

Sickness Absence Policy

July 2022 - July 2023

CONTROL RECORD			
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<p>This is a controlled document and whilst this policy may be printed, the electronic version available on the ICB's document management system is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</p>			

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1. Introduction

- 1.1 This policy applies to the NHS Nottingham and Nottinghamshire Integrated Care Board, hereafter referred to as 'the ICB'.
- 1.2 The ICB recognises the importance of balancing the health needs of employees against the needs of the ICB and is committed to providing excellent working conditions and appropriate support to achieve that balance.
- 1.3 Encouraging employees to attend work and supporting them back into the workplace is known to maintain employee health and wellbeing and improve ICB effectiveness.
- 1.4 The overall purpose of the policy is to set out the ICB's approach to the management of sickness absence within the workplace. This document also sets out guidance to employees and managers about their responsibilities in relation to Sickness Absence Management.
- 1.5 The ICB is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the ICB's Confidentiality & Data Protection Policy and related policies and procedures located on the website.

2. Purpose

- 2.1 This policy enables managers to address sickness absence issues, both short and long-term, in a fair, consistent, and equitable manner. It is recognised however that all cases must be dealt with on an individual basis because of differing circumstances therefore this procedure gives an outline of the principles to be observed.
- 2.2 It should be noted that all other types of absence should be dealt with in accordance with the appropriate policy, e.g., maternity, adoption, employment break, etc. Line managers should consider, and take due account of, individual circumstances and all relevant factors before action is taken e.g., maternity related absence, stress, disability related absence, work related factors.
- 2.3 Confidentiality will be maintained in all aspects of absence management and records will be kept in line with the Data Protection Act and General Data Protection Regulations 2016.
- 2.4 Guidance and support will be provided to line managers who implement and apply policies and procedures relating to absence. All new employees will be made aware of this policy during their induction.
- 2.5 The ICB recognises that, on occasion, anyone may become unwell or subject to emergencies. However regular attendance at work is a contractual requirement.

- 2.6 The appropriateness of referral to the ICB's Occupational Health Provider will be discussed between the individual, their line manager and a HR representative. A referral will be made in all cases of long-term sickness absence, and where short-term absences gives rise for concern a referral should also be considered.
- 2.7 It is acknowledged that on occasion people may be away from work on a long- term basis as a result of chronic or acute ill health. Although each case will be dealt with on an individual basis this policy outlines certain principles that will always be observed.
- 2.8 In dealing with any sickness absence cases, managers must be mindful of obligations that they and the ICB may have under the Equality Act 2010. In identifying whether an employee is covered by the Act advice will be sought from appropriate medical professionals.
- 2.9 Advice should be taken from Human Resources at all formal stages of this procedure to ensure the consistent application of this procedure throughout the ICB.
- 2.10 Employees may be accompanied by a trade union representative or work colleague in all formal discussions with managers about their absence.

3. Roles and Responsibilities

Roles	Responsibilities
Chief Executive	Has delegated responsibility for maintaining an overview of the corporate ratification and governance process associated with the policy.
Line Managers	<p>Line managers have an important role to play in the management of absence. The key responsibilities for managers include:</p> <ul style="list-style-type: none"> • Ensure that they are familiar with this policy and their obligations in relation to the application of the policy. • Communicate appropriately with absent employees. • Dealing with any actions in a timely manner, balancing the needs of the individual with those of the ICB, and ensuring that relevant Sickness Notification forms are completed and submitted in line with the agreed procedure. • Maintain and retain accurate records of all absences in line with the data protection act. • Conduct effective return to work meetings after each individual episode of sickness. • Always maintain appropriate levels of confidentiality. • Make Occupational Health referrals as appropriate. • Attend any training provided on policy updates, and/or legislation

Roles	Responsibilities
	<ul style="list-style-type: none"> Identify a 'nominated deputy' for staff to report sickness absence to during periods of annual leave/out of the office/non-working time and communicate this to staff.
Employees	<p>Employees are expected to:</p> <ul style="list-style-type: none"> Ensure regular attendance at work Report absences promptly to their line manager, or 'nominated deputy' –on the morning of the first day of absence Communicate appropriately with their manager when absent from work Co-operate fully in the use of these procedures, completing and submitting relevant Sickness Notification as specified and within time frame. Attend an appointment with a medical practitioner nominated by the ICB, where appropriate Act in compliance with all requirements of the sick pay scheme Attend review meetings and return to work meetings with appropriate manager when discussing periods of absence or planning return to work, reasonable adjustments, or alternative employment.
Trade Unions	<p>The Trade Unions play a vital role in:</p> <ul style="list-style-type: none"> Representing members in the procedure and providing support and advice. Working in partnership with management, HR, and Occupational Health to ensure employees are treated fairly and consistently. Articulating the issues and suggesting solutions.
Human Resources	<p>The HR Team will provide support and advice on all aspects of the application of this policy and process.</p>

4. Definitions

Term	Definition
Persistent Short-Term Absence	Short term sickness is identified as a series of absences, often unconnected, which results in persistent short-term absences from the workplace.
Long Term Absence	Absences that are at least 14 calendar days.

