NHS
Kernow
Clinical Commissioning Group

Supporting sickness absence and wellbeing policy

Date approved: 20 August 2021

This policy was adopted by NHS Cornwall and Isles of Scilly Integrated Care Board (ICB) on 1 July 2022.

We are working to change the branding on our policies and to make sure they are accessible.

We intend to complete this work by 1 April 2023. While this work is underway, all references to NHS Kernow, the CCG and related structures should be taken to relate to the ICB.

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1. Introduction

NHS Kernow Clinical Commissioning Group (NHS Kernow) believes in the importance of promoting and supporting the health and wellbeing of colleagues and at the same time, achieving excellence in terms of attendance. It is recognised that the successful management of workplace stress can have a positive impact on levels of attendance, morale and productivity.

This policy and its associated documents are designed to ensure that all line managers approach sickness absence and colleagues wellbeing in a fair, supportive and consistent way, taking account of individual circumstances.

The aim of this policy is to detail both the support that will be available to colleagues and the steps NHS Kernow will take to monitor and manage attendance.

2. Purpose

The purpose of this policy is to implement and maintain a system for monitoring and managing attendance that all colleagues and managers find supportive, clear and useful. It will also advise on effective tools for stress management.

This policy seeks to ensure that colleagues who are genuinely unwell are treated fairly and consistently, while attendance is maximised, and levels of operational effectiveness are maintained. It will help to ensure consistency of approach to sickness absence and stress at work and that costs to NHS Kernow in respect of sickness absence are minimised.

This policy applies to all employees who are contractually entitled to receive occupational sick pay.

3. Definitions

ESR

The electronic staff record (ESR) which is used by the organisation to record employee data, including contractual, payment and absence information.

Fit note

In 2010, fit notes replaced GP sick notes and medical certificates. Fit notes are the common name for the Statement of Fitness for Work (Med 3) certificate provided by a GP. A fit note certifies an absence of 8 or more consecutive days.

Long term sickness

Absences that are or are expected to be more than 28 calendar days in duration. Or any recurrent periods, which could be less than 4 weeks, associated with a serious and ongoing health problem.

Occupational health service

The occupational health service can provide medical advice in relation to a colleagues employment.

Occupational sick pay

The amount of pay, as determined by contract of employment, that an employer chooses to pay over and above statutory sick pay.

Pregnancy related absence

Absence which is caused by a reason wholly attributed to pregnancy.

Self-certification

A form which is completed by colleague when they return to work after an absence which has lasted for less than 7 consecutive days.

Short term sickness

Any occasions of absence less than 28 calendar days in duration.

Statutory sick pay

The amount of pay as determined by the government that colleagues are entitled to if they are unable to attend work due to illness.

Stress

The negative and unpleasant condition which may be experienced when a person perceives that they are unable to meet the demands and pressures placed upon them, inside and outside the workplace. Stress may be associated with a range of ill health effects, both psychological and physiological.

Work related stress

Uses the same definition as above, the key difference being that the cause of the stress is either partially or wholly due to work related circumstances.

4. Responsibilities

Managers

The health, wellbeing and attendance of colleagues should be managed consistently, and accurate records must be maintained by the line manager throughout, in accordance with the following principles.

Fairness and equity

Colleagues will be treated fairly and equitably, recognising differences in personal situations.

Consistency of approach

The management of attendance and any interventions will be consistent with the guidance in this policy.

Timely interventions

Early action will be taken to ensure that health concerns are managed quickly and in a timely manner. There will be an emphasis on a return to work and all colleagues will be encouraged to return from absence as soon as possible including, where appropriate, returning to an alternative or adjusted role or on a phased return plan. Appropriately staged actions, as set out in this policy, will form a part of this timely intervention.

Confidentiality

Any issues will be addressed with the individuals directly and in a confidential way in line with General Data Protection Regulations (GDPR).

The role of managers in the implementation of this policy is to:

- attend any relevant and appropriate training
- be familiar with and understand this policy
- make new colleagues aware of absence reporting procedures
- seek advice from colleague, occupational health or other healthcare specialists when required
- support absent colleagues to return to work at the earliest possible opportunity
- treat all colleagues consistently, fairly and with dignity
- have regular wellbeing one to ones with colleagues
- look out for signs of stress and support stress reduction activities
- address stress and absence issues as soon as they are identified
- be familiar with and act in accordance with the Equality Act 2010

Monitoring and record keeping

- Accurately record and monitor all absences in a timely manner.
- Record any reasonable adjustments that are made to working arrangements.
- Ensure that changes to terms and conditions are recorded on a contract amendment form.
- Ensure all records are held securely in line with GDPR.

Communication

- Have regular level of contact with colleagues who are absent from work.
- Hold review meetings and ensure progress during review periods is monitored.
- Make colleagues aware of the support available to them.
- Communicate the possible implications of continued absence where appropriate.
- Have a return to work discussion after every absence spell.

Colleagues

All colleagues are responsible for attending work in accordance with their contractual obligations and should take reasonable and appropriate actions to ensure their good health and wellbeing is maintained where possible.

