suitable workplace adjustments or alternative employment, or where the Occupational Health Report recommends that the employee is not fit to return to work in any capacity, the LET will need to meet the employee to discuss the contents of the Occupational

Health Report and/or the fact that no suitable alternative employment has been identified and/or a timescale for return to work cannot be given, an employee's contract may be terminated on the grounds of health capability.

Termination of an employee's employment on the grounds of capability is complex and a Senior LET Manager must be consulted at the earliest stage when such action is being considered.

This meeting can take place before the employee exhausts their sick pay. At the meeting the manager will:

- discuss the outcome of the report with the individual and canvass his/her opinion on the advice received
- advise that the individual can obtain a second opinion (Section 8) if they disagree with the Occupational Health Report
- where employees are members of the NHS Pension Scheme they may wish to be considered for ill health retirement if they have ill-health to the extent that they cannot work in any role. This is normally following advice from the Occupational Health Department that an application for ill-health retirement pension benefits is appropriate.
- if appropriate at this stage, confirm that the employee's employment will be terminated with due notice
- inform the employee of their right of appeal against the termination of their employment
- confirm the outcome of the meeting in writing

Ill Health Retirement Pension Arrangements

Where an employee has contributed to the NHS Pension Scheme, they may make an application for premature retirement on the grounds of ill health. The LET will make the necessary arrangements for such an application in conjunction with the employee, Occupational Health and the Payroll department. Employees must be made aware that the criteria for termination of contract on medical grounds are not the same as the criteria for qualifying for retirement on ill health grounds and employees can have their employment terminated without qualifying for ill-health retirement. The decision to grant ill-health retirement pension benefits rests with the Medical Advisors at the NHS Pensions Agency and not the LET, Local education providers, NHS England Education or Occupational Health.

Where the occupational health physician does not consider an application for ill-health retirement appropriate or likely to succeed, an employee can arrange for their GP or treating consultant to support their application for ill-health retirement benefits. The employee will be responsible for meeting any costs associated with the GP or Consultant completing the form.

14 PROCEDURE FOR THE MANAGEMENT OF UNACCEPTABLE ABSENCE PATTERNS

Unacceptable patterns of sickness may occur where an employee's overall level of sickness absence is unreasonable or causes operational difficulty. Examples of such may include:

- Repeated instances on specific days of the week, or during school holidays, specific shifts
- Days taken as sick leave when requests for annual leave have been turned down (Note: in some cases this may need to be addressed under the LET's Disciplinary Procedure)
- Repeated instances of Long term absence, which could be over a period of years
- A combination of both long and short term absences

It is likely to take longer to recognise these patterns but local education providers should ensure the LET are notified when they arise.

In order to recognise unacceptable patterns of sickness absence recording and monitoring is crucial.

With regards to long term sickness absence, when a pattern is identified or the supervisor becomes concerned at the cumulative amount of absence over a period of time they should contact the LET to review previous occupational health reports and if necessary a referral can be made to Occupational Health to ascertain whether these absences are linked and/or caused by any underlying health problem. This referral should take place after a sickness review meeting with the individual to explain the reason for the referral. By its nature this pattern may take longer to identify but it may consist of repeated periods of certificated absence lasting for anything from four weeks to several months but separated by absence free periods at work.

In all cases regular reviews should be carried out with the employee by the LET. The employee has the right to be accompanied at such meetings. The employee may be accompanied by a trade union representative, an official employed by a trade union or a colleague from within the host training organisation but not someone acting in a legal capacity.

Stage 1 and 2 - Absence Review Meeting(s)

Following a number of absence review meetings, which may have been held under the Stages of the Short-Term Absence Procedure (section 11) or meetings under the Long-Term Absence Procedure (Section 12). The employees should be advised of their overall level of unacceptable attendance and the need to see an improvement in attendance. They must be made aware that continued unacceptable absence levels could lead to their dismissal.

Stage 3 – Final Absence Review Meeting

If there is insufficient improvement or the unacceptable absence levels persist then a Final Absence Review meeting will be held at which a Final Caution will be issued, and the employee will be given the right to appeal. In addition, the employee must be informed that due to being issued with a Final Caution their salary increment will be deferred for a period of 12 months.

