

## Sickness Absence and Attendance at Work Procedure

**CONTROLLED DOCUMENT**

<b>CATEGORY:</b>	Procedure
<b>CLASSIFICATION:</b>	Human Resources
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## Version Table

Version	Title	Issue Date
1.0	Sickness Absence and Attendance Procedure	06/12/2010
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3.0	Sickness Absence and Attendance at Work Procedure	30/09/2019
3.1	Sickness Absence and Attendance at Work Procedure	30/04/2020
4.0	Sickness Absence and Attendance at Work Procedure	02/06/2023

### 1. Introduction

- 1.1 University Hospitals Birmingham NHS Foundation Trust ('the Trust') is committed to supporting the health, safety and wellbeing of all staff to promote the attendance required to provide a high-quality service. Regular and reliable attendance at work is fundamental to the employment contract. However, the Trust recognises that there may be times when staff are unable to attend work due to sickness.
- 1.2 The Trust values the contribution made by all staff. If a member of staff is unable to attend work for any reason the loss of their contribution can impact on the efficient delivery of services, the patient experience, and on the wellbeing and morale of those at work.
- 1.3 It is inevitable that some staff will experience periods of ill health from time to time. The Trust will be compassionate and sensitive to this, and the absence will be managed in a fair, reasonable, consistent and supportive way to enable a return to work as soon as possible. Attempts will be made to resolve any workplace issues causing the absence.
- 1.4 Staff should make every effort to attend work, and the Trust will make every effort to assist recovery and safeguard employment.
- 1.5 This document lays out the informal and formal procedures that should be followed for managing sickness absence. All sickness absence will be managed sympathetically and sensitively. Although every case will need to be handled according to the individual circumstances, this procedure has been developed to provide a consistent, fair and clear approach with the main principle being to support staff to improve their attendance at work.

### 2. Reporting and Contact Arrangements

- 2.1 If a member of staff is sick, they must report their absence to their manager, or other designated person, by telephone at the earliest opportunity and at least one hour before their shift is due to start. If this is not possible for good reason, contact should be made within one hour of the start time.

- 2.2 Absence must be personally reported by telephone; it is not acceptable to telephone a colleague, send a text message or email to the Line manager or a colleague or designated person, leave a message or ask someone else to call, except if agreed with their Line manager as a reasonable adjustment for a person with a disability or if hospitalised or if unable to speak due to a temporary loss of voice. The member of staff will explain why they are unable to attend and give an estimated return to work date if possible.
- 2.3 Absent staff must stay in regular contact with their line manager. The frequency and type of contact will be agreed jointly; this will allow for any health updates, and to prepare for a return to work.

### **3. Certification of Absence**

- 3.1 When returning from any period of sickness absence, staff must complete upon return the Sickness Absence Notification (Self-Certification) form (Appendix A).
- 3.2 From the 8<sup>th</sup> calendar day of absence, the member of staff must obtain a medical certificate ('Fit Note') which must cover each day of absence. The member of staff must submit the Fit Note promptly, and no more than 3 calendar days after it is required. If this is submitted any later than 3 calendar days after it is required then advice must be taken from Human Resources.
- 3.3 If the absence continues beyond the date on the medical certificate, the member of staff must provide further medical certificates to cover the sickness absence. Gaps between certificates will be unpaid and the absence recorded as unauthorised. Backdated certificates will only be accepted in extenuating circumstances such as a hospital admission where a certificate has not been issued
- 3.4 Staff must contact their manager or other designated person as soon as they are fit to return to work, even if this is a day off. If staff do not do this, then they will continue to be classed as absent due to sickness until they call in and state they are fit to return to work.

### **4. Occupational Health and Medical Advice**

- 4.1 A line manager may refer a member of staff to Occupational Health. The manager must make the member of staff aware of the referral and obtain consent.
- 4.2 Occupational Health advice should be considered alongside any other specialist medical advice where the member of staff has given permission for this to be obtained. Where there is a difference in medical opinion, the advice of Occupational Health will normally take precedence with the advice from the Medical Specialist taken into consideration.

- 4.3 Managers are expected to exercise judgement in the appropriate timing of all Occupational Health referrals based on the individual circumstances, and in making decisions upon consideration of the advice from Occupational Health which will take into consideration from other medical advice if available.
- 4.4 In some instances it may be beneficial to hold an Occupational Health case conference to bring together those involved in supporting a member of staff. This can be requested by Occupational Health, the line manager or Human Resources. It will address ongoing barriers to occupational fitness and ways to support improvement and address reasonable adjustments for the member of staff if appropriate.
- 4.5 Occupational health recommendations about temporary or permanent adjustments should be followed where operationally practicable. If adjustments cannot be implemented then they must be discussed with Occupational Health.
- 4.6 It is a contractual requirement for a member of staff to attend an Occupational Health appointment when referred by the Trust. Unreasonable refusal or failure to attend an Occupational Health appointment may result in disciplinary action, and decisions about the management of absence will be made based on available information.