5. General Points

- 5.1 If an employee knowingly gives any false information, or makes false statements about their sickness, it may be treated as misconduct and may result in disciplinary action being taken and a referral to the Counter Fraud Specialist for further investigation. In proven cases of gross misconduct, it could lead to dismissal (an example of this may include absent on sick leave and working elsewhere).
- 5.2 During periods of sickness absence, employees should not undertake paid or unpaid work while on paid sick leave from the ICB, where any work is undertaken this must be declared.
- 5.3 Dependent upon the nature of the work, this may be considered fraudulent activity which could result in disciplinary action being taken and a referral to the Counter Fraud Specialist for further investigation as well as referral to professional bodies where appropriate.
- 5.4 Any employee who unreasonably fails to comply with the ICB's Sickness Absence policy and procedure may have their occupational sick pay withheld. Any decision to withhold sick pay must be made in conjunction with advice from the HR representative. Advice may also be sought from the ICBs Occupational Health Provider.
- 5.5 The ICB has the right to dismiss employees whilst they are receiving sick pay entitlement. Any decision to dismiss on capability grounds will be subject to medical advice.
- 5.6 The ICB reserves the right to request a Doctor's Certificate for periods of absence of less than seven calendar days in cases of short-term persistent absence. However, this should normally follow an Occupational Health referral where there is no medical reason for continued short-term persistent absence. Furthermore, this option should only be used for a finite period and should be reviewed on a regular basis. Finally, should the employee incur a cost in obtaining a Doctor's certificate, and then this will be reimbursed by the ICB.

6. Reporting Absence

- 6.1 All employees must contact their line manager on the first day of absence as soon as is reasonably practicable or within one hour of their normal starting time. The employee must make this call. The only exception is where it is clearly not possible for employees to ring personally, such as admission to Hospital.
- 6.2 Employees must talk directly to their line manager. Alternative methods of communications such as text messages, e-mail or leaving messages with anybody else are not considered appropriate, unless there are exceptional circumstances. If the line manager is unavailable, then the employee should contact an alternative nominated manager.

- 6.3 If an employee does not have a telephone at home alternative arrangements for reporting sickness must be made.
- 6.4 When reporting absence employees must give the following information:
- the reason for the absence (if known).
 - the expected length of absence (if known).
 - whether a visit will be made to their GP, and if so, the date of the appointment.
- 6.5 Where possible the manager should be advised of any outstanding work that may require urgent attention during the period of absence. This will enable managers to better plan and allocate work.
- 6.6 In cases of continued absence, employees and line managers should agree appropriate levels, and methods of communication. As a minimum the employee must contact their line manager again on the fourth day of absence to provide them with up-to-date information. Should the absence continue then the employee and the manager must decide upon the frequency of further/continued contact and the form that this will take. It is not sufficient to provide medical certificates as a means of maintaining contact.
- 6.7 It should be noted that failure to maintain contact as per the agreement with the line manager, may result in the payment of occupational sick pay being delayed or withheld. Any decision to take disciplinary action or to withhold or delay payment of occupational sick pay must be made in conjunction with a HR Representative.

7. Evidence of Incapacity for Work

- 7.1 For sickness absence up to seven calendar days, employees can self-certify. The reason for the absence should be given to your line manager to ensure your absence record is accurate.
- 7.2 If an absence exceeds seven calendar days a doctor's medical certificate must be submitted to the line manager, no later than the tenth day of absence, covering the absence from the eighth day. The medical certificate is normally retained by the line manager and the absence recorded on the appropriate staff absence record form.
- 7.3 If an absence continues beyond the period covered by the initial medical certificate, further medical certificates must be submitted to give continuous cover for the period of absence.
- 7.4 Failure to submit consecutive medical certificates in a timely manner may be considered in breach of the Sickness Absence Management policy and may invoke the Disciplinary process.
- 7.5 If the doctor's medical certificate does not specify the period of absence covered, it will be taken as covering a period of seven calendar days only.
- 7.6 For reporting purposes, reports will show long-term absence as at least 14 calendar days.

8. Statement of Fitness to Work (Fit Note)

8.1 The statement of fitness to work, known as the 'fit note' was introduced in April 2010. It allows a doctor/GP to advise whether an employee is either:

- Not fit to work
- May be fit to work

8.2 If the doctor/GP suggests that they 'May be fit to work' there are now several options open which may help to get the employee back to work:

- Phased return to work
- Amended duties
- Altered hours
- Workplace adaptations

8.3 Any such recommendations should be discussed and agreed with the individual and line manager prior to commencement of work at a return-to-work interview (see **Appendix B**).

9. Employee Occupational Sick Pay Entitlements

9.1 The amount of paid sickness leave entitlement depends on length of service, as outlined below:

Length of service	Sick Pay Entitlement
During the first year of service	One-month full pay and two months' half pay
During the second year of service	Two months' full pay and two months' half pay
During the third year of service	Four months' full pay and two 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

9.2 The period during which sick pay is paid and the rate of sick pay for any period of absence is calculated by deducting from the employee's entitlement, on the first day of absence, the aggregate periods of paid sickness during the 12 months immediately preceding that day.