In the light of Occupational Health Advice every effort should be made to alleviate the situation by considering short- or long-term adjustments to the duties or hours of the current post or to redeployment as described above. It is reasonable to ask occupational health whether there is any medical reason to expect that things will improve or whether previous levels of absence are likely to continue in the current post or an alternative post.

If there is no improvement in the levels of sickness absence, then serious consideration should be given by the LET to whether the department or the local education provider can continue to support that level of sickness absence and the impact this has on the employees training.

Stage 4 Final Sickness Hearing

A Final Absence Review Hearing will be arranged in accordance with the arrangements detailed on page 12, where consideration will be given to the employee's continued employment with the Trust.

15 APPEALS

The right to appeal is open to any employee regardless of length of service, who is employed under a contract of the employment who has been dismissed within the provisions of the Absence Management.

An appeal must never be used as an opportunity to punish the employee for appealing the original decision and it should not result in any increase in penalty as this may deter individuals from appealing.

Procedure for the appeal hearing can be found in Appendix A.

A member of the People Services team will also attend the hearing in an advisory capacity.

The role of the Appeal Panel is to determine whether the correct process was appropriately followed and whether the conclusion reached by the Dismissing Manager was reasonable based on the facts known at the time. It is also an opportunity for the Appeals panel to remedy any decisions made by the dismissing manager.

The appellant will have the right to appear personally before the Appeals Panel either alone or accompanied by their trade union representative or a work colleague not acting in a professional capacity.

The appeal should be dealt with by the next level of management above that of the officer who issued the warning/dismissal and to a manager who has not previously been involved in the case. An appeal must be lodged within fourteen (14) calendar days of the date of the letter confirming the decision. The appeal letter must outline the grounds for the appeal.

It is important that both parties exchange written statements of their case ten (10) calendar days prior to the appeal hearing and that the members of the appeal panel are presented with copy statements to afford the panel the opportunity to read and understand the case.

Appeals should be heard without unreasonable delay.

The Chairperson will confirm to the employee and their representative, in writing, the decision of the appeal panel within 14 calendar days of the hearing.

16 SCALE OF ALLOWANCES

A practitioner absents from duty owing to illness, injury or other disability shall, (subject to the provisions of paragraphs 226 to 244 of the Medical and Dental Terms and Conditions), be entitled to receive an allowance in accordance with the following scale:

During the first year of service: One month's full pay and (after completing four months' service) two months' half pay.

During the second year of service: Two months' full pay and two months' half pay.

During the third year of service: Four months' full pay and four months' half pay.

During the fourth and fifth years of service: Five months' full pay and five months' half pay

After completing five years of service: Six months' full pay and six months' half pay.

The authority shall have discretion to extend the application of the foregoing scale in an exceptional case. A case of a serious character, in which a period of sick leave on full pay in excess of the period of benefit stipulated above would, by relieving anxiety, materially assist a recovery of health, shall receive special consideration by the employing authority.

If, on a temporary basis, Occupational Health advise against on-call duties (e.g. recommendation of a phased return) employees are entitled to receive up to 4 weeks on call allowance. If this adjustment exceeds 4 weeks the on-call allowance will cease until the employee returns to full duties. This excludes any pregnancy-related illness, whereby the on-call allowance would remain in place.

Non-medic Public Health Trainees will fall under the NHS Agenda for Change, scale of allowances.

17 DISABILITY

In seeking to manage sickness absence we all share a duty not to discriminate against people with disabilities and must not treat an employee less favorably on the grounds that they have a disability or unfavorably because of something arising in consequence of an employee's disability where this cannot be justified.

In such instances the LET must consider whether all "reasonable adjustments" to the employee's working environment, conditions and place of work have been made. Please refer to the LET's Disability Policy.

18 TERMINAL ILLNESS

Where terminal illness is diagnosed it is essential that the supervisor contacts the LET for advice as early as possible in order to ensure that the employee has the opportunity to discuss Ill Health Retirement options (including pension or death in service benefits) and access any support which they may require. The LET will discuss the options with the employee, with the support of a LET Payroll Officer (where appropriate). The outcome of this discussion will determine any future action.

