

## POLICY FOR MANAGING SICKNESS ABSENCE

### Summary

This policy sets out the standards for dealing with sickness absence in a fair, sensitive and supportive way, whilst at the same time recognising the needs of the service. The policy is supported by two separate procedures, one to manage frequent and intermittent sickness absence and one to manage long term sickness, in keeping with best practice and employment legislation. The Managing Frequent and Intermittent Sickness Absence Procedure and the Managing Long Term Sickness Procedure documents are available on the Intranet.

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### 1. INTRODUCTION AND POLICY STATEMENT

- 1.1 The Royal Marsden NHS Foundation Trust (hereafter referred to as the Trust) supports the need to create a healthy and supportive work environment for staff. It also recognises the impact of absence on colleagues, work of the department, financial cost and cumulative negative effect on service delivery and patient care. The Trust is therefore committed to reducing high levels of sickness absence.
- 1.2 Sickness absence is a genuine reason for absence, however, high sickness absence results in additional work for staff and therefore lower morale. Additional costs are incurred if bank or temporary staff are used for cover and continuity of patient care may be affected. These factors can result in increased staff turnover, and will ultimately have a detrimental effect on service delivery and patient care.
- 1.3 The Trust believes in providing equity in its services, in treating people fairly with respect and dignity and in valuing diversity both as a provider of cancer and community health services and as an employer.
- 1.4 The Trust will ensure that managers with responsibility for managing sickness absence receive appropriate training.

### 2. PURPOSE AND SCOPE

- 2.1 The purpose of this policy is to set standards for dealing with sickness absence in a consistent, fair, sensitive and supportive way, whilst at the same time recognising the needs of the service.

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- 2.2 This policy applies to all staff employed by the Trust, with the exclusion of bank workers and honorary contract holders.
- 2.3 This policy and associated procedures are designed to provide practical guidance on how to manage and control sickness absence. Through appropriate management it is aimed to reduce and maintain the cost and impact of sickness absence to an acceptable level.
- 2.4 Where the policy and procedure refers to termination of employment this is a dismissal.

### 3. GENERAL PRINCIPLES

- 3.1 Initially high sickness absence will be managed informally by the line manager with the aim of supporting the employee to return safely to work and to reduce future sickness absences.
- 3.2 Payment of sick pay is conditional upon employees following the requirement given in section 4.4. Sick pay may be withheld if these requirements are not met without an acceptable reason.

Staff must not undertake work elsewhere whilst on sick leave as this may constitute fraud. Staff who have other employment outside the Trust which they believe is unaffected by the medical reason for their sickness absence must discuss this with, and get authorisation from, their manager before continuing to work. Failure to do so may result in disciplinary action and Occupational sick pay being withheld or recovered.

- 3.3 Sickness absence can be defined as either long term or frequent and intermittent sickness absence. Each type of sickness absence requires a different management approach. There will be occasions where the whole record of sickness absence will be considered when deciding on the most appropriate action to take.
- 3.4 Employees will be required to take annual leave to cover any absence for elective cosmetic and laser eye surgery, unless there is a letter of support from a GP or specialist, to indicate the surgery needs to be undertaken for health reasons. Employees should discuss this in advance with their manager, ensuring they give at least 6 weeks' notice. Where the entitlement to annual leave has been exhausted the manager may agree a period of unpaid leave, subject to service needs.
- 3.5 Where an employee is absent as a result of an accident there is no entitlement to sick pay if damages are received from a third party (e.g. injury sustained through a road traffic accident). The Trust will advance to an employee a sum not exceeding the amount of sick pay payable under their terms and conditions providing the employee repays the full amount of sickness allowance to the Trust when damages are received. Once received the absence shall not be taken into account for the purposes of the scale of sick pay allowances set out in paragraph 3.14.2.

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### 3.6 Sickness during Annual Leave

- 3.6.1 If an employee becomes sick during a period of annual leave the period covered may be treated as sick leave provided that the employee follows their department's procedure for reporting the sickness at the time they fall sick and provided they can supply a 'Statement of Fitness for Work' (in English or translated to English) completed at the time of becoming ill, confirming the dates they would not have been fit enough to carry out their normal duties. The annual leave will then be reimbursed. If an employee fails to follow the procedure for notifying the Trust they are sick, or fails to supply a valid Statement of Fitness for Work, their absence will continue to be classified as annual leave, not sick leave.
- 3.6.2 Employees will not be entitled to an additional day off if they are sick during a public or Bank Holiday. If sickness does occur on a public or bank holiday, the day should be recorded as sick and the day deducted from the employees' leave entitlement.