All colleagues should:

- be familiar with the detail of this policy
- attend work unless unfit to do so
- report absence promptly, contacting their manager at the earliest opportunity
- report any injury sustained at work
- agree and maintain appropriate regular contact with their manager when absent
- work with their manager to address matters affecting their attendance
- co-operate fully with the occupational health and/or counselling service
- engage with their manager after any absence and completed required paperwork
- not fraudulently claim sick pay or abuse the absence procedures
- declare any secondary employment

People and organisational development

The role of the people and organisational development (POD) team is to:

- support implementation of the policy and advise on interpretation
- promote good employment practice whilst ensuring compliance with legislation
- use absence data to regularly review and proactively reduce absence
- identify colleagues who require management support
- assist managers in developing individual attendance management plans
- provide appropriate coaching and training for managers

Occupational health

The occupational health and counselling service will:

- assist colleagues and managers with professional work-related health advice
- help to promote health and wellbeing at work
- where a formal referral is made, provide advice against each question asked
- assess a likely return to work date when a colleague is absent
- advise about possible reasonable adjustments
- help to facilitate an early return to work
- identify if counselling or any other specialist services are recommended
- advise if a colleague may be suitable for redeployment
- provide reports to NHS Pensions regarding ill-health retirement applications

5. Absence reporting and recording procedure

Absence reporting procedure

Contact

Colleagues must contact their manager in person, at the earliest opportunity, to inform them if they are not able to work. In exceptional circumstances, if anyone is unable to contact their manager themselves, because of incapacity, someone may do so on their behalf. Ideally, this should be followed up by contact from the colleague themselves as soon as they are able to do so.

Duration and continued contact

Colleagues should indicate the cause of absence, the expected duration and any outstanding work that may need to be picked up. Where it is known that absence may continue, the manager and colleague should agree regular ongoing contact. If there is no indication of the duration of the absence at this stage, then the colleague should contact their manager on each further day of their absence and once known, confirm an expected return to work date.

Failure to report an absence

It may be necessary for a manager or appropriate other nominated person, to contact a colleague if they fail to report for work without reporting an absence. The manager will do what they reasonably can to get in touch with the colleague if they are concerned about their safety and welfare. For example, if the colleague does not respond to telephone calls or messages it may be necessary to get in touch with their nominated emergency contact. This action would not usually be needed but would be considered reasonable if there was a genuine concern for someone's safety.

Unauthorised absences

If a colleague is absent on sick leave but continuing to work elsewhere, including undertaking voluntary or unpaid work for another employer or on a self-employed basis, they should declare it to their line manager. Colleagues will be required to provide evidence from their GP that they are able to perform the secondary role whilst remaining unfit for their NHS Kernow role.

Failure to follow the correct reporting procedures or the withholding of any relevant information associated with an absence result in the absence being unauthorised. It could also be considered as misconduct under the organisation's disciplinary procedures.

Sick pay is not applicable when absences are unauthorised, and colleagues may not receive any pay for the duration of an unauthorised absence.

Recording absence

When recording absences on ESR, managers should:

- note all details as accurately as possible
- try to avoid the unknown reason selection
- record the likely return to work date, if known
- also record absence caused by accidents at work on an incident report form
- record any part day absences remembering to enter start and finish times
- consider seeking advice from occupational health

Early contact with occupational health may help to identify support mechanisms for a colleague who is absent, aid a quicker recover and reduce the overall length of time needed away from work. Early referral to occupational health is particularly recommended where colleagues may be absent because of stress, mental health issues or any musculoskeletal related issues.

6. Absence certification

1 to 7 calendar days of sickness absence

Colleagues should complete a self-certification for sickness absence form when they return to work after an absence of 7 days or less. This should be completed and passed to a line manager on the first day of return.

8 calendar days or more of sickness absence

Colleagues will need to provide their manager with a fit note to certify sickness, should their absence continue for more than 7 days. The fit note will need to cover the whole period of absence.

After reviewing the fit note and updating ESR accordingly, managers should send an electronic copy of the fit note to POD so that it can be kept on the colleague's personal file (P-file). If a manager has any concerns about the authenticity of the fit note, they should contact POD who will liaise with the counter fraud department to check authenticity.

If a fit note expires before a colleague is able to return to work, a further fit note will need to be obtained to ensure that every day of absence is accounted for. Failure on behalf of a colleague to supply a fit note for every day of absence could result in non-payment of sick pay and could also be regarded as misconduct under NHS Kernow's disciplinary policy.

Fit notes should be received and processed within 10 days of being produced so that payroll can make the necessary payment arrangements.

Fit note recommendations

In some cases, GPs can suggest recommendations for adjustments on a fit note. NHS Kernow is not legally obliged to make any recommendation suggested by a GP, but managers should give any recommendations reasonable consideration. It may be beneficial to liaise with occupational health and POD when considering GP recommendations.

Colleagues may request to return to work before the end of their fit note. This might typically occur if someone recovers from an illness or injury more quickly than expected, or if NHS Kernow is able to offer them support which makes an earlier return possible. Ideally, colleagues should ask their GP to provide an updated fit note confirming that they are well enough to return to work. Alternatively, occupational health may verify that the colleague is capable of returning to work early with or without recommended adjustments.