## **5. Unauthorised Absence**

- 5.1 If a member of staff does not attend work or report as sick, this will be classed as unauthorised absence. The line manager or other designated person will:
- i. Telephone the member of staff and note the outcome of the conversation, or if no response send the member of staff a letter requesting contact within 48 hours of receipt otherwise the absence will be regarded as unauthorised, will be unpaid and may result in disciplinary action;
  - ii. Contact the next of kin where there are welfare concerns;
  - iii. Complete the AWOL risk assessment.
- 5.2 It is the responsibility of the line manager to take any necessary steps to inform Payroll that pay is to be withheld until further notice.
- 5.3 In the case of a migrant member of staff who is employed with a Certificate of Sponsorship (Tier 2/5 Visa), it is also the responsibility of the line manager to alert HR First Contact when absent without permission for 10 working days, and to do so no later than the 10<sup>th</sup> day as part of our legal duty in sponsoring migrant workers.
- 5.4 If the Line Manager has not received contact with the member of staff after 7 calendar days, disciplinary action will be implemented.

## **6. Sickness Absence and Annual Leave**

- 6.1 If staff are sick during scheduled annual leave, in order to have annual leave restored the sickness must be reported in the normal way. A Fit Note must be provided to cover the period to be changed from annual leave to sickness absence, even if the duration is no more than 7 calendar days. Any charge by the GP for issuing a Fit note where the duration has not been of 8 or more days will be paid by the member of staff. Advice should be taken from Human Resources.
- 6.2 During a long-term absence a member of staff may wish to benefit from a period of annual leave as part of their recovery and health and wellbeing. Normal arrangements for requesting leave will apply i.e. to be arranged through the line manager. Pay associated with annual leave entitlements will be made for any authorised period.
- 6.3 Staff continue to accrue annual leave entitlement during sickness absence. If a member of staff is unable to take all their annual leave before the end of the leave year, they will be able to carry over the remainder based on a calculation of the statutory entitlement of 20 days (pro-rata for part-time staff) less any leave already taken. If a member of staff is due to be on duty and is sick on a public holiday, they are not entitled to any compensatory holiday entitlement.

## **7. Working during Sickness Absence**

Staff must not work elsewhere during sick leave unless there is written permission from management that the alternative work is reasonable and will help rehabilitation. Bank, locum or agency work carried out for this Trust or any other organisation will be considered fraudulent and result in disciplinary action.

## **8. Return to Work**

- 8.1 Staff must provide as much notice as possible to their line manager of an intended return to work date. Depending on the nature and duration of the absence, the manager may require the member of staff to attend Occupational Health before returning to work.
- 8.2 Staff are required to have a return to work discussion after every absence as soon as the member of staff returns to work unless there are extenuating circumstances. This should be face to face, but if not practicable this will be a telephone discussion.
- 8.3 The purpose of the discussion is to:
- Welcome the member of staff back and check the member of staff is fit to have returned;
  - Establish the cause of the absence and likelihood of recurrence;
  - Provide an opportunity to informally review the member of staff's sickness record and raise any concerns with attendance levels;

- Explore whether any additional support is needed;
- Decide whether an Occupational Health referral should be made;
- Brief staff on important work updates missed whilst absent;
- If applicable, inform the member of staff that they cannot work bank or agency shifts for a defined period if additional hours need to be restricted to support improved health, well-being and attendance at work.

8.4 The meeting discussion will be recorded by the manager on the Return to Work form (Appendix B), signed and kept on the personal file. A copy will be given to the member of staff.

## **9. Phased Return**

9.1 After long-term sickness absence it may be appropriate for a member of staff to rehabilitate back to work on reduced hours and/or amended duties (typically after absence of more than 3 months, or absence due to a significant injury, illness or a disability, or as advised by Occupational Health). This will phase a return to normal hours and/or duties over a maximum 4-week period, unless extended by up to a maximum of 2 weeks on the advice of Occupational Health.

9.2 A phased return may either be recommended on a Fit Note or by Occupational Health, or directly agreed between the line manager and the member of staff. The member of staff will receive full pay during the 4 week phased return if they are in receipt of pay at this time. If they are in no pay or where a phased return has not been medically recommended, the member of staff will be paid for the hours they work. Annual leave can be used to supplement hours so that pay is not impacted if the member of staff wishes to do so.

9.3 Any agreed phased return plan will be confirmed by the line manager in writing to the member of staff with a copy kept on the personal file. The phased return will be reviewed at the end of each week of the plan to ensure fairness, consistency and effective support for the member of staff.

## **10. Sickness Indicators and Stages for Management Intervention**

10.1 Sickness absence is defined as short-term, or long-term where it has been continuous for 21 or more calendar days. Whilst it is important to define these two categories, this procedure is concerned with supporting attendance overall and therefore short-term and long-term absences are not mutually exclusive.