9.3 Sick pay is based on basic pay only.

9.4 Full pay is inclusive of any statutory benefits. Half pay plus statutory sick pay will not exceed full pay.

- 9.5 For calculating entitlement to sick pay, a previous period or periods of NHS service will be counted towards the employee's entitlement to sick leave with pay where there has been a break, or breaks, in service of 12 months or less.
- 9.6 In the event of employment coming to an end, entitlement to sick pay ceases from the last day of employment.
- 9.7 Absence for planned elective medical treatment, which is for cosmetic reasons alone, must be taken as annual leave and not sick leave. Where planned medical treatment has a cosmetic and health improvement purpose, absence should be reported as sick leave.

10. Occupational Sick Pay Conditions

- 10.1 The conditions for sick pay are financial provisions indicating an entitlement to occupational sick pay and in no way indicate the amount of absence to which an employee is entitled.
- 10.2 If sick pay entitlement is exhausted before a Final Review Meeting takes place, and where the failure to undertake the Final Review is due to delay by the manager, sick pay will be reinstated at half pay as follows:
- Employees with more than 5 years reckonable service – sick pay will be reinstated if the entitlement is exhausted before the Final Review meeting takes place.
 - Employees with less than 5 years reckonable service – sick pay will be reinstated if the entitlement is exhausted, and the Final Review meeting does not take place within 12 months of the start of their sickness absence.
- 10.3 Reinstatement of sick pay in these circumstances will continue until the Final Review meeting takes place. It is not retrospective for any period of zero pay in the preceding 12 months of service.
- 10.4 The period of full or half sick pay may be extended:
- Where there is the expectation of a return to work in the short term and an extension would materially support a return and/or assist recovery. Consideration will be given to those staff without full sick pay entitlements.
 - Where it is considered that individual circumstances mean that an extension will relieve anxiety and/or assist recovery.
- 10.5 When an extension to sick pay is being considered for any reason this must first be discussed with a HR Representative.
- 10.6 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.
- 10.7 An employee who is absent as a result of an accident is not entitled to sick pay if damages are received from a third party. Under these circumstances the employee will be advanced a sum not exceeding the amount of sick pay payable under this

scheme providing the employee repays the full amount of sickness allowance when damages are received.

11. Sickness during Annual Leave

- 11.1 If an employee falls sick during a period of annual leave either in this country or overseas, and the period of incapacity seriously interrupts the period of leave, then they may count the absence as sick leave provided, they.
- Notify their line manager either in writing or by telephone at the earliest opportunity, in line with ICB/departmental procedures and no later than the fourth continuous day of illness; and
 - Provide a statement by a qualified medical practitioner; the statement should cover the period of the illness and the nature of the illness.
- 11.2 For information, a serious interruption of annual leave would be deemed as four or more days of continuous illness.
- 11.3 If an employee is absent on sick leave and has pre-booked annual leave then they must notify their manager as soon as possible of the nature of the leave, otherwise it will be assumed that the annual leave is being taken. If the employee intended to spend time at their normal place of residency then the leave may be credited back upon receipt of appropriate medical statements/Doctors' notes.
- 11.4 If the employee intends to spend more than one night away from their normal place of residency whether it be overseas or in the UK, then the employee must provide a written statement from a medical practitioner advising that the holiday would be beneficial to their condition or recovery, and in no way would aggravate or cause detriment to the illness/injury. Where necessary, the ICB will reimburse the cost of such letters. In addition, the ICB may also choose to obtain a medical opinion from the Occupational Health Provider. If the leave is supported by a medical practitioner then the employee will have the option to continue with sick leave and have the annual leave credited back or take the time as annual leave, in which case sick pay, occupational and/or statutory as appropriate, will cease. If an employee is physically unable to return to work after a holiday, they must submit a medical certificate which covers them from the day on which they were expected to return to work. Should the employee take the leave as sickness, then entitlements to sick pay both occupational and statutory will be in line with the normal eligibility rules.
- 11.5 Where the request to continue with a pre-booked holiday is not supported by a medical practitioner, then annual leave should be taken.
- 11.6 Employees will not be entitled to an additional day off if they are sick on a statutory holiday.

12. Annual Leave during Sickness Absence

- 12.1 Where an employee is absent from work for the whole of the **annual leave year** (April to March) on long term sick statutory entitlement of 28 days (inclusive of bank holidays) continues to accrue under the Working Time Regulations for that leave year.
- 12.2 An employee can designate part of their annual leave during a period of long-term sick leave which will be deducted from Statutory Annual Leave entitlement.
- 12.3 Annual leave for the leave year must be taken prior to the employee's return to work or as part of a phased return to work and must be requested in line with the Policy on Annual and Special Leave. Where an employee's prearranged statutory holiday entitlement coincides with a period sick leave, the employee has the option to designate an alternative period for holiday.
- 12.4 If an employee on sick leave has not had the opportunity to take statutory accrued holiday entitlement in the leave year this will be carried over into the next leave year period. When calculating the amount of statutory annual leave an employee has taken managers should count all annual leave days and bank holiday days taken; whether bank holidays are managed as an inclusive entitlement or taken separately to the employees' annual leave entitlement.

13. Bank Holiday Entitlement

- 13.1 Employees will not be entitled to an additional day off if sick on a statutory holiday.