Annual leave and public holidays

Should a colleague become unwell during their annual leave, they must report that sickness immediately to their manager in line with the sickness reporting procedure. They should continue to update their line manager on a regular agreed basis Such frequency should be discussed at the start of the absence.

If the correct reporting procedure is followed, the colleague will have their sickness absence recorded and will be able to reschedule their annual leave for another time.

If a colleague is on holiday outside of the UK when they become unwell, they will need to provide a fit note from their GP when they return, in order to reclaim their annual leave.

If a colleague is absent from work due to sickness directly before a planned holiday, NHS Kernow will consider the colleague to be on annual leave should they continue with their planned holiday.

Carrying over annual leave

NHS Kernow's holiday year runs from 1 April to 31 March and occasionally a colleagues absence may start in 1 holiday year and end in another. For example, a long-term absence which starts December and ends the following August.

Colleagues build up (accrue) holiday when they are off sick. If a colleague's long-term absence runs into a new holiday year, and if, during the previous holiday year, they did not have the opportunity to take all of their first 4 weeks of leave, any of those days remaining from their first 4 weeks of leave entitlement may be carried into the next year.

Any leave, other than the first 4 weeks of someone's entitlement, is not protected in the same way. So, if a colleague has already taken 4 weeks off and has another 2 weeks that they haven't managed to take because of their sickness absence, they will not be able to carry these 2 weeks over, they will be lost.

For colleagues who work 5 days per week, 4 weeks leave would amount to 20 days. This figure would be pro-rated for part time colleagues who usually work less than 5 days per week.

Taking annual leave whilst absent

Colleagues are allowed to take annual leave whilst on a period of long-term sick leave. This may be helpful for colleagues who are in receipt of half pay or no pay. In such circumstance, colleagues should request annual leave in the usual way by following the annual leave request process used by their own team.

There may be occasions where a colleague on long term sickness absence is recommended by their GP or occupational health to take a period of annual leave, for example, to assist with recovery.

For recording purposes, line managers should ensure that the colleague's record reflects that they have returned from sick leave, moved notionally to annual leave for the approved period, and then back on to sick leave at the end of the annual leave period if still appropriate.

7. Sick pay entitlements

Occupational sick pay entitlement

Entitlement to occupational sick pay is detailed in a colleague's individual terms of employment and in the agenda for change handbook. Below is a summary of sick pay entitlement for NHS Kernow colleagues:

Reckonable service	Sick pay entitlement
During the first year's reckonable service	1 month full pay, 2 months half pay
During the second year reckonable service	2 months full pay, 2 months half pay
During the third year reckonable service	4 months full pay, 4 months half pay
During the fourth and fifth year reckonable service	5 months full pay, 5 months half pay
On completion of 5-year reckonable service	6 months full pay, 6 months half pay

Full pay needs to be inclusive of any statutory benefits (so as not to make sick pay greater than normal working pay). The combined addition of statutory sick pay to half pay must not exceed full pay.

Sick pay is not normally payable for an absence caused by an accident due to active participation in sport as a profession (for example when individuals are paid for participation), or where the illness or injury causing the absence is caused or aggravated by the colleague's own negligence or misconduct.

Colleagues who are absent because of a work-related condition (injury, disease or other health condition) may also be entitled to payment of an injury allowance. Managers should consider whether injury allowance in applicable in these circumstances and seek further guidance from occupational health and POD.

Statutory sick pay entitlement

Colleagues absent due to sickness for 4 or more days in a row (including non-working days) may be eligible to receive statutory sick pay for up to 28 weeks. NHS Kernow will ensure that those eligible are paid statutory sick pay in accordance with government guidelines.

Abuse of sick leave and sick pay entitlements

NHS Kernow is committed to maintaining a culture of integrity, openness and honesty. It is committed to the elimination of any fraud within the organisation and to support the rigorous investigation of any such cases.

Any suspicions of fraud should be initially referred to POD. POD will liaise with counter fraud for assessment and advise on the best course of action, including the appropriate involvement of finance and notification to the chief finance officer.

Documentation relating to a colleague's sickness may be used as evidence in the event of an investigation, where appropriate information will be confidentially shared with the relevant parties.

NHS Kernow reserves the right to withhold or refuse to provide sick pay where it is believes that it might be being fraudulently claimed.

8. Returning to work

A return to work interview is intended to:

- welcome colleagues back work
- take place after every period of absence, including part days
- be held between a manager and colleague in person or using a video meeting
- confirm absence reason and check that colleagues are well enough to return
- determine the support a colleague may need to help them maintain attendance
- see if a referral to occupational health is needed
- see if any reasonable adjustments to role are needed
- establish whether additional support is needed to support colleague wellbeing

Where a colleague has been absent because of work related stress, as well as being supported by a referral to occupational health, managers should consider completing a stress risk assessment with the colleague upon their return to work.