10.2 The Trust uses the following indicators to identify if a member of staff's sickness absence may be a cause for concern and require management intervention to support the member of staff, manage the absence and improve attendance:

- i. 4 periods of absence in a rolling 12-month period; and/or
- ii. 75 working hours absence in a rolling 12-month period pro-rata for part-time staff (please see Appendix C for calculator); and/or
- iii. 21 continuous calendar days; and/or
- iv. Where a pattern of regular absence has formed e.g. Mondays/Fridays, before/after annual leave or a refusal of annual leave, during school holidays, during good or adverse weather, going home sick part way through a shift; missing particular shifts or particular duties.

10.3 The following stages of review may be applied where indicators suggest possible concern with the attendance and health of a member of staff:

Stage	Absence Indicators	Occupational Health
<p><b>Stage 1 First Formal Review</b></p> <p>Staff will be monitored for 6 months, and if no further absences will be taken off review</p>	<p>4 periods of absence in a rolling 12-month period</p> <p>75 working hours absence in a rolling 12-month period ( pro-rata for part-time staff)</p> <p>21 continuous calendar days (long-term sickness)</p> <p>Where a pattern of regular absence has formed</p>	<p>A referral will be made where any absence relates to a recurring or on-going health condition or any work related condition including physical and psychological condition.</p> <p>Short-term: referral unlikely, except where deemed necessary to rule out any underlying reasons or need for treatment.</p> <p>Long-term: referral required if no known return to work date.</p>
<p><b>Stage 2 Final Formal Review</b></p> <p>Staff will be monitored for 12 months, and if no further absences will be taken off review</p>	<p><u>Either:</u> Within the 6-month period since the Stage 1 First Formal Review meeting there are a further 2 occasions or 37.5 hours, pro rata for part-time staff</p> <p><u>Or:</u> 5 months since the start of long-term sickness absence</p> <p>Where a pattern of regular absence has formed</p>	<p>Occupational Health referral required prior to a Stage 3 review meeting for both short- and long-term absences</p>



<p><b>Stage 3 Hearing</b></p> <p>This may lead to an extension of the Stage 2 review period or dismissal.</p>	<p><u>Either:</u>  Within the 12-month period since the Stage 2 Final Formal Review meeting there are a further 2 occasions or 37.5 hours, pro rata for part-time staff</p> <p><u>Or:</u></p> <p>10 months since the start of long-term sickness absence</p> <p>Where a pattern of regular absence has formed</p>	<p>Update required prior to a Stage 3 Hearing for both short- and long-term absences</p>
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## 11. Stage 1 and 2 Formal Review Meetings

- 11.1 A meeting will be arranged verbally or by email with the member of staff giving at least 14 calendar days' notice of a Stage 1 or 2 Formal Review Meeting. This will be confirmed in writing with the reasons for the meeting.
- 11.2 Managers must endeavour to undertake the Formal Review meetings at the earliest opportunity upon a member of staff's return to work, ensuring the above notice requirements are met. Where a significant delay has occurred (above 6 weeks) the date of the formal reviews taking effect will be back dated to the date they return from their last episode of absence.
- 11.3 Where a member of staff remains absent through long-term sickness during Stages 1 and 2, monthly wellbeing meetings will take place. The first will be scheduled by the line manager as soon as 21 continuous days of absence have occurred, providing 7 calendar days' notice to attend. The member of staff can be supported by a Trade Union/ defence body (for medical and dental staff) representative or workplace colleague. These meetings are to support the member of staff and facilitate a return to work, and to keep the member of staff up to date with workplace matters. If a member of staff is too unwell to attend a wellbeing meeting on Trust premises, a home visit may be undertaken with the member of staff's permission.
- 11.4 During Stages 1 and 2 where a member of staff is at work, interim monitoring will be undertaken by the line manager at 3-month intervals during the review period to assess progress. At least 7 calendar days' notice will be given verbally/ by email of the 3-monthly interim monitoring meeting and this will be followed up in writing. The member of staff can be accompanied by a Trade Union/ defence body representative or workplace colleague.
- 11.5 At Stage 1 and 2 Review Meetings the discussion will take account of the following information as appropriate to each case:

- The absence history and return to work records during the previous 12 months, or 2 years if there are recurring problems potentially identified as patterns of absence;
  - Personal circumstances which may be affecting attendance;
  - Any disability or underlying health conditions and reasonable adjustments that may support the member of staff in the workplace;
  - Exploration of any appropriate support or assistance;
  - Whether Occupational Health advice is required to determine any underlying reasons for absence, or for specific advice relating to the nature and/or duration of absence;
  - The outcome of any recent Occupational Health referrals;
  - Discussion of redeployment or alternative work (applicable only to long term sickness);
  - Consideration of ill health retirement (if applicable);
  - The improvement level required and the consequence if the improvement/return to work is not achieved and sustained.
- 11.6 Stage 1 and 2 meetings, including interim monitoring meetings and long-term wellbeing meetings, will be documented and confirmed in writing by the line manager to the member of staff within 14 calendar days of the meeting. These letters will be kept on the member of staff's personal file. A copy will also be sent to HR First Contact to confirm the member of staff has been placed on a formal stage of the process.
- 11.7 Staff under a Stage 1 or 2 review period who are absent for more than one calendar month (e.g. due to long-term sickness, maternity/paternity/adoption leave, career break/sabbatical) will have their monitoring period suspended until they return to work.
- 11.8 The line manager can seek advice from Human Resources at any time. A Human Resources representative will be assigned from escalation to Stage 2 onwards and for cases of long-term sickness absence.
- 11.9 If the member of staff meets the required level of attendance during the Stage 1 and 2 monitoring periods, they will be taken off review. This will be confirmed in writing and the good attendance acknowledged.
- 11.10 Where a member of staff's attendance has repeatedly been managed at a formal stage and there are on-going concerns regarding their attendance the Trust may decide to escalate their attendance management straight to Stage 2. This also includes staff on long term absence where the line manager may not have had the opportunity to issue a Stage 1, but has maintained regular contact and their absence has met a Stage 2 indicator, e.g. 5 month's continuous absence. This decision will only be made by a Senior HR Manager and will be confirmed in writing to the member of staff.
- 11.11 If having applied the procedure at Stages 1 and 2 and having taken advice from HR, the line manager concludes there is no evidence that the member of staff will return to work in the foreseeable future or give

reliable, sustainable attendance in the future, the matter will progress to a Stage 3 Hearing.

## **12. Stage 3 Capability Hearing**

- 12.1 If the attendance issues have been escalated for consideration at Stage 3, the line manager will prepare a statement of case which will detail the absences and action taken to date, including Occupational Health advice.
- 12.2 At Stage 3, dismissal is a potential outcome. The Hearing will be chaired by a dismissing level manager (see Appendix D), supported by a HR representative, neither previously involved in the absence management of the member of staff.
- 12.3 The member of staff will be given at least 14 calendar days' notice of the Hearing and be provided with the line manager's statement of case within the same timeframe.
- 12.4 The member of staff can provide a written response to the management statement of case, submitted at least 5 calendar days before the Hearing.
- 12.5 The Hearing will be held as set out in Appendix D. It will be digitally recorded and retained, and a CD copy can be provided upon request.
- 12.6 The Chair may dismiss a member of staff if satisfied that it is reasonable to conclude that the member of staff is unable to maintain regular and acceptable attendance, or is unlikely to return to work in the foreseeable future. Dismissal will be with notice, paid in lieu at whichever is the greater of the statutory minimum or contractual notice entitlement. The member of staff will also be paid for any outstanding annual leave entitlement and Time off in Lieu (TOIL) accrued to the date of dismissal.
- 12.7 As an alternative to dismissal the Chair may extend the Stage 2 review period for a further period of up to 12 months, and/or require additional support or adjustments to be put in place to improve attendance or facilitate a return to work.
- 12.8 The considerations and decision of the Hearing Panel will be confirmed in writing to the member of staff within 7 calendar days of the Hearing and will advise the member of staff of their right to appeal the decision.

## **13. Mutually Agreed Termination**

- 13.1 A member of staff on long-term sickness absence who believes there is no prospect of them returning to work within a reasonable timeframe can request that a Mutually Agreed Termination Meeting is held to end their employment. The request must be made in writing to the line manager.
- 13.2 A Mutually Agreed Termination Meeting is less formal than a Hearing. It will be Chaired by a dismissing level officer (see Appendix D), and

attended by the member of staff, their line manager and the HR representative involved in the absence management. At least 7 calendar days' written notice will be provided. The meeting will be digitally recorded.

- 13.3 At the meeting the member of staff will state why a return to work is not foreseen, and consideration will be given to whether there are any reasonable adjustments or other support which could change that decision. The Chair of the meeting will ensure that the member of staff fully understands the process that is being followed, the implications, and that informed consent is given.
- 13.4 Employment will be terminated by mutual consent on the grounds of ill-health incapability, effective from the date of the meeting. Termination will be with notice, paid in lieu at whichever is the greater of the statutory minimum or contractual notice entitlement. Pay will be made for any outstanding annual leave entitlement and TOIL accrued to the date of dismissal.
- 13.5 Regardless of consent, staff can appeal the outcome. Staff can change their mind at any point up to the end of any appeal process and withdraw their consent.