19 CONFIDENTIALITY

All aspects of an employee's sickness absence are strictly confidential. The LET may discuss these details with the host training organisation HR department, the Specialty Training Programme Director or the Occupational Health staff, but the absence should not be discussed with colleagues or other members of the employee's family without their express consent and knowledge, unless in exceptional circumstances.

20 MEDICAL EXCLUSION

The occupational health department will provide written notification to LET where absence relates to infection control issues rather than sickness. This in essence relates to symptoms or conditions that could pose an infection risk to patients and colleagues but otherwise the employee does not feel unwell enough to prevent them from working. The occupational health department will continue to monitor staff meeting this criteria and advise the LET on the likely duration of the exclusion and also the date when this period ends. In some circumstances Occupational Health will give an indication of areas where the employee can be redeployed on a temporary basis, as an alternative to exclusion.

This absence should not be recorded as Sickness Absence for payment or monitoring purposes, and the LET should use the Exclusion from Duty code.

Individuals who report absent as a result of an illness such as D&V, should have their absence from work recorded as sickness and it would count towards the number of episodes/percentage. However the 48 hours that they must remain symptom free before returning to work may be managed differently. The employee must report to their manager at the point that they feel fit enough to return to work but are not able to do so due to not being 48 hours symptom free. If there is an opportunity to change their shifts/work a different day then this should be explored. If these options are not available then these two days are classed as medical exclusion and recorded as such.

21 ABSENCE DUE TO AN ACCIDENT/INJURY AT WORK

The host training organisation should complete an incident reporting form for every occasion resulting in an injury or contractible disease at work.

Where an individual sustains a significant injury or work related health problem, in order to assess the need for support and any work place adjustments which may be needed to minimise absence from work, they should be referred to the LET occupational health department as soon as possible. The supervisor or host training organisation must notify the LET that the absence is the result of an injury at work. Where timesheets/attendance reports are used the Injury at Work code must be used in place of the normal sick leave code.

Employees absent due to an accident/injury at work should still be referred to LET occupational health and have absence review meetings.

22 NHS INJURY BENEFIT SCHEME

NHS Injury Benefits are available to all staff whether or not they are members of the NHS Pension Scheme.

Temporary Injury Allowance (TIA)

The Temporary Injury Allowance is paid by the LET when sick pay reduces below the normal level of earnings because of industrial injury and is the amount by which all monies received falls short of 85% of the average remuneration of the employee over the previous 12 months preceding the accident or onset of disease.

Permanent Injury Allowance (PIB)

Where an employee who has been receiving Temporary Injury Allowance is terminated, then an application may be made for Permanent Injury Benefit.

A Permanent Injury Benefit may also be paid to an employee who returns to work but suffers a permanent reduction in pay due to a change of job as a result of this injury.

To qualify for these benefits, an employee must have suffered a loss of earnings because he/she:

- sustained an injury from an accident or incident which must have occurred whilst on duty
- contracted a disease in the course of employment
- developed a condition that is attributable to the employee's work in the host training organisation
- sustained an injury as a result of giving assistance at the scene of an accident, even if the employee is off duty

If the host training organisation feel that an employee may be entitled to receive NHS Injury Benefits (or if an employee has approached them and they feel that they may be entitled to benefits), the host training organisation and employee should inform the LET as soon as possible. In all cases, the LET will seek an opinion from their Occupational Health Department before authorizing payment.

The host training organisation (and/or the employee) will be required to provide evidence to support the claim, including sight of any accident reports or health and safety records.

Payment of Temporary Injury Allowance is normally decided by the LET, but where there are doubts about the payment of Injury Benefits, the LET will arrange for further advice and guidance to be sought from the occupational health department and/or the NHS Pensions Agency.

Eligibility for Permanent Injury Benefit is determined by the medical advisors at the NHS Pensions Agency.

23 ACCIDENTS/INJURY OUTSIDE OF WORK

It is NHS policy that any employee absent as a result of an accident outside of work is not entitled to any occupational sick pay if damages are receivable from a third party in respect of such an accident. Outside of work is defined as any occurrence at any time whilst not engaged on LET or local education provider.