14. Carry Forward of Accrued Annual Leave between Annual Leave Years during periods of extended Sickness Absence

- 14.1 During a period of extended sickness absence if an employee's sickness absence spans a change between annual leave years the carry-over of annual leave between leave year periods will be based solely on the accrued statutory entitlement up to a maximum of 28 days (inclusive of bank holidays). No other annual leave may be carried over.

15. Short Term Absence

- 15.1 The ICB operates an accurate method of recording and monitoring levels of absence. If the amount of time being taken off for illness is giving cause for concern, managers will discuss this with employees at the return-to-work meeting and provide them with a record of all absences from work. The individual will have the opportunity to explain any personal or work-related issues which may be a factor in the absence. This will provide an opportunity to discuss informally the employee's health status, required improvements in attendance and the time period in which any improvements should be achieved.

- 15.2 To ensure the consistency with the application of the Sickness Absence Policy, trigger points are used to monitor short term sickness and long-term sickness. The triggers for short term absence are:
- Four occasions of absence in any rolling 12-month period; or
 - 12 days absence in any rolling 12-month period
- 15.3 Where an employee's attendance fails to improve and reaches a trigger, a formal meeting will be held with the individual- please refer to section 5: Scheme of delegation. The purpose of the meeting is for the manager to investigate the reasons for this continued absence and to provide support and assistance to overcome any short – term issues, patterns or problems which are identified in order to support and encourage improved attendance. At this stage an action plan of improvement will be set.
- 15.4 Where an individual fails to maintain regular attendance deemed acceptable for the ICB, they will progress through the stages identified in the scheme of delegation. This process may, eventually result in dismissal if the absence continues.
- 15.5 At any stage during this process, it may be appropriate to seek advice from an ICB appointed medical practitioner.
- 15.6 Employees are entitled to have a staff side representative or workplace colleague not acting in a professional capacity to accompany them to any of the formal stages of this procedure if they so wish.
- 15.7 If at any stage the employee achieves a better attendance record than is required by a warning, no action will be taken. The manager will continue to monitor the level of attendance or pattern of absence.
- 15.8 Prior to formal action being taken advice must be sought from Human Resources.

16. Long Term Absence

- 16.1 Long term absence is classed as at least 14 calendar days.
- 16.2 In all cases of long-term absence, Occupational Health advice must be sought.
- 16.3 In cases of long-term absence line managers must arrange to conduct regular review meetings to discuss possible courses of action should the absence continue. In most cases, a wellbeing meeting should be arranged for week three and continue monthly. In some cases, flexibility will be necessary to accommodate hospitalisation and recovery. The employee will have the right to be accompanied at these meetings by a Trade Union representative or work colleague. The employee should expect to attend regular wellbeing review meetings with their manager to discuss possible courses of action to enable their return.
- 16.4 These meetings should be held at mutually convenient locations, with due regard made to the employee's circumstances. If the employee is too unwell to attend the meeting and if mutually agreeable, the manager can visit the individual at their

home. The line manager needs to be aware of safeguarding procedures for themselves. However, it should be noted that, as part of the return-to-work process, it may be more relevant to hold the meetings at a business location, or a suitable alternative venue.

- 16.5 The first formal stage of this process should take place, at the 3 months stage, or when full sick pay is due to expire if this is earlier. This meeting should be held in line with section 5 – scheme of delegation.
- 16.6 The purpose of this meeting is to allow all parties to consider a range of options that may be available. These options could include, but aren't limited to:
- Possibility, and likelihood of return to work, and when
 - Possibility of alternative employment
 - Identifying and implementing 'reasonable adjustments'
 - Ill Health retirement
 - Termination of contract on the grounds of medical capability – the ICB would only ever consider this after exhausting all other options
- 16.7 Where an individual continues to remain absent from the workplace through ill health, they will progress through the stages indicated in section 5- scheme of delegation.
- 16.8 Employees who fail to attend review meetings, and formal meetings may still be subject to the various sanctions contained within this policy.

17. Ongoing Medical Conditions

- 17.1 In some situations, an employee may have ongoing health related problems which may impact upon their ability to perform the duties of their role. The employee may still be in work or have long term or short-term absence. This will be addressed by any or all the following three steps.
- Medical advice, support, and guidance to help determine the best course of action for the individual
 - Reasonable Adjustments / redeployment – consider what adjustments can be made to role including hours or lighter duties. Identify if there is any suitable alternative role the individual could undertake either on a permanent basis or Interim basis.
 - Final Review Panel- if the individual's substantive post is not suitable due to their ill health and the above stages have been unsuccessful in supporting the employee to resume full duties, and final review hearing is the next stage (see **Appendix A**).
- 17.2 Before any decision to terminate an employee on medical grounds the following must have been meaningfully considered:
- Rehabilitation
 - Phased return

- A return to work with or without adjustments
- Redeployment with or without adjustments

18. Attendance/Incapacity Review Hearing

- 18.1 Where all possible stages of this policy have been exhausted and there is no likelihood of the employee maintaining regular attendance at work, it may be necessary to consider termination of the employee's contract on the grounds of capability/incapability due to ill-health.
- 18.2 An Attendance Review/Incapacity Review Hearing will be convened to consider, and the hearing will be conducted in line with the scheme of delegation supported by the HR Team and attended by the employee and their manager and the HR Manager. The employee has the right to be represented at this hearing by a Trade Union representative or accompanied by a work colleague.
- 18.3 During the hearing all the facts available should be given consideration including evidence that the manager has made all reasonable efforts to assist the employee's return to work or improve their attendance.
- 18.4 In all circumstances all reasonable efforts must be made to obtain the appropriate medical advice via Occupational Health.
- 18.5 After hearing representations from the employee's line manager and the employee, a decision will be taken with regard to the employee's continued employment with the ICB.