#### **14. Appeal**

- 14.1 A member of staff can appeal against any decision at a Mutually Agreed Termination Meeting or any decision made at a Stage 3 Hearing if they believe it was too severe, inappropriate or because new information has come to light. The appeal must be submitted in writing to the Deputy Director – HR Operations within 14 calendar days of receipt of the outcome letter. The Deputy Director - HR Operations will convene an Appeal Panel.
- 14.2 The appeal will be heard by a senior manager who is impartial and where possible more senior than the original Chair, with independent HR support. An appeal against dismissal will be heard by a panel of 2 Board Directors and the Director/Deputy Director of Human Resources./ Head of Operational HR The Trust will make reasonable efforts to ensure timely hearing of appeals.
- 14.3 The member of staff will submit to the Appeal Panel Chair their written case, including copies of all documentation they wish to rely on at the hearing, at least 14 calendar days before the Hearing. This will be forwarded to the original Chair who will prepare with their HR representative a response to the stated grounds of appeal, forwarded to the Appeal Panel Chair and the member of staff and their representative at least 7 calendar days before the Appeal Hearing.
- 14.4 The purpose of the Appeal Hearing is to review whether the decision was reasonable and proportionate based on the evidence available at the original hearing, and to consider whether the procedure was followed

correctly. It is not a re-hearing of the case. The structure of the Appeal Hearing can be found at Appendix F.

- 14.5 The Appeal Panel can: confirm the original decision; make additional recommendations to support attendance where a Stage 3 outcome was to continue reviewing at Stage 2; reinstate where dismissal has taken place and extend the review period for up to 12 months or take off review.
- 14.6 The Appeal Panel will in most cases confirm a decision on the same day, but there may be occasions when an adjournment is necessary. Written confirmation of the outcome will be provided within 7 calendar days. The decision is final, with no further right of appeal.

## **15. Representation**

- 15.1 Throughout Stages 1, 2 and 3, including interim monitoring meetings and long-term wellbeing meetings, the member of staff will have the right to be accompanied by a trade union/ defence body (for medical and dental staff) representative or workplace colleague. If unable to attend on a proposed date, an alternative date must be provided which is within 7 calendar days of the original date.
- 15.2 At a Hearing, Mutually Agreed Termination Meeting or Appeal the representative/ work colleague will be allowed, if the member of staff so directs, to explain their case, to respond on their behalf and to confer during the meeting. They cannot answer questions put to the member of staff or stop management asking relevant questions or outlining its views.

## **16. Discretion to Vary Progression through the Procedural Stages**

- 16.1 Exceptionally, it may not be appropriate to escalate attendance issues to the next Stage and the manager may instead wish to extend the review period by up to a further 6 months at Stage 1 or up to a further 12 months at Stage 2. Before applying such discretion, advice must be sought from Human Resources. An example of where discretion may apply is if a member of staff is awaiting treatment which will aid an effective return to work.
- 16.2 The line manager may consider exceptional circumstances where it is appropriate to move directly to the Stage 3 Hearing. Before applying such discretion, advice must be sought from Human Resources and Occupational Health. An example of where such discretion may apply is where the member of staff has a terminal illness, or has applied for ill-health retirement, or Occupational Health advises there is no likelihood of a return to work.

## **17. Disability and Sickness Absence**

- 17.1 Staff with a disability are advised to make their line manager aware of this so that appropriate support and reasonable adjustments can be considered. A disability is defined 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. Long-term is defined as having lasted, or likely to last for at least 12 months or the rest of the person's life. The impairment should be considered as if treatment were not present. People with cancer, HIV and multiple sclerosis are protected from the point of diagnosis.
- 17.2 If a member of staff is absent due to their disability, this disability-related sickness will be managed in accordance with the Equality Act 2010 and reasonable adjustments considered. A reasonable adjustment might mean allowing a greater level of absence before escalating to the next Stage.
- 17.3 Disability leave is time off from work for a reason related to someone's disability. The line manager will be expected to consider providing additional paid Disability Leave to a member of staff who might need treatment or rehabilitation for a new or existing disability. This will typically be for a planned period with specific timescales.
- 17.4 Advice on disability and disability leave must be sought from Occupational Health and Human Resources.

## **18. Reasonable Adjustments and Redeployment**

- 18.1 Where a member of staff is medically assessed as temporarily or permanently unfit for their duties, reasonable adjustments or redeployment will be considered.
- 18.2 Examples of reasonable adjustments are changes to duties, hours worked or start/finish times, longer or more frequent rest breaks, specialist equipment, extension of a phased return to work, taking account of disability-related sickness or allowing Disability Leave.
- 18.3 Where reasonable adjustments could not be accommodated or were not successful, redeployment to another role in the Trust will be considered. Arrangements for temporary redeployment will be managed by the line manager and Human Resources, and for permanent redeployment as set out in the Trust's Redeployment Procedure.