In this event, the local education provider may, having regard to the circumstances of the case, advance a sum not exceeding the amount of sick pay payable, subject to the employee undertaking to refund to the local education provider the full amount of sickness allowance when damages are received. A separate agreement to this repayment must be made with the employee if this agreement does not appear in the terms and conditions of service.

Sick pay is not normally payable for an absence caused by an accident due to active participation in sport as a profession, or where contributable negligence is proved.

24 PUBLIC HOLIDAYS DURING SICKNESS ABSENCE

If an employee reports sick on a public / statutory holiday they will not be entitled to an additional Statutory / Public Holiday in accordance with Section 14.8 of Agenda for Change terms and conditions.

25 ACCRUAL AND USE OF ANNUAL LEAVE DURING LONG TERM SICKNESS

Accrual of Annual Leave during absence

Following the 2009 European Court of Justice and House of Lords decisions, staff who are absent on long term sick leave have the following rights;

- to accrue and take statutory annual leave entitlement during long term sick leave.
- to take any untaken statutory leave, i.e. up to the maximum of 28 days per annum (statutory entitlement is in accordance with the European Working Time Directive i.e. 28 days for full time staff, pro-rata for part time staff), when they return to work, if they are on sick leave for part or all of the annual leave year. This is broken down into 20 days annual leave plus 8 bank holidays for full time staff, pro-rata for part time staff. The limit for taking statutory annual leave holiday is for a maximum period of 18 months from the end of the relevant leave year, after which it will expire.

Note: If an employee is able to take their accrued annual leave on their return to work and before the current annual leave year ends, they should do so. If they choose not to do so, the accrued leave can be carried over but must be used 18 months after the end of the relevant annual leave year in which the leave was accrued, after which it will expire.

- to have a request to take annual leave whilst on sick leave granted, subject to complying with the usual/ written notification arrangements for annual leave request arrangements.

Note: Employees who apply for statutory annual leave during sick leave will receive their normal rate of full pay, i.e. if an employee qualifies for statutory sick pay (SSP), he/she will continue to be paid SSP and this sum will be made up to full pay with holiday pay. Such periods of paid annual leave will not extend an employee's entitlement to sick pay and payment for the days treated as annual leave during sick leave will not exceed the employee's normal total holiday pay.

It is essential that the local education provider maintain accurate records relating to sickness absence and annual leave entitlement to inform the LET.

The local education provider has no obligation to meet any statutory holiday request which was not made during the leave year when the worker was off on long term sick leave or immediately after returning from long term sick leave.

All remaining contractual annual leave will be lost and cannot be carried forward to the next leave year.

If an employee reports sick on a public / statutory holiday they will not be entitled to an additional Statutory / Public Holiday.

Sickness occurring during annual leave

If an employee becomes ill while on annual leave or on lieu days, they will need to adhere to the normal notification procedures, if they wish to reclaim some or all of the annual leave for that period. They will need to produce at that time a medical certificate or a letter from a treating physician; then they will be regarded as being on sick leave from the date of the certificate and their annual leave entitlement will be adjusted accordingly. The employee must inform the LET as soon as possible, and must not wait until their return to work to report it retrospectively. The absence will only be recorded as sick leave from the point at which it is reported to the LET.

Going on holiday whilst on sick leave

There may also be occasions where an employee has a holiday pre-booked before the start of their long term sickness absence or wishes to go on holiday during their absence.

Employees who are on long-term sick leave and have pre-booked leave which will take them away from their home for a period exceeding 3 working days **must** obtain the approval from the LET for the holiday/break.

It is also the employee's responsibility to inform the LET of any holidays they are wishing to undertake whilst on sick leave, providing details of destination and dates.

The LET will wish to ensure that the holiday/break will be of therapeutic value and support the employee's recovery from ill-health.

If the LET has concerns about the appropriateness of the holiday then can contact the occupational health department for advice.

Whilst on holiday, the employee is required to continue to comply with the notification/certification requirements.

Employees need to be aware that visiting certain holiday destinations may affect payment of Statutory Sick Pay

26 COSMETIC SURGERY OR TREATMENT

It would not be appropriate for employees to take sick leave where they have chosen to undergo surgery or treatment for cosmetic reasons. However, where the reason for surgery is medical or psychological, then the sick pay provisions would be appropriate. In these circumstances a letter would be required from the treating Consultant/Specialist stating that the surgery or treatment is essential. The employee will be responsible for meeting the cost of obtaining this letter.