19. Return to Work Meeting

- 19.1 Following each period of sickness absence, all employees will attend a return-to-work meeting with their line manager to discuss their absence. If the employee has been absent with a highly sensitive condition, they may ask for a manager of the same gender to manage the absence.
- 19.2 The discussion should allow for an exchange of information and be as frank and as open as possible as this will prevent any misunderstandings concerning the nature of the absence. Managers should also take this opportunity to discuss any patterns or trends of absence that may emerge. The manager should ask the employee if they have undertaken any work with a secondary employer during the period of absence.
- 19.3 A fundamental purpose of this meeting is to allow the line manager the opportunity to discuss any assistance, help, counselling, or action on work-related issues that may be provided to enable an employee to return to work or prevent further absence occurring.
- 19.4 Notes and outcome of the meeting will be agreed and retained on file.

20. Occupational Health Services

- 20.1 In cases of long-term absence, managers are expected to make a referral to the Occupational Health Service and the following principles should be applied:
- The Occupational Health Service can be consulted for advice when the likelihood of a return to work or cause of absence is not known.
 - A member of staff may be referred to the Occupational Health Service at an early stage in the absence if it is considered that a referral may benefit the employee or the ICB.
 - The Occupational Health Service is available to give both general and specific advice on the fitness of an employee for work, adjustments to the workplace where appropriate and likely return dates.
 - An employee may request an occupational health referral, via their manager, for advice and support on the best way of seeking a return to work.
- 20.2 Where there is doubt regarding an employee's ability to return to work on a permanent basis advice must be sought from the Occupational Health Service. Employees may be eligible to ill-health retirement benefits if they have two years continuous membership of the NHS Pension Scheme. Ill-health retirement may be discussed with the individual during the review meetings.
- 20.3 Employees must make themselves available to attend Occupational Health referrals (this may include home visits by an Occupational Health representative or the attendance at an Occupational Health Office). However, due regard should be made to the accessibility of the location in relation to the nature of absence. Following the referral, Occupational Health provider will then provide a written report to management, a copy of which will also be sent to the individual. In all cases management will meet with the individual to discuss the content of the report.
- 20.4 In some cases, it may be more appropriate for Occupational Health to contact a third party for a medical opinion e.g., GP, Consultant etc. and consent must be obtained from the employee concerned. In these cases, any information provided by a third party is always disclosed to Occupational Health and not to management. Occupational Health will then provide management with a written summary of information provided which is pertinent to the employee's ongoing employment.
- 20.5 Occupational Health may recommend appropriate treatment, such as physiotherapy or cognitive behavioural therapy, in supporting staff to remain in work, or return to work, at the earliest opportunity.

21. Disability Related Absence and Reasonable Adjustments

- 21.1 If an employee is disabled or becomes disabled during their employment, then the ICB is legally required under the Equality Act 2010 to make reasonable adjustments to enable the employee to continue working. The Act broadened the provisions of the Disability Discrimination Act of 1995, for public sector employees.

- 21.2 Advice must be sought from Occupational Health as to what they suggest are 'reasonable adjustments. However, it will be the line manager's decision as to whether those adjustments are also reasonable for the service. Any adjustments made must be discussed with the individual concerned.
- 21.3 The Equality Act 2010 also introduced the concept of positive discrimination where a disabled member of staff can be treated differently to ensure they remain in work. E.g., An internal disabled applicant, who has been displaced from their current role, may be considered favourably against an able-bodied candidate.
- 21.4 Where there is a lack of understanding, on any part, if the absences are linked to a disability Occupational Health advice should be sought at the earliest opportunity.

22. Substance Misuse

- 22.1 Where an employee's absence is as a result of a suspected or admitted substance misuse problem, please refer to the ICB's Employee Wellbeing Strategy.

23. Returning to Work

- 23.1 Wherever possible the ICB will aid a return to work on a permanent basis. To establish the most effective way of doing this the ICB may seek further medical advice.
- 23.2 This may include making reasonable adjustments to the employee's job, allowing a phased return to work, or by allowing the employee to return to work on a reduced or alternative hour's basis.

Phased Return

- 23.3 Where a phased return to work is recommended by the Occupational Health provider, or a medical practitioner, the employee will be able to return to work on a part-time basis whilst receiving their full pay. This will be for a maximum period of four weeks, thereafter the employee must either substitute their annual leave for days not worked or receive payment only for the hours worked.
- 23.4 Where an employee requests a phased return to work themselves, they must take annual leave for days not worked or receive payment only for the hours worked.