9. Informal meetings for improving attendance

Informal meetings

At the start of any process for short or long-term absence, managers should consider holding an informal meeting with the colleague. Discussion should focus on the issues that are attributing to absence and the support that can be provided to help the colleague return to work, if applicable, and maintain regular and consistent attendance in the future. Managers should always be clear with colleagues that the nature of any contact or meeting is informal. Informal and formal processes should always be kept separate.

When a colleague is off sick for a long time or has recently returned from sickness absence, occupational health can carry out an assessment of the colleague and help both parties to understand what can be done to:

- help the colleague feel better
- assist an early return to work
- help the colleague undertake their work

Review meetings

Following an informal meeting, a manager can request a review meeting with the colleague. For short term absence, this meeting can be to understand whether, the expected improvement in attendance has been met. For colleagues who are still absent from work this can be an opportunity to talk about the colleague's state of health and readiness to return, as well as whether or not anything can be done to support them while they are off. If the colleague has had an appointment with occupational health, this meeting can be used to discuss the content of the subsequent occupational health report and review and recommendations

Informal meeting and review meetings are not part of the formal attendance procedures and colleagues are not entitled to be represented.

10. Formal absent management process

Managers should consult with POD before initiating the sickness absence process.

Managers must always keep accurate confidential records any meetings held under this policy. Referrals and reports from occupational health should be kept on personnel files and in accordance with GDPR and the Access to Medical Records Act 1988.

These records are critical in demonstrating the management support given to a colleague and discussions and actions logged at each step of the process. Ongoing support for colleagues may be hindered without the accurate collection and retention of relevant information.

POD do not necessarily need to attend all formal meetings. If attending, their role will be to provide advice. Line managers are responsible for making any decisions and issuing formal sanctions.

Short term absence

Persistent short-term absences can be defined as a series of absences that may or may not appear to be connected. These may be medically certificated, self-certificated, or any combination of these.

Trigger points are when a colleague meets 1 or more of the following:

- 3 occasions of sickness absence in a rolling 3 month period
- 10 calendar days of sickness absence in a rolling 6 month period
- Bradford score of more than 300 points for full time staff

Please refer to absence guidance notes for details of how the Bradford factor is calculated.

Where trigger points are met and concerns are identified by the line manager following the return to work discussion, managers should consider initiating the sickness absence process initiated.

Absence due to injuries at work should be taken into consideration when reviewing a colleagues sickness record if a trigger point for review is met.

Formal absence meetings are held between the line manager and the individual. This is a formal meeting under the procedure and the manager will send a written notification of the meeting with 5 working days' notice of the meeting. Colleagues are entitled to be accompanied by a trade union representative or work colleague, not acting in a legal capacity. The role of POD is to provide advice throughout the process. Although attendance is not always essential for every formal meeting, POD should attend meetings at stage 3 of the process onwards.

Stage 1: First formal absence meeting

The sickness absence will be reviewed and explored. The colleague will have a full opportunity to explain their absence record. The line manager will then decide the next steps which may include a decision to issue the colleague with a first formal warning for 12 months with an attendance improvement plan.

Further review meetings can take place between formal meetings, to review the attendance improvement plan at specific intervals during the monitoring period and evaluate progress. If the plan is not met at any stage during the 12 months or the expected improvement in attendance has not been met, the manager can refer the colleague to stage 2 of the process.

Stage 2: Second formal absence meeting

The sickness absence will be reviewed and explored. The colleague will have a full opportunity to explain their absence record. The line manager will decide next steps which may include a decision to issue the colleague with a final written warning for 12 months.

Further review meetings can take place, to review the attendance improvement plan at specific intervals during the monitoring period and evaluate progress and offer further support if required. If the plan is still not met the manager can refer the colleague to stage 3 of the process.

Stage 3: Final formal absence meeting

The final formal absence meeting should be held with a senior manager as chair (line manager's manager who has the authority to dismiss), line manager and POD. The sickness absence will be reviewed and explored. The line manager will set out the absence record and actions to date. The colleague will have a full opportunity to explain

their absence record. On conclusion of the meeting, the chair will decide next steps which may include a decision to terminate the colleague's employment on the grounds of health capability with contractual notice. The colleague will have the right of appeal against the decision to dismiss.

Long term absence process

The primary aim, in dealing with cases of long-term absence, should be to support colleagues and to facilitate the colleague's return to work at the earliest reasonable point. In the majority of cases, colleagues will be able to return to their normal duties following long term absence.

Keeping in touch with absent colleagues is a key factor in helping them return after long-term absence. Wherever possible managers must maintain regular contact on an agreed basis with a colleague who is on long-term sickness absence for updates on the colleague's progress, discussion of medical advice and any support the manager can offer to assist in a return to work. This can also include keeping colleagues in touch with what's happening at work if requested. Contact should be recorded on the communication log which can be found on IRIS.

In some circumstances, managers may wish to meet with the colleague for welfare reasons initially, then later on, at the right time, to help plan for the individual's return to work. Such visits should be carefully arranged, with the colleague's consent and in liaison with relatives or other appropriate person(s), for example trade union and other colleague representatives, POD or occupational health professionals. Managers must be clear which are informal meetings to maintain contact, and which are formal meetings to support and manage a return to work where possible.