### 3.7 Annual Leave during Sickness Absence

- 3.7.1 Employees must not go on holiday, either abroad or elsewhere in the UK, whilst on sick leave, without prior agreement. Written approval from their line manager and Occupational Health must be given because they will not be contactable and available to attend meetings and Occupational Health appointments as necessary whilst they are away. This is part of the conditions for receiving Occupational Sick Pay.
- 3.7.2 Employees who wish to take their annual leave entitlement to take a holiday whilst on sick leave must provide written evidence from a Doctor or from Occupational Health stating that the holiday will not be detrimental to their recovery and that they remain unfit for work. They must also contact their manager in advance of booking the holiday to request to take the necessary annual leave. The manager will need to keep Payroll informed to ensure that the employee is paid the correct rate of pay for the period of annual leave and to return the employee to sick pay following the annual leave. The amount of leave paid will equivalent to the normal amount of annual leave hours deducted from the leave entitlement. For example a request for 2 weeks leave for a full time employee working 37.5 hours per week will mean payroll are requested to pay 75 hours at full pay i.e. their contracted hours.

After taking approved annual leave the employee will resume sick leave as before on the appropriate level of sick pay. Sick pay will be extended by the period of annual leave taken.

If an employee wishes to take annual leave but is not intending to go on holiday they should submit the request for annual leave in writing to their line manager and confirm they will not be intending to go on holiday. The line manager will then confirm that written evidence from a Doctor or from Occupational Health will not be required.

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If an employee is able to take their outstanding annual leave on their return to work before the holiday year expires, they should do so. If, after their return to work, there is insufficient time left in the leave year to enable them to take it, the employee may make a request to their manager to carry over the leave up to a maximum 20 days (the legal entitlement under the Working Time Directive) or pro-rata for part time staff. Any annual leave already taken during the annual leave year must be deducted from the 20 days (or pro rata equivalent for part-time staff).

- 3.7.3 Employees who go away on holiday whilst on sick leave without following the procedure as set out in 3.7.2 may have the occupational sick pay element of their pay stopped and may be subject to disciplinary action.

### 3.8 Failure to follow Sickness Procedures

Failure to follow the procedure for reporting sickness absence may result in the withholding of Occupational sick pay entitlement.

If an employee is requested to attend a management meeting, but fails to do so, their Occupational sick pay entitlement may be withheld as per NHS Terms and Conditions of Service.

- 3.9 Employees who do not attend a booked Occupational Health appointment are wasting valuable Trust resources. If an Occupational Health appointment is not kept without an acceptable reason this may be treated as misconduct and entitlement to Occupational sick pay may cease as per NHS Terms and Conditions of Service.
- 3.10 Failure to provide a valid Statement of Fitness for Work may result in the withholding of both Occupational and Statutory sick pay entitlements and the period recorded as unauthorised absence. The Trust may not accept backdated certificates without an acceptable reason being given. Employees should ensure they inform their line manager if there will be any gap in their certification for example due to difficulties obtaining a GP appointment.
- 3.11 Deliberate misuse of the provisions for sick leave and sick pay will be regarded as gross misconduct and handled as a disciplinary issue.

### 3.12 Suspension on Medical Grounds

The Trust has a duty to take all reasonable steps to ensure the health and safety of its employees. Suspension on medical grounds may therefore be appropriate in the following two situations:

- 3.12.1 Certain health and safety regulations may require an employee to be suspended from their normal work on medical grounds, when their health would be endangered if they continued to be exposed to a specified substance. These provisions cover exposure to ionising radiation, lead and some other hazards. The line manager should arrange for a risk assessment to be undertaken to identify the hazards and risks to the employee. Medical advice will then be sought from Occupational Health. Every effort will be made to find suitable alternative work at the Trust before suspending an employee on medical grounds.

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If it is determined that an employee should be suspended on medical grounds they will be given written notification of this decision. Authority to medically suspend should be given by the Head of Department or Service after discussion with Employee Relations. Employees suspended on medical grounds are entitled to medical suspension pay if they are fit for work and they have not unreasonably refused suitable alternative work offered by the Trust. To continue to receive medical suspension pay the employee will be expected to maintain communication with their manager whilst medically suspended and be available to attend Occupational Health and management meetings as requested.

3.12.2 A decision may be made to temporarily medically suspend an individual if there is a concern that the employee's fitness to practice is impaired due to either physical or mental health issues. The decision would be made by the Head of Department or Service after discussion with Employee Relations, and will be based upon a risk assessment. If it is decided that the employee should be temporarily medically suspended this will be enforced pending a formal medical opinion from Occupational Health. If the medical opinion confirms the employee is unfit for work, the employee will be expected to provide a Statement of Fitness for Work without unreasonable delay and the normal sick pay scheme rules will apply.

### 3.13 Pregnancy related Sickness

3.13.1 Pregnancy related sickness absence will continue to be recorded as general sickness absence and sick pay provisions will apply. However, it will not be counted as absence for the purpose of absence monitoring as described in 3.14.2.