Redeployment

- 23.5 If medical opinion is that an employee is unfit to return to their role, the possibility of alternative employment must be considered.
- 23.6 Where an employee's pay reduces because of ill-health or injury, and they have the required membership of the NHS Pension Scheme, or the New NHS Pension Scheme, their membership at the higher rate of pay may be protected.

Temporary Injury Allowance

- 23.7 Employees on sick leave and receiving either reduced pay or no pay as a result of an injury or illness that is wholly or mainly attributable to their NHS employment will

be eligible to apply for Temporary Injury Allowance. Applications should be made by the employee to their line manager who will make the decision on whether payment should be made, in conjunction with a HR representative. Further guidance may be sought from OHS or NHS Pensions.

- 23.8 Employees do not need to be members of the NHS Pension Scheme to apply for Temporary Injury Allowance.
- 23.9 Temporary Injury Allowance will stop when the individual returns to work or leaves their employment.

24. Ill Health Retirement

- 24.1 Throughout the absence management process all options, such as rehabilitation, redeployment, part time working, job redesign etc. must be considered in conjunction with the employee.
- 24.2 Where the medical opinion indicates that an employee is permanently unfit for any employment or for the duties of their current role, the individual has the option of applying for early retirement on the grounds of ill health, in line with the provisions of the NHS Pension Scheme. This option is only available to employees who have at least two years continuous, pensionable NHS employment.
- 24.3 If an application for ill-health retirement is made, this constitutes a mutual decision that the employee is unable to fulfil their contractual obligations due to their ill-health condition and therefore a termination date will be agreed between the individual and their line manager.
- 24.4 This option should be discussed with the individual in full at the appropriate time and as much information as possible will be provided to enable the employee to make an informed decision. For more information regarding this procedure please contact Human Resources.

25. Dismissal on the Grounds of Capability

- 25.1 Before dismissal is considered, all other options as outlined above must have been discussed with the employee during the regular meetings that have taken place throughout the absence. Managers must be satisfied that all relevant information has been obtained and all relevant facts investigated. Documentation supporting this must be provided to the employee. In cases of long-term sickness, managers must also be mindful of the cessation of occupational sick pay entitlements in conjunction with the long-term prognosis.
- 25.2 In cases of short-term absence, managers must also consider the potential loss of specialist knowledge/experienced member of staff, the cost of replacing the employee, whether or any flexible working arrangements could be accommodated in order to retain the skill and knowledge in the ICB.

- 25.3 Should the dismissal of an employee be identified at any stage in the process as the only appropriate option (i.e., all other options as outlined above have been investigated and found to be inappropriate) a Final Review Hearing will be convened. This will be chaired in line with the scheme of delegation and will be attended by the employee in question, their line manager and a Human Resources representative.
- 25.4 Prior to this meeting the employee will receive a copy of the report, detailing the case history to date and considerations taken into account (e.g., Equality Act, implications, suitable alternative employment, ill health retirement) together with all other relevant documents, made to the person authorised to dismiss.
- 25.5 At this meeting the employee will have the opportunity to present their case and submit supporting evidence. They have the right to be accompanied by a Trade Union Representative or work colleague. The employee has the right to appeal this decision.
- 25.6 Following the meeting the employee will be given a letter confirming the reason for dismissal, the date of dismissal, their right to appeal, details of any payment in lieu of contractual notice and any other outstanding payments to which they are entitled e.g., annual leave.
- 25.7 After investigation, consultation, and consideration of other alternative posts, and where there is no reasonable prospect of the employee returning to work, the ICB may terminate employment before the employee has reached the end of the contractual paid sick absence period, plus payment in lieu of contractual notice and any outstanding annual leave.

26. Stages

- 26.1 The Line Manager should inform the HR Team of the sickness trigger to gain advice and guidance
- 26.2 The table provided in **Appendix A** indicates the stages of absence management including the likely improvement target and the outcome if this is not met.
- 26.3 Throughout the stages the meetings are an opportunity to provide the individual with a complete record of their absences and discuss these with the individual to identify if the ICB can assist in maintaining their attendance at work.
- 26.4 The purpose of the meeting is to provide support to overcome any identified issues and to develop and agree an improvement plan.
- 26.5 To provide the necessary support, it may be appropriate to seek Occupational Health advice throughout the formal process.
- 26.6 Where there is not demonstrable improvement made against the improvement plan, an individual will progress through to the next stage identified in **Appendix B**, which could ultimately lead to the employee's dismissal.

- 26.7 If there is sufficient improvement in the employee's attendance at any stage of the formal procedure (i.e., if they exceed a target), the employee will be taken off their improvement targets and no further action will be taken. However, the Line Manager will continue to monitor the individual's attendance, and should their sickness absence start to increase again, the employee may enter the formal stages of the policy at the last point in which they were being managed. This will be managed on a case-by-case basis.
- 26.8 At all stages, Line Managers should seek advice from the HR Team but specifically before moving to a dismissal hearing.
- 26.9 At all stages of the process, employees are afforded the right to representation by a Trade Union representative or work colleague.
- 26.10 Employees should be informed in writing of the meeting with the notice period indicated in **Appendix A**.
- 26.11 The right to appeal is afforded to the employee should a formal sanction be issued to an employee.