The payroll team will inform POD, the relevant line manager and colleague when they are about to go into half-pay and nil pay. Length of NHS service and previous absences will affect the respective individual's entitlements therefore prompt and proactive management of absence is imperative.

At least 1 formal absence meeting must be held before the final absence meeting so that the colleague must be made aware of the potential consequences of continued sickness absence which could lead to their dismissal on grounds of health capability. A capability meeting will take place with the colleague, typically prior to any absence reaching twelve months in length, with a decision being made on the colleague's continued employment.

Colleagues are required to attend occupational health appointments when requested and to fully cooperate with the assessment. If the colleague refuses to attend the occupational health service, they should be aware that decisions regarding their continued employment will be based solely on the information that is available to the line manager.

In certain circumstances it may be necessary to arrange the sickness monitoring meetings (either at the informal and formal stages) at the colleague's home or at a mutually convenient location away from NHS Kernow premises. Such requests will be considered on a case-by-case basis and would be regarded as reasonable.

Where occupational health has advised that the colleague will not be able to return to their existing role and duties, managers will need to consider either adjusting the colleague's duties or looking for suitable alternative employment within NHS Kernow. The manager will need to gather information to ascertain what type of work the colleague can do. The line manager (and if required POD) should then arrange to meet with the colleague and their representative to discuss the occupational health advice and possible alternative opportunities. If alternative employment within the organisation is considered a colleague may be placed on the redeployment register for a specified period of time to ensure that they have priority for consideration for suitable alternative employment. However, a genuine and suitable vacancy must exist within the establishment of the organisation. Advice must be obtained from the POD regarding the implications for how the individual's employment is managed and occupational health regarding specific aspects of reasonable adjustments or suitable alternatives.

Final formal absence meeting

Where there is not a realistic prospect of the colleague returning to work within a reasonable timeframe and following the discussion, and consideration of adjustments and other alternative vacancies and duties, NHS Kernow will have no option other than to terminate employment on grounds of health capability. This may be before the colleague has reached the end of the contractual paid sickness absence period. Sick pay does not have to be exhausted before reaching a decision to dismiss but the manager must ensure that all other options have been considered and that there is no likelihood of return within a reasonable time frame.

The final formal absence meeting should be held with a senior manager as chair (line manager's manager who has the authority to dismiss), line manager and POD. The long-term absence, all meetings and discussions and advice from occupational health will be reviewed and explored. The line manager will set out the absence record and actions to date. The colleague will have a full opportunity to respond. On conclusion of the meeting, the chair will decide next steps which may include a decision to terminate the colleague's employment on the grounds of health capability with contractual notice. The colleague will have the right of appeal against the decision to dismiss.

11. Returning to work after long term absence

When a colleague returns to work following a period of long-term absence, their absence record should be reviewed including following any further periods of absence. If their absence record is of concern (breaching the triggers set out in this policy), the manager should carefully consider their absence record as a whole. Their record may show a combination of short-term absence and long term absence and this should be

taken into consideration when deciding if it is appropriate to move forward with absence management. In these circumstances, the manager should refer to and implement the absence management process set out in the following section, which has been developed specifically for short term persistent absence but can also be used in situations such as this.

12. Injuries and infection at work

Absence due to injuries while working should be taken into consideration when reviewing a colleague's sickness record if a trigger point for review is met. Managers should complete an incident report and make sure that the reason code of accident at work is recorded on ESR.

Colleagues who have an accident, incur an injury or contract a disease as a result of their work, may be entitled to NHS injury allowance. Where eligible, injury allowance will top up NHS sick pay (or earnings when colleagues are on a phased return or reduced pay) and certain other incomes for example contributory state benefits, up to 85% of pay. To qualify, colleagues do not have to be part of the NHS pension scheme and there is no qualifying period.

The following circumstances will not qualify for consideration of injury allowance:

- injury whilst on a normal journey to and from work
- sickness absence as a result of disputes relating to employment matters
- injury, disease or other health condition due to own negligence or misconduct.

Colleagues who wish to apply for injury allowance should complete the relevant application form. Instructions for completion are contained on the form.

NHS Kernow will carefully consider each application for injury allowance. It may be necessary to request occupational health or medical reports, witness statements or any other documents that will assist in making an informed decision. Colleagues have the right to appeal against a decision to refuse payment of injury allowance through following the NHS Kernow's grievance policy.

Further information and guidance about injury allowance can be found on the NHS Pension website.

13. Medical suspension

NHS Kernow has a duty to ensure the health and safety of all colleagues. When there is an occasion where a manager has a concern that a colleague is not fit for duty due to ill health they must speak with POD for advice before they send them home whilst they arrange for an occupational health review if necessary. Occupational health will be responsible for providing advice on whether the colleague is fit to return to work following medical suspension. Medical suspension will be on full pay and will normally

be for no longer than 7 days to allow time for an occupational health appointment to be made, attended and the report received by the manager.