27 GENDER REASSIGNMENT SURGERY

Planned surgery for medical gender reassignment will be managed under the same process as any other planned surgery the employee may undergo, which results in absence. A sensitive approach should be taken to discuss options and fully support the employee in returning to work

28 IVF TREATMENT

Whilst there is no statutory right to paid time off from work for IVF Treatment, the LET can consider the provision of reasonable paid special leave or unpaid leave together with a combination of annual/sick leave. This will need to be agreed on a case by case basis.

29 EQUALITY & DIVERSITY STATEMENT

The LET is committed to providing equality of opportunity, not only in its employment practices but also in all the services for which it is responsible. As such, an Equality Impact Assessment has been carried out on this procedure to identify any potential discriminatory impact. The LET also values and respects the diversity of its employees and the wider community it serves. In applying this procedure, representatives of the Trust will have due regard for the need to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Provide for good relations between people of diverse groups

For further information, please refer to the LET's Equality Diversity and Human Rights Policy

30 REFERENCES/RELEVANT LEGISLATION

LET Disability Policy

LET Rehabilitation/Redeployment Policy

NICE Guidelines – managing long term sickness absence and incapacity for work

ACAS Guidelines for Managing Attendance at Work

NHLSA Risk Management Standards

Equality Act 2010

Agenda for Change Terms and Conditions of Service Handbook

31 REVIEW

The Head of People Services of the LET is responsible for monitoring the application of this policy and to ensure that the document is reviewed no later than three years from the date of issue. The policy may be amended at any time by joint agreement.

STAGE 3 HEARING PROCEDURE

In advance of the hearing, the following documentation should be made available to all parties involved in the hearing:

A summary of overall absence record

- The Sickness Absence calculation tool for each calendar year
- Return to Work Discussions
- Occupational Health Report
- Stress Risk Assessment (*if appropriate*)
- Letters confirming discussions at meetings
- Management of Attendance Procedure

Opening by Chair of Panel

- Introductions
- Explain purpose of hearing - refer to Management of Attendance Procedure
- Explain process of hearing
- Check if employee needs any assistance
- Confirm representation
- State either side can seek an adjournment at any time

Management Case

- Manager presents case
- Employee may ask questions of Manager
- Panel may ask questions of Manager

Employee Response

- Employee states their response including any mitigation
- Manager may ask questions of employee
- Panel may ask questions of employee

Summing up – no new information may be introduced at this stage

- Management side sums up
- Employee sums up

Adjourn whilst panel reach decision

All decisions made will be based on the facts and mitigating evidence as available at the time of the hearing.

After an appropriate adjournment it is hoped that, in normal circumstances, a decision will be reached on the day of the hearing. In such instances the chairperson will recall the employee and management to outline the decision, giving appropriate reasons. However, where a case is likely to require further consideration following the hearing, written advice should be provided to the employee within 14 calendar days, indicating the date by which a full response can be expected.

Sickness Absence Appeal Hearing Procedure
(For appeals against Cautions or Dismissal)

The following procedure should be followed for conducting a Sickness Absence Appeal Hearing.

The Chair will:

- make the necessary introductions
- explain and make it clear to the employee and all present that this is a Sickness Absence Appeal Hearing
- The purpose of the meeting should be clearly stated:
 - To consider their appeal against the action imposed
 - The format of the Appeal Hearing

An adjournment may be called by either party at any time during the hearing.

Format of Hearing

- The employee or their representative shall state the case for their appeal
- The Presenting Manager and Panel will be entitled to question the employee following presentation of their case.
- The Presenting Manager shall state the management case
- The Employee or their representative and Panel will be entitled to question the Presenting Manager following presentation of their case.
- The Presenting Manager shall summarise their case.
- The employee or their representative shall summarise their appeal. The employee or the employee's representative has the right to speak last.
- Normally in summing up, neither party may introduce any new evidence. However if at this point, further evidence to support the appeal is required, the members of the Panel may, at their discretion, adjourn in order that either party may produce further evidence.
- The Presenting Manager, the employee and his/her representative shall withdraw.