27. Maternity Related Absence

- 27.1 Should an employee be absent from work due to pregnancy related sickness, these absences should be recorded separately and not counted towards absence triggers. However, they should continue to be monitored.

28. Medical Suspension

- 28.1 There may be exceptional instances when it is appropriate to medically suspend an individual from work e.g., where an employee presents for work and a Manager suspects they are unfit to carry out their duties. During the suspension the employee will receive full pay based on their notional working rota/pattern. Advice should always be sought from Human Resources if this situation should arise.

29. Appeal

- 29.1 Employees do not have the right of appeal against informal action e.g., implementation of an action plan.
- 29.2 Employees do have the right of appeal against any formal action taken up to and including dismissal, in addition to redeployment.
- 29.3 Employees may appeal against any formal decision made under this procedure by writing to the appropriate Manager- in line with the scheme of delegation, giving clear reasons for the grounds of appeal. This must be done within 10 working days of any action being taken.

29.4 The manager to whom the appeal is addressed will identify an appeal panel in line with the scheme of delegation and a hearing will take place.

30. Equality and Diversity Statement

- 30.1 Nottingham and Nottinghamshire ICB pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services as well as an employer.
- 30.2 The ICB is committed to ensuring that the way we provide services to the public and the experiences of our staff does not discriminate against any individuals or groups on the basis of their age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.
- 30.3 We are committed to ensuring that our activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.
- 30.4 As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 30.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

31. Communication, Monitoring and Review

- 31.1 The Sickness Absence Policy will be highlighted to new employees at staff induction and is stored on the ICB's HR/OD Intranet pages and by the ICB's HR&OD Team.
- 31.2 The Policy will be reviewed periodically every three years (or earlier if changes in the law or any other circumstances require it) and will be approved by the Remuneration Committee.
- 31.3 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the HR Lead.

32. Staff Training

- 32.1 All staff will be offered relevant training commensurate with their duties and responsibilities. Staff requiring support should speak to their line manager in the first instance. Support may also be obtained through their HR Department.
- 32.2 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the HR Team via email at nnicb-nn.hr@nhs.net

33. Interaction with other ICB Policies

- 33.1 This policy should be read in conjunction with the Agenda for Change NHS Terms and Conditions of Service Handbook, in addition to the following:
- Confidentiality and Data Protection Policy.
 - Disciplinary Policy.
 - Leave Policy.
 - Capability Policy.
 - Employee Wellbeing Strategy.

34. References

- 34.1 The following legislation and guidance has been taken into consideration in the development of this procedural document:
- Equality Act 2010.

Appendix A:

FORMAL STAGES OF ABSENCE MANAGEMENT

	Period of Absence	Improvement Target	Action	Decision
First Formal Review Meeting	<p>If the employee has had four occasions or twelve calendar days in any rolling twelve-month period, they will be required to attend a formal review meeting.</p> <p>Employee has the right to representation.</p> <p>Invite to the meeting must be sent with five working days' notice.</p>	<p>During the next twelve months, if the employee has a further three absences or ten calendar days they will progress to the next stage of the review.</p>	<p>Formal meeting:</p> <p>Review absence record and reasons for absence. Agree standard of attendance and support if necessary.</p> <p>If not already done, consider OH referral.</p>	<p>Decision in writing, copy kept on personnel file. Will remain on file for 12 months.</p> <p>Employee will have the right to appeal.</p>
Second Formal Review Meeting	<p>From the date of the first formal review meeting if an employee has a further three episodes or ten calendar days of absence, they will be required to attend a second formal review meeting.</p> <p>Employee has the right to representation.</p> <p>Invite to the meeting must be sent with five working days' notice.</p>	<p>During the next six months, if the employee has a further two absences or five calendar days they progress to the next formal stage.</p>	<p>Formal review meeting:</p> <p>Review absence record and reasons for absence and any medical advice that has been received. Agree standard of attendance and identify support if necessary.</p> <p>Referral to be made to OH.</p>	<p>Decision in writing with a copy kept on personnel file. Will remain on file for 12 months.</p> <p>Possible outcome: First Written Warning notification.</p> <p>Employee will have the right to appeal.</p>

	Period of Absence	Improvement Target	Action	Decision
Third Formal Review Meeting	<p>From the date of the second formal review meeting if an employee has a further two episodes of absence or five calendar days, they will be required to attend a third formal review meeting.</p> <p>Employee has the right to representation.</p> <p>Invite to the meeting must be sent with five working days' notice.</p>	<p>During the next six months, if the employee has a further two episodes of absence or three calendar days, they will be required to attend a Final Formal Review meeting.</p>	<p>Formal Review meeting:</p> <p>Review absence record and reasons for absence and any medical advice that has been received. Follow up on actions previously agreed and understand reasons behind improvement target missed. Agree standard of attendance and identify any further support if necessary.</p> <p>Referral to OH and review of existing OH advice.</p>	<p>Decision in writing with a copy kept on personnel file. Will remain on file for 24 months.</p> <p>Possible outcome: Final Written Warning notification.</p> <p>Employee will have the right to appeal.</p>
Final Review Meeting	<p>From the date of the third formal review meeting, if an employee has a further two episode of absence or three calendar days, they will be required to attend a Final Formal Review Meeting.</p> <p>Employee will be afforded the write to representation.</p> <p>Invite to the meeting must be sent with ten working days' notice.</p>	<p>Depending on outcome of the final hearing review, consider review or reissuing of improvement targets as appropriate.</p>	<p>Final Review meeting:</p> <p>Review absence record, actions taken to support improvement and any medical advice that has been received.</p> <p>Alternatives to dismissal may include redeployment to another role or a reduction in contracted hours (this is not an exhaustive list).</p>	<p>Decision in writing with a copy kept on personnel file.</p> <p>Possible outcome: Dismissal</p> <p>Employee will have the right to appeal.</p>