Colleagues suspended from work on medical grounds must receive their full pay unless they:

- have been employed for less than 1 month
- are not willing or able to attend work (for example because they are ill)
- have unreasonably refused suitable alternative work
- have been suspended for more than 26 weeks

14. Other sickness absence considerations

Sickness absence during the course of an investigation or formal hearing

Participating in an investigation or hearing can be stressful for everyone concerned. However, delaying proceedings can cause additional stress and, in the case of investigations, cause memories of the event to fade. In such situations, it is important to reach a conclusion as promptly as possible. To avoid unnecessary delays, investigation meetings and formal processes should be held as soon as practicably possible and should not be delayed until the colleague is back at work.

Occupational health can provide advice about whether a colleague is fit to attend a meeting or engage in a formal process, they should refuse to while they are absent from work. Further guidance can be found within the relevant policies (for example disciplinary, grievance, performance management) and it may become appropriate to consider a modified process which can include progressing without the colleague's attendance at the meeting.

If a colleague refuses to engage with occupational health or allow the release of a medical report, the formal process would ahead and an investigating manager or panel could make decisions based on the information they have to hand.

Planned sickness absence

When absences are planned, for examples surgery and convalescence, the manager and colleague should meet before the period of absence to agree likely time scales and a planned return to work programme. It may be necessary to agree a referral to occupational health from the outset so that they can advise on any reasonable adjustments that could help the colleague to return to work safely.

Stress related absence

When an absence is caused by stress, depression or anxiety, line managers should consider an immediate referral to occupational health to identify any support mechanisms, which could minimise the duration of the sickness absence and assist with a safe return.

In these circumstances, colleagues should be encouraged to participate in a workplace health and wellbeing review to identify any workplace stressors and develop a plan Ideally, such a meeting should take place before the colleague is due to return to work and at least 48 hours' notice should be given within any invitation to meet.

The ill health of a colleague will not usually be grounds for abandoning any on-going performance process which is being supported under the performance policy. Careful consideration should be given to the extent to which a performance concern is due to the absence of a reasonable adjustment.

Road traffic collisions

Colleagues who are absent as a result of a road traffic collision are not entitled to sick pay if damages are received from third party. In such circumstances, colleagues should reimburse NHS Kernow with any sick pay they have received which is later reimbursed. Road traffic collisions must be recorded as sickness on the ESR system but managers should note in the comments to show third party involvement.

Surgery or treatment for gender reassignment

We recognise transitioning is unique for each individual, involving different steps and activities for different people. Additionally, there are many routes a transitioning colleague might choose to take. Disclosure of transition is entirely at the discretion of the colleague. It is for the colleague to decide if they wish to create a transition plan and if so, to lead their own plan. Managers should offer full support and observe confidentiality. POD will be available to provide assistance and support and may be requested by the colleague.

Sickness absence in relation to disability

Line managers must ensure that they are fully aware of any colleague's reasons for absence including whether the sickness is in relation to their disability.

Managers can seek advice from occupational health if they wish to understand whether a colleague's absence or illness is likely to be covered by the Equality Act. Informal advice can be obtained from POD if required.

Absences that relate to a disability should be taken into consideration during any review meetings and should also be considered when considering whether reasonable adjustments might be effective in supporting a colleague.

POD can advise about formally managing sickness and considering reasonable adjustments. They may also be able to recommend external agencies that can help a colleague who has disabilities, so that reasonable adjustments can be considered and made wherever practicable.

Any colleague who has a disability that falls within the scope of the Equality Act is entitled to a reasonable amount of time off work to attend treatment or other appointments that help them manage their disability. This would be considered a reasonable adjustment and would be treated differently from a sickness absence.

Sickness absence relating to pregnancy

Any sickness absence which is directly related to pregnancy should be recorded on ESR as pregnancy related disorder.

Absence recorded as a pregnancy related disorder will not be included in any absence triggers, although managers are advised to consider seeking advice from occupational health or POD at the earliest opportunity in order to ensure that the colleague receives the necessary support.

Managers should be aware that any absence due to pregnancy related disorders that occur in the 4-week period before the expected week of confinement will result in maternity leave automatically commencing. Further advice can be found in the Time Off policy.

Sickness and infection prevention

Colleagues suffering from sickness and/or diarrhoea and suspects that it is related to a gastrointestinal infection such as norovirus, the colleague should refrain from coming into contact with other colleagues, patients or members of the public for 48 hours after the last symptoms cease. Any questions regarding preventing the spread of infection and with help in evaluating the risks can be directed to the nurse consultant director of infection prevention and control or head of public health nursing.

15. Ill health retirement

Colleagues who have at least 2 years membership in the NHS pension scheme and become permanently incapable of doing their present job because of ill health may be able to receive a pension under ill health retirement.

There are 2 different tiers of ill health retirement.

Tier 1

Refers to a member accepted by medical advisers as permanently incapable of doing their current NHS job; or as permanently incapable of earning an income by doing regular work.

Tier 2

Refers to a member accepted by medical advisers as permanently incapable of both doing their current NHS job and permanently incapable of regular employment of like duration to their NHS job.