## **19. Medical Suspension**

- 19.1 In rare cases a member of staff can be suspended on health grounds prior to or following a medical assessment if there is a reasonable belief that they pose a serious risk to themselves or others. Medical suspension can only be authorised by a senior HR Manager and only after exhausting alternatives to suspension.

## **20. Terminal Illnesses and Pensions**

- 20.1 Special pension arrangements exist for terminally ill staff who are also NHS Pension members. Advice should be sought from the Pensions Department. Consideration should be given to an ill-health retirement application where terminal illness is diagnosed.

## **21. Ill-Health Retirement**

- 21.1 Staff can apply for ill-health retirement where they have at least two years' NHS Pensions Scheme membership, have not reached Normal Pension Age, and a medical practitioner or Occupational Health has confirmed permanent incapability to carry out their role. The decision is made external to the Trust by NHS Pensions Agency, and the Trust may still consider dismissal before the member of staff has been informed of the outcome of their application.

## **22. Travelling abroad whilst off sick/ falling ill abroad**

- 22.1 Where staff wish to travel abroad and are currently absent from work, they must seek prior approval from their line manager. Staff will be required to take this period of leave from their annual leave entitlement.
- 22.2 Where staff fall ill abroad, they must report to their line manager as per section 2 of this procedure. Staff will be required to self certify for the first 7 calendar days of absence. Thereafter, they must obtain a fit note from their GP in order to certify their ongoing absence. In these circumstances staff will be required to comply with this procedure, which includes maintaining regular contact with their line manager, attending meetings as required and providing up to date fit notes in a timely manner.
- 22.3 Failure to comply with the requirements of this procedure may result in formal disciplinary action being taken.

## **23. Fraud**

- 23.1 Where there is evidence to confirm that a member of staff has been working elsewhere in a comparable role whilst off sick from work, or has provided a fraudulent fit note, this could be considered a criminal offence and may also result in formal disciplinary action.

## **24. Transmissible Infectious Illness**

- 24.1 Staff who come in to contact with an infectious disease must promptly seek advice from Occupational Health. Staff absent with a transmissible infectious illness will remain off duty for 48 hours after the last symptoms or as advised by Occupational Health or Control of Infection. The absence will be recorded as sickness, but the line manager will seek advice from Human Resources before considering any management action.

## 25. Pay During Sickness Absence

- 25.1 Where a member of staff leaves work early due to sickness, the part of the shift for which they were absent will be recorded but not counted against sick pay entitlement; subsequent consecutive days will be counted.
- 25.2 Sick pay is paid in accordance with national Agenda for Change/ Medical Staff Terms and Conditions of Service, calculated on a rolling 12-month period from the first day of absence.

Period of continuous NHS service	Period of full pay	Period of half pay
During 1 <sup>st</sup> year of service	1 month	2 months
During 2 <sup>nd</sup> year of service	2 months	2 months
During 3 <sup>rd</sup> year of service	4 months	4 months
During 4 <sup>th</sup> & 5 <sup>th</sup> year of service	5 months	5 months
After completion of 5 years' service	6 months	6 months

- 25.3 Exceptionally, staff can make a request in writing to the Deputy Director – HR Operations/ Head of HR Operations to request extension to their full or half pay.
- 25.4 Sick pay may be stopped where staff fail to comply with this procedure.
- 25.5 The Trust has a legal duty to follow special reporting arrangements for any migrant member of staff employed on a Certificate of Sponsorship (Tier 2/5 Visa) whose pay is reduced as a result of sickness.

## 26. Accident at Work

- 26.1 A member of staff who sustains a work-related injury must report this to their line manager as soon as possible on the day it happens, and submit a Datix incident form. Advice on a needle stick injury must be sought from Occupational Health, or the Emergency department out of hours.
- 26.2 Where a work-related injury causes sickness absence and a reduction in pay, the member of staff may be eligible for an NHS Injury Allowance.
- 26.3 Where a work-related injury causes sickness absence of 7 calendar days or more, or the member of staff is at work but unable to perform their normal duties for this period, this must be reported under the Reporting of Incidents and Dangerous Diseases or Occurrences Regulations. Advice must be sought from the Health & Safety Team.
- 26.4 Advice on whether an accident at work will count towards any management action on a member of staff's sickness must be taken from HR.



## **27. Support for staff**

27.1 It is vital that all the members of staff involved have their health and wellbeing maintained and protected as far as possible. Staff can seek support from their manager, Trade Union/ defence body (for medical and dental staff) Representative Human Resources, the Freedom to Speak Up Guardian, Confidential Contacts or through Occupational Health who can provide access to counselling services.

## **28. General Issues**

28.1 A member of staff who knows they will be absent through sickness, e.g. due to planned surgery, must inform the Line Manager in advance, as early as possible, to ensure support is in place and to enable departmental planning.

28.2 Planned cosmetic surgery (e.g. corrective eye laser treatment, liposuction etc.) must be taken as annual leave or authorised unpaid leave unless written medical evidence is provided of medical reasons for surgery.