*Please note – Triggers should be pro rata for part time employees and calculated on contractual days

Appendix B:

RETURN TO WORK INTERVIEW FORM

All managers should complete this form for all periods of absence taken by their staff no matter how short or long. The form must only be completed following an interview with the individual member of staff. The employee should sign the form and add any further comments.

Name of the employee		
Job Title/Department		
Line Manager's Name		
Date of return-to-work interview		
Length of employee's absence		
First date of employee's absence		
Date of employee's return to work		
Reason employee gave for absence		
Did the employee properly notify the employer of his/her absence?	Yes	No
Did the employee consult his/her GP?	Yes	No
Did the GP make any recommendations on a 'fit note' as to a phased return to work or potential changes to the employee's hours, duties or to the working environment?	Yes	No

If so, please state what these recommendations were and whether they are thought to be practicable:		
Did the GP recommend on a 'fit note' that the employee should be seen by an occupational health specialist?	Yes	No
If so, please explain actions to be taken:		
Did the employee indicate that factors at work may have caused or contributed to the absence?	Yes	No
If so, please explain what action is to be taken to support the employee?		
Is this absence part of an overall pattern?	Yes	No
If so, please explain:		
Does the employee have any type of disability?	Yes	No
If the answer is Yes, what additional support has been put in place		
Has the employee undertaken any other work during the period of absence (including paid, unpaid, self-employed, or voluntary)	Yes	No
If the answer is yes, has appropriate action taken, e.g., declaration of interest form, counselling about what is appropriate when off sick, disciplinary investigation, referral to Counter Fraud		
Any further comments from the manager:		

Details any follow-up action		
No further action at this point	Yes	No
Follow-up interview by Line Manager	Yes	No
Referral to Occupational Health by Line Manager.	Yes	No
Manager to discuss situation with Human Resources for further advice	Yes	No
Manager's Signature		
Date		

I certify that I have been unable to work during the period above due to sickness and confirm the content of the discussion above. I confirm that this is a true and accurate reflection of our discussions and understand that this information will be used for the purposes of recording and monitoring sickness absence and that any false information given may lead to disciplinary action being taken and a referral to the Counter Fraud Specialist for investigation.

Employee Signature Date

Appendix C: Equality Impact Assessment

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Age¹	Potential impact for the younger to be moved through the policy due to unconscious bias related to short term absence. Potential impact for older employees to be moved through the policy or encouraged to consider retirement/ill health retirement due to unconscious bias related	Management training of application of policy. Management education on reasonable adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and identifying support for staff where appropriate.	No	No

¹ A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
	to short/long term absences.			
Disability²	Potential for staff with disabilities to be impacted through lack of understanding or misapplication of the policy ie long term absence managed as short term absence.	Management training of application of policy. Management education on reasonable adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and identifying support for staff where appropriate.	No	No
Gender identity (trans, non-binary)³	Potential for transitioning employees to be impacted due to absences related	Management training of application of policy.	No	No

² A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

³ The process of transitioning from one gender to another.

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
	to transitioning appointments/surgeries.	Management education on reasonable adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and identifying support for staff where appropriate.		
Marriage or civil partnership status⁴	None identified.	N/A	No	No
Pregnancy or maternity⁵	None identified.	Pregnant mothers are protected by law from the date of conception.	No	No

⁴ Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

⁵ Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Race⁶	Potential impact for black and minority ethnic employees to be moved through policy as statistically less likely to declare underlying health conditions or developing disabilities.	Management training of application of policy. Management education on reasonable adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and identifying support for staff where appropriate.	No	No
Religion or belief⁷	Potential for staff to take sickness absence who observe religious festivals	Management training of application of policy. Management education on reasonable	No	No

⁶ Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

⁷ Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
	may be moved through policy if undeclared.	adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and identifying support for staff where appropriate.		
Gender⁸	Potential for women to be adversely impacted due to the demographics of the wider ICB workforce.	Management training of application of policy. Management education on reasonable adjustments, external support – including occupational health and other external bodies.	No	No

⁸ A man or a woman.

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
		Support from HR for all absence management conversations and identifying support for staff where appropriate.		
Sexual orientation⁹	None identified.	N/A	No	No
Carers¹⁰	Potential impact for employees who are carers but have not declared their caring responsibilities and are taking sick leave to administer their carer responsibilities.	Management training of application of policy. Management education on reasonable adjustments, external support – including occupational health and other external bodies. Support from HR for all absence management conversations and	No	No

⁹ Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

¹⁰ Individuals within the ICB which may have carer responsibilities.

Date of assessment:	June 2022			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
		identifying support for staff where appropriate.		