Where colleagues who have been absent from work due to sickness and the situation suggests they may not be able to return to work, they may wish to consider ill health retirement. This should be discussed at a meeting between the manager and the colleague taking the appropriate advice from occupational health, the pensions department and POD.

NHS Kernow cannot apply for ill health retirement on behalf of a colleague but can assist with the will assist the application should the colleague chose to pursue one. To qualify for ill health retirement an individual must be permanently incapable of efficiently carrying out of the duties of their NHS employment because of their illness or injury.

Any sickness absence process would continue to progress and would not wait or be dependent upon an outcome of an ill health retirement application. It may be that the outcome of the sickness absence process reaches dismissal on the grounds of capability (ill-health) and the colleague is on notice or has been dismissed before an outcome of the Ill Health Retirement application is known.

Contractual notice must be given to a colleague whose contract is being terminated on grounds of ill-health following the appropriate process and support as described in this policy.

The decision on whether a member qualifies for an ill health retirement pension rests with the Secretary of State for Health (represented by the NHS Pensions Agency) not the individual or NHS Kernow.

16. Occupational health service

The occupational health service offers advice and support to colleagues and managers on health and wellbeing issues affecting employment, whether physical or psychological. Occupational health can advise NHS Kernow managers on the health and wellbeing of a colleague, identify where additional support is required and recommend reasonable adjustments.

Occupational health may need to obtain medical information from a colleagues GP. To do this they will always require the colleague's written consent. The information obtained will remain confidential to the clinical staff in the occupational health service

but will assist in advising NHS Kernow about the colleague's functional capabilities and any adjustments that might be required at work.

The Access to Medical Reports Act 1988 applies to how medical information is requested and shared. Further information about this can be found online or by talking to POD.

17. Stress at work

People react in different ways to different types of stress. Someone's reaction to stress can often be influenced by their personality, experience, motivation and the level of support received by their line manager, colleagues, friends and family.

Sources of stress can come from inside or outside of work. Colleagues experiencing stress from home, family or financial pressures may find it difficult to separate these from their working life and consequently are not able to deal with work matters efficiently and effectively.

NHS Kernow recognises that it must take the lead in promoting an open and positive climate for discussion of issues related to stress and has responsibility for the health, safety and welfare of colleagues at work. Unhealthy levels of stress have the potential to impact adversely on mental and physical health.

Whilst there is no universally accepted definition of stress, NHS Kernow has chosen to adopt the following as a guide; The negative and unpleasant condition which may be experienced when a person perceives that they are unable to meet the demands and pressures placed upon them, inside and outside the workplace, and which may be associated with a range of ill-health effects, both psychological and physiological.

NHS Kernow recognises that colleagues may find that there are times when they are having difficulty dealing with the demands made on them in the workplace. This may be due to other pressures in their life at the time and may include physical ill health, strained relationships, or concern for family members as well as pressures at work. It is important to support colleagues regardless of the source of their stress.

NHS Kernow will:

- endeavour to reduce the causes of stress
- aim to reduce the residual adverse effects of stress on colleagues
- recognise its responsibility in promoting the management of stress
- contribute to supporting colleagues in periods of change
- promote through education, stress management as a means of maintaining a healthy workplace

Occupational health offers advice and support to colleagues and managers on health and wellbeing issues affecting employment, whether physical or psychological. The

advice given will include recommendations on rehabilitation to promote and support colleague wellbeing. More information on the occupational health service and other sources of support can be found on IRIS. Colleagues can also self-refer to this service.

Preventing and reducing stress at work

All colleagues have a responsibility to prevent and reduce stress at work, asking for advice and guidance from POD and/or occupational health when required.

When workplace stress occurs, both the colleague and manager should consider discussing whether a workplace health and wellbeing review should be completed. The individual should be invited to the review. The review is based on Health and Safety Executive guidance and takes the individual through some key workplace stressors in order to begin to put together a plan to action to reduce stress at work.

Team or department stress assessments can be completed using the workplace health and wellbeing review if high levels of stress are identified.

18. Policies referred to in this document

- Disciplinary policy
- Performance policy
- Grievance policy
- Time-off policy

Appendix 1: Equality impact assessment

Name of policy or service to be assessed: Time off policy
Department or section: POD
Date of assessment: 21 January 2021
Person(s) responsible for the assessment: Tricia Phillips
Is this a new or existing policy? Existing

Aims, objectives and purpose of the policy

Describe the aims, objectives, and purpose of the policy
To outline the statutory requirements, set out situations where enhanced, local provisions may apply within NHS Kernow; and ensure that all managers and colleagues are aware of the process for the requesting and granting of time off.

To help colleagues and managers understand the parameters for applying discretion when assessing each request on its own merits as a decision to award time off for one individual may not always be the same for another.

Who is intended to benefit from this policy, and in what way?
All colleagues of NHS Kernow.

What outcomes are wanted from this policy?
To ensure that NHS Kernow has a consistent approach to dealing with individuals' requests for time off.