Adjournment

- The Panel, the HR representative and/or specialist advisor will adjourn in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return, notwithstanding that only one is concerned with the point given rise to doubt.
- **After private deliberation it is hoped a decision will be reached on the day of the hearing. In such instances the Chairperson will recall the employee and Presenting Manager and outline the decision, giving appropriate reasons**
- The Chairperson will confirm to the employee and their representative in writing the decision of the appeal panel within 14 calendar days of the hearing.

- However, where a case is likely to require further consideration following the hearing, written advice should be provided to the employee within 14 calendar days, indicating the date by which a full response can be expected.
- Following this process the Chairperson must explain to the employee and their representative that the decision made by the appeal panel is final and there will be no further right to appeal.



Guidance for Occupational Health Referral

The Occupational Health Service (OHS) is a professional and confidential service for all Doctors and Dentists in Training (DiTs) employed by the Lead Employer Trust requiring additional support and the current contracted occupational health provider is the PAM group. The aim of the service is to ensure every DiT has access to the relevant support services to enable them to complete training and contribute to delivering the highest possible quality of care to patients.

PAM Group offers a number of services which include:

- Occupational Health – services aimed at supporting the management of sickness absence
- Psychological Services – provides effective therapy to help DiT’s return to health and work as quickly as possible
- Wellness Solutions – the aim is to reduce stress, prevent injury or improve fitness
- Employee Assistance – a confidential, 24/7 support service, focused on early discussions to prevent mental health related absence by helping DiT’s to cope with the pressures of everyday life
- Musculoskeletal Services – the aim to get our DiT’s back to full fitness as quickly and as safely as possible
- Drug & Alcohol Services – supporting employers and employees through preventative screening; including pre-employment, for cause & random programmes

Referrals are made by the Lead Employer Trust in conjunction with Heads of School, Training Programme Directors & Educational/Clinical Supervisors. Following a referral, the DiT will receive a text message to notify them of an appointment, where PAM will explore the nature of their needs and plan with the DiT how best to support them. The report will be sent to the LET People Officer who will share with the DiT and referring educator to discuss the next steps.

A DiT can contact PAM directly:

- 24/7 Mental Health service if urgent support is required
- Needlestick team (after following local process) where follow up tests and support can be offered
- Physiotherapy services

Referring a DiT to Occupational Health

The LET People Services (formally HR) team will refer a DiT to Occupational Health via the PAM online OHIO system. The LET require specific information to assist the OH practitioner to assess the DiT and provide a satisfactory report.

Firstly, the educator making the referral must ensure the DiT is aware of the referral and the contents of the referral. The referral must contain enough information to allow the OH service to triage the case to the most appropriate clinician, make a relevant decision and provide the most suitable advice.

If any further advice is required the LET must be made aware so a specific question can be included as part of the referral.

This form must be typewritten and returned to LET for a referral to be made. As much information as possible should be provided to enable OH to conduct an informed assessment of the DiT at the appointment.

First name			
Last name			
Preferred contact Tel. no.		Date of birth	
Preferred e-mail address			

Training Location			
Programme		School	
Start date of training programme		Current Grade	
Full time / % LTFT		Expected return date if currently out of practice	
Current ARCP Outcome		Expected date of next ARCP	
Additional training time (ATT)	Yes/No	Length of ATT	

Reason for Referral (highlight all applicable reasons)	<p>Short Term Absence (Frequent or sporadic sickness) inc dates</p> <p>Long Term Absence (28 days or more absent from work) inc dates</p> <p>Presenteeism (In work - not on full duties due to known reasonable adjustments or workplace adaptations)</p> <p>Follow up review (Employee needs a further consultation include reason for follow up what is new/changed/what additional advice is required from OH)</p> <p>Other (Other management concerns about employee)</p>
Description of the issue (including impact on individual/others/training/ workplace)	
What has triggered the referral request?	
Has there been an issue in the workplace? Has the DiT raised something at a supervisor meeting or ARCP?	
Description of the role of the individual including current pattern of work e.g. shifts, nights, split site etc	
Has the DiT shared a medical condition or concern at work about their health? Have they seen their GP or other relevant service? If yes what advice/treatment was given. (Please note OH service do not provide treatment advice. If this is required, GP or other relevant clinical service should be contacted by the DiT)	
Has the DiT shared information about non-work/personal life issue which they require support for? If yes, please ensure appropriate information is included in the referral regarding this to allow the triage to the suitable clinician	