28.3 Sickness related to pregnancy will be recorded but will not count towards sickness management, but any non-pregnancy related sickness will be counted.

28.4 Staff absent due to an accident where damages are recoverable will usually be advanced sick pay and repay it when damages are received.

28.5 A stress risk assessment will be provided to a member of staff by their line manager when a member of staff is experiencing work-related stress. It is the member of staff's responsibility to complete the form and return to their line manager. A meeting will then be arranged to discuss the content of the form and what support can be put in place.

28.6 Disciplinary action will be invoked where a member of staff is found to have falsely reported sickness absence and/or falsely claimed sick pay.

## **29. References**

ACAS  
Agenda for Change/Medical Staff Terms and Conditions of Service  
Equality Act 2010  
NHS Pensions Scheme

## **30. Associated Policy and Procedural Documentation**

Annual Leave Procedure  
Employee Relations Policy  
Disciplinary Procedure  
Maternity Procedure

Flexible Retirement Procedure  
Maintaining High Professional Standards Policy and Procedure  
Special Leave Procedure  
Redeployment Procedure  
Communicable Infections Procedure

## UNIVERSITY HOSPITALS BIRMINGHAM NHS FOUNDATION TRUST

## SICKNESS ABSENCE NOTIFICATION (SELF-CERTIFICATE) FORM

You are required to complete this form to cover you from your first day of sickness. All sickness absence of 1 – 7 calendar days must be recorded on this form. On the 8<sup>th</sup> calendar day you must submit a Medical Certificate (Fit Note).

<b>MEMBER OF STAFF DETAILS</b>	
Name	Job Title
Ward/ Department	Division
<b>ABSENCE DETAILS</b>	
Date absence first reported:	
Name of person absence reported to:	
Date(s) of absence From:	To:
Reason for absence	No. of working days/hours lost
Was the absence due to an accident at work or coming into contact with a notifiable disease? (please tick)	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
Date Incident Form completed?	
<b>DECLARATIONS</b>	
I confirm that the information above is true to the best of my knowledge and that any falsification of the information provided may potentially lead to an investigation by the Local Counterfraud Specialist and disciplinary action against me. By signing this declaration I also confirm that I have not undertaken any paid work whilst reporting off sick.	
Signed Member of staff	Date
Signed Manager	Date

**TO BE KEPT ON PERSONAL FILE**

**APPENDIX A Continued.**

**SICKNESS CATEGORIES**

Anxiety/stress/depression/other psychiatric illness

Back problems

Other musculoskeletal problems

Cold/cough/flu-influenza

Asthma

Chest and respiratory problems

Headache/migraine

Benign and malignant tumours, cancer

Blood disorders

Heart, cardiac and circulatory problems

Burns, poisoning, frostbite, hypothermia

Ear, nose and throat (ENT)

Dental and oral problems

Eye problems

Endocrine/glandular problems

Gastrointestinal problems

Genitourinary & gynaecological disorders

Infectious diseases

Injury, fracture

Nervous system disorders

Pregnancy related disorders

Skin disorders

Substance abuse

Other known causes - not elsewhere classified

**RETURN TO WORK DISCUSSION RECORD**

<b>MEMBER OF STAFF DETAILS</b>	
Name	Job Title
Ward/ Department	Division
<b>ABSENCE DETAILS</b>	
Date Absence Reported:	Name of Person Absence Reported to:
Date(s) of absence: From:    To:	Reason
Has any paid work been completed during this period of absence?	
How are you feeling now?	
Are you fit to return to full normal duties? Yes	No
Has the necessary certification been submitted? Yes	No
Was the absence linked to an injury at work? Yes	No
If yes, has an incident form been completed? Yes	No
Sickness record in last 12 months rolling period	
Date	No. of days    Reason
Are absences causing concern? - 4 periods of absence in a rolling 12-month period - 75 working hours in a rolling 12-month period (pro-rata for part-time staff) - 21 calendar days or more - Any other pattern which causes concern Action to be taken?	
Signed (member of staff):	Date:
Signed (manager):	Date:

**TO BE KEPT ON PERSONAL FILE**

**Appendix C - Absence indicator (75 working hours absence in rolling 12 months) – by contracted hours**

<b>WEEKLY BASIC CONTRACTED HOURS</b>	<b>NO OF CONTRACTED HOURS ABSENCE TO REACH ABSENCE INDICATOR</b>		<b>WEEKLY BASIC CONTRACTED HOURS</b>	<b>NO OF CONTRACTED HOURS ABSENCE TO REACH ABSENCE INDICATOR</b>
37.5	75		19.0	38
37.0	74		18.5	37
36.5	73		18.0	36
36.0	72		17.5	35
35.5	71		17.0	34
35.0	70		16.5	33
34.5	69		16.0	32
34.0	68		15.5	31
33.5	67		15.0	30
33.0	66		14.5	29
32.5	65		14.0	28
32.0	64		13.5	27
31.5	63		13.0	26
31.0	62		12.5	25
30.5	61		12.0	24
30.0	60		11.5	23
29.5	59		11.0	22
29.0	58		10.5	21
28.5	57		10.0	20
28.0	56		9.5	19
27.5	55		9.0	18
27.0	54		8.5	17
26.5	53		8.0	16
26.0	52		7.5	15
25.5	51		7.0	14
25.0	50		6.5	13
24.5	49		6.0	12
24.0	48		5.5	11
23.5	47		5.0	10
23.0	46		4.5	9
22.5	45		4.0	8
22.0	44		3.5	7
21.5	43		3.0	6
21.0	42		2.5	5
20.5	41		2.0	4
20.0	40		1.5	3
19.5	39		1.0	2
			0.5	1

**Dismissing Level Officers**

**Authorised Dismissing Officers**

Chief Executive  
Board Chief Officers and Directors  
Directors  
Associate/Deputy Directors  
Deputy Chief Nurses  
Chief Pharmacist

**Procedure to be followed at a Stage 3 Capability Hearing**

1. Introduction by Chair of the purpose of the hearing and Individuals present confirming the role each will play in the proceedings.
2. Management presents case and calls witnesses.
3. Member of staff or Representative can ask questions of management and witnesses.
4. Management may re-examine witnesses on points raised.
5. Member of staff or Representative puts their case and calls witnesses.
6. Management can ask questions of member of staff and witnesses.
7. Panel members may ask questions of member of staff and witnesses.
8. Member of staff or Representatives may re-examine witnesses on points raised.
9. Management sums up their case (no new evidence is to be presented).
10. Member of staff or Representative sums up their case (no new evidence is to be presented).
11. Panel members adjourn to consider their decision.
12. Panel may seek points for clarification if necessary.
13. Panel reconvenes and informs the member of staff of their decision.

**Note : If at any point the hearing manager believes further investigation of the facts is required, the hearing will be adjourned.**



### Procedure to be followed at a Stage 3 Capability Appeal Hearing

1. Chair of Panel to introduce all present and confirm the role each will play in the proceedings.
2. Chair to ensure that any Appellant who appears at the hearing unrepresented or unaccompanied is happy to proceed with the hearing alone (this needs to be minuted).
3. Chair to confirm the reason for the Hearing i.e. “this is an Appeal Hearing convened at the request of xxxxx in response to their grounds of appeal against the outcome of a Stage 3 Capability Hearing”.
4. Chair to clarify if either party intends to call any witnesses in support of their case.
5. Chair to confirm that this is not a re-run of the previous Hearing.

**\*NB No new evidence can be tabled at the hearing unless agreed by all parties**

6. Chair to explain the process to be followed, conducted in accordance with the Trust Sickness Absence and Attendance Procedure.

#### 7. **The Appellant**

- 7.1 The Appellant or their representative will state their case and provide reasons for appeal, presenting the witnesses they wish to call;
- 7.2 Management can question the Appellant, their representative and any witnesses called in support of their case;
- 7.3 The Panel can question the Appellant, their representative and any witnesses called in support of their case;
- 7.4 The Appellant or their representative may re-examine the witnesses before the witness leaves the hearing;

#### 8. **Management**

- 8.1 Management state their response to the reasons for appeal, presenting any witnesses they wish to call;
- 8.2 The Appellant or representative can question Management and any witnesses called in support of their case;

- 8.3 Panel members can ask questions in relation to the Management case and question any witnesses called in support of their case;
- 8.4 Management can re-examine the witnesses before the witness leaves the hearing;
9. Chair to confirm with the Appellant and Management that they are satisfied they have had sufficient opportunity to state their respective case. If so, both parties should be offered the opportunity of a short adjournment to produce a summing up statement. A reasonable timeframe should be agreed to reconvene and hear their summing up statements.
10. **Summing Up**
  - 10.1. The **Appellant** or their Representative to sum up their case.
  - 10.2. **Management** to sum up their case.
11. **Decision Making**
  - 11.1. Adjournment for the Panel to deliberate and reach a decision.
  - 11.2. The hearing is re-convened for the Chair of the Panel to deliver the panel's findings and decision.
  - 11.3. The Appellant should be advised that this will be confirmed to them in writing within 7 calendar days.
12. **Additional Points**
  - 12.1. At any point during the hearing an adjournment may be called by the Chair to seek points of clarity, or as a comfort break.
  - 12.2. Management or the Appellant may request a short adjournment for a variety of reasons, and this should not be unreasonably withheld.
  - 12.3. Any other party present at the hearing must be identified and an explanation given as to the reason for their presence e.g. note taker.
  - 12.4. Witnesses are only present whilst giving their evidence.