What factors or forces could contribute or detract from the outcomes?
Implementation of refreshed policy. Line manager and colleague awareness of parameters for discretion.

Who are the main stakeholders in relation to the policy?
All colleagues of NHS Kernow.

Who implements the policy, and who is responsible for the policy?
POD.

Differential impacts

Perspective of race, nationality and/or ethnic origin

Does this have a positive or negative impact on black, Asian and minority ethnic (BAME)?
This policy is designed to protect all colleagues and does not impact on any one group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance. NHS Kernow will ensure that there is access to information about the policy for those whose first language may not be English.

Perspective of sex

Does this have a positive or negative impact on people who identify as male, female or intersex?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of disability

What is the positive or negative differential impact on people from the perspective of disability?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of sexual orientation

Does this have a positive or negative impact on people who identify as heterosexual, lesbian, gay, bisexual, pansexual or asexual?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of age

What is the positive or negative differential impact on people from the perspective of age?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of religion or belief

What is the positive or negative differential impact on people from the perspective of religion or belief?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of marriage and civil partnership

What is the positive or negative differential impact on people from the perspective of marriage and civil partnership? This is particularly relevant for employment policies.
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of gender re-assignment

Does this have a positive or negative impact on people who identify as trans or transgender, non-binary or gender fluid?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Perspective of pregnancy and maternity

Does this have a positive or negative impact on people who are pregnant, breast-feeding mothers, or those on maternity leave?
This policy is designed to protect all colleagues and does not impact on any 1 group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off. This includes those individuals covered by protected characteristics as defined in the Equality Act 2010. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Other identified groups

This policy is designed to protect all colleagues and does not impact on any one group of people over another. The decisions to approve time off will be determined by business need.

How will any negative impact be mitigated?
The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach when individuals submit a request for time off.

This includes all groups of people regardless of any protected characteristic. NHS Kernow respects colleagues from all racial backgrounds as evidenced in its human rights statement and guidance.

Human rights values

How have the core human rights values of fairness, respect, equality, dignity, and autonomy been considered in the formulation of this policy, service, or strategy?

This policy and procedure are based on the principles of fairness and equality relating to the statutory right that applies to every colleague to request flexible working.

Which of the human rights articles does this document impact?

☐ To life
☐ Not to be tortured or treated in an inhuman or degrading way
☐ To liberty and security
☐ To a fair trial
☐ To respect for home and family life, and correspondence
☐ To freedom of thought, conscience, and religion
☐ To freedom of expression
☐ To freedom of assembly and association
☐ To marry and found a family
☒ Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
☐ To peaceful enjoyment of possessions

What existing evidence (either presumed or otherwise) do you have for this?
This policy and procedure is based on the principles of fairness and equality relating to the statutory right to time off work and enhanced local provision and complies with the Equality Act 2010

How will you ensure that those responsible for implementing the policy are aware of the human rights implications and equipped to deal with them?
Ensure that any person involved in the creation of this policy is fully conversant with the Equality Act 2010

Public Services (Social Value) Act 2012

NHS Kernow is committed and obliged to fulfil the requirements of the Public Services (Social Value) Act 2012. This Act requires the organisations to consider how services commissioned or procured might improve the economic, social, and environmental wellbeing of an area.

Please describe how this will support and contribute to the local system, wider system, and community.

Please consider:

- The inclusion of small medium size enterprises (SMEs) in the process and supply chain
- Economic – promote skills, tackle worklessness, maintain employment, increase volunteer hours to support the community and promote inclusion
- Social – reduce anti-social behaviour, tackle exclusion by promoting inclusion including to vulnerable groups
- Environmental – support local, reduce congestion.

This policy strives to support all colleagues to fulfil their duties at work, tackling exclusion by providing an avenue so that colleagues can take time off from work for emergencies that would not be considered as annual leave but would not be certified as sickness absence.

Describe how the policy contributes towards eliminating discrimination, harassment, and victimisation.
The policy sets out the scope for individuals to request time off and describes the level of entitlement. The policy also explains how managers should objectively consider requests to ensure that the granting of time off is fair and consistent.

Describe how the policy contributes towards advancing equality of opportunity.
The policy sets out the scope for individuals to request time off and describes the level of entitlement. The policy also explains how managers should objectively consider requests to ensure that the granting of time off is fair and consistent.

Describe how the policy contributes towards promoting good relations between people with protected characteristics.
The policy sets out the scope for individuals to request time off and describes the level of entitlement. The policy also explains how managers should objectively consider requests to ensure that the granting of time off is fair and consistent.

If the differential impacts identified are positive, explain how this policy is legitimate positive action and will improve outcomes, services and/or the working environment for that group of people.
Not applicable.

Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.
The amendments include greater clarity over the provision for time off and updates the section on parental leave considering current legislation.

If the negative impacts identified have been unable to be mitigated through amendment to the policy or other mitigating actions, explain what your next steps are using the following equality impact assessment action plan.
Not applicable.

Signed (completing officer): Tricia Phillips

Date: 23 February 2021

Signed (head of department or section): Emma Goudge

Date: 23 February 2021