<p>What discussions have already happened with the DiT – locally within LEP, at school/directorate level?</p>	
<p>What support has already been offered to the DiT - locally within LEP, at school/directorate level?</p>	
<p>If referring for advice for stress or pregnancy, a local or PAM risk assessment must be completed first and attached to referral</p> <p>Contact your LET Officer for PAM risk assessment</p>	
<p>Any historical information relevant to include including any previous OH consultations relevant to this issue</p>	
<p>Advice Requested from OH – highlight those applicable</p> <p>It is important to be as specific as possible to enable the OH clinician to provide the most suitable advice</p>	<ul style="list-style-type: none"> • What is the employee’s current fitness for work? • What is the likely date of return to work? • What effect will this condition have on the employee’s ability to carry out his/her duties? • Are there any modifications / adjustments which might alleviate the condition or aid rehabilitation? • Are there any particular duties the employee cannot do? If so, how long would this adjustment likely be required? • What duties can the employee perform? • Is the condition likely to re-occur in the future? <p>Other – please state:</p>

Equality Impact Assessment

Preliminary Assessment Form

The preliminary impact assessment is a quick and easy screening process.

It should:

- Identify those policies, procedures, services, functions and strategies which require a full EIA by looking at:
 - negative, positive or no impact on any of the equality groups
 - opportunity to promote equality for the equality groups
 - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

Division/Department

LET HR Department

Title of policy, procedure, function or service

Procedure for the Management of Attendance

Type of policy, procedure, function or service

- | | |
|--------------|-------------------------------------|
| Existing | <input checked="" type="checkbox"/> |
| New/proposed | <input type="checkbox"/> |
| Changed | <input type="checkbox"/> |



Q1 - What is the aim of your policy, procedure, project or service?

To support employees during periods of absence owing to ill-health.
To reduce the absence levels within the Trust

Q2 - Who is the policy, procedure, project or service going to benefit?

LET Employees and Host Training Trusts

Group	Yes	No	Unclear
Age		N	
Disability	Y		
Race		N	
Gender		N	
Transgender		N	

Sexual Orientation		N	
Religion or belief		N	
Marriage & Civil Partnership		N	
Pregnancy & Maternity Leave		N	
Relationships between groups		N	
Other socially excluded groups		N	

If the answer is “Yes” or “Unclear” complete a full EIA

Q4 – Does, or could, the policy, procedure, project or service help to promote equality for members of the equality groups?

Group	Yes	No	Unclear
Age	Y		
Disability	Y		
Race	Y		
Gender	Y		
Transgender	Y		
Sexual Orientation	Y		
Religion or belief	Y		
Marriage & Civil Partnership	Y		
Pregnancy & Maternity Leave	Y		
Relationships between groups	Y		
Other socially excluded groups	Y		

Q5 – Do you have any feedback data from equality groups that indicate how this policy, procedure, project or service may impact upon these groups?

Group	Yes No Impact	Yes Impact	No	Unclear
Age			N	
Disability			N	
Race			N	
Gender			N	
Transgender			N	
Sexual Orientation			N	
Religion or belief			N	
Marriage & Civil Partnership			N	
Pregnancy & Maternity Leave			N	
Relationships between groups			N	
Other socially excluded groups			N	

If the answer is “Yes Impact”, “No”, “Unclear” or opinion is divided complete a full EIA

Q6 – Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, procedure, project or service?

Yes		No	N
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If you have answered “Yes” now follow the EIA toolkit and complete a full EIA form

Q7 – How have you come to this decision?

The procedure may impact on those employees who have a disability, and the ability of the Trust to make reasonable adjustments.

Q8 – What is your priority for doing the full EIA

High	Medium	Low
		X

Q9 – Who was involved in the EIA?

LET HR Department

This EIA has been approved by:

Head of People Services, Lead Employer Trust

Date: 8.11.2023

Contact number:

0191 275 4769

Please ensure that a copy of this assessment is attached to the policy document to which it relates.