### 3.14 Frequent and Intermittent Sickness Absence

3.14.1 Frequent and intermittent sickness absence is sickness absence of varying duration and frequency, where the employee is not incapacitated permanently or for an indefinite period. Frequent sickness absence is most often characterised by odd days of absence with minor connected/unconnected ailments where there may be no underlying medical condition. It may also include a pattern of long term sickness absence and a combination of short term and long term absences.

3.14.2 Managers are responsible for arranging and undertaking return to work meetings for each period of sickness absence. Sickness absence should be monitored by the manager on a regular basis. The circumstances of each individual's sickness will vary, however, it will normally be a cause for concern and the need for managers to act will be triggered where there are:

- 3 or more absences in a continuous 6 month period or
- more than 60 hours absence (pro rata for part time staff) during any 12 month period over at least 3 occasions or
- Any other pattern of absence that is a cause for concern e.g. a pattern of long term absences or a combination of short term and long term absences.

3.14.3 The 'return to work' interviews will form the informal stage of the procedure. The purpose of the meeting will be to ensure the employee is fit to return to work and to assess the need for any reasonable adjustments. It is also to review the level of

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absence over the previous 12 months and to make the employee aware of the trigger points as above. If a trigger point has been met, an informal sickness warning should be issued. Please refer to the Procedure for Managing Frequent and Intermittent Sickness for the procedure to follow if an employee has reached a trigger point.

The manager will need to determine whether there are any underlying reasons for the absence, to consider referring to Occupational Health, to discuss ways in which the level of absence could be reduced and to advise on the need to reduce sickness absence to an acceptable level and to maintain this over the next 12 months. An acceptable level is where absence levels do not 'trigger' a concern.

3.14.4 Advice should be sought from Occupational Health and Employee Relations where an employee has a disability (as defined in the Equality Act 2010) as some adjustment may be needed to the level of absence that would normally trigger a concern and action under the formal procedure.

Generally a person has a disability for the purposes of the Act if they have a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

3.14.5 If, during the next 12 months after an informal warning has been given, an employee's sickness absence level 'triggers' a concern as described above, the formal procedure will be initiated. The formal procedure contains three levels; first sickness absence warning, final sickness absence warning and dismissal. At formal sickness absence hearings employees are entitled to be accompanied by a recognised trade union official or work colleague employed by the Trust. An HR representative will be present where the manager requests this. Employees will have the right of appeal against any action taken under the formal stages of the procedure.

### 3.15 Long Term Sickness Absence

3.15.1 Long term sickness absence through injury or illness is defined as "sickness for an extended continuous period of 4 weeks or more".

3.15.2 Long term sickness absence will be kept under review by the manager from an early stage. It is extremely important that all aspects of the Equality Act 2010 are fully considered during the course of serious illness, including chronic conditions and injury i.e. the duty to consider reasonable adjustments. Communication between the manager and employee will be established and maintained throughout the period of absence. The aim of the long term sickness absence procedure will be to support the employee to return to work. To achieve this, the manager, with the advice of Occupational Health and support from Employee Relations, may consider a rehabilitation programme including a phased return to work, temporary redeployment and/or adjustments/modifications to the employee's post.

3.15.3 In some cases the medical advisor may recommend that a rehabilitation programme and/or redeployment is not appropriate, in which case a management decision must be made about the termination of employment on ill health grounds.

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This will be considered by a senior manager at a Final Sickness Review Meeting when there will be a full review of the case. This will involve the employee and a decision will be made taking advice from the HR Department having due regard to the Equality Act 2010.

3.15.4 Employees who wish to apply to the NHS Pensions for consideration of entitlement to ill health retirement benefits whilst their sickness absence is being managed can do so at any stage, however, a decision on whether to terminate an employee's employment on the grounds of ill health is not dependent upon the outcome of the decision made by the Pensions Agency.

### 3.16 Calculation of Allowances

The period during which sick pay should be 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 sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day.

## 4. DUTIES AND RESPONSIBILITIES

### 4.1 Managers are responsible for:

- Monitoring sickness absence levels. The HR function will support managers in this with the provision of workforce information including dates of short term or long term sickness absence for reference by the manager.
- Dealing with issues relating to sickness absence in a prompt, confidential and sensitive manner.
- Ensuring consistency and fairness is applied at all times when dealing with sickness absence issues.
- Recognising and taking action when a concern is triggered in line with the Managing Sickness Absence Policy and Procedures. This will include return to work interviews, agreeing contact arrangements with the employee.
- Making referrals to Occupational Health for advice where appropriate and as soon as is reasonable where there is an indication of long term absence.
- Ensuring employees absent for 1-7 days complete a self certification form.
- Ensuring that a Return to Work interview is completed and documented on the combined self certification/return to work form.
- Recording sickness absence on Trust reporting systems which inform Payroll of the employee's sickness accurately and within the required timescales to ensure that under/overpayments do not occur.
- Ensuring that Statements of Fitness for Work certificates are treated as confidential and retained on local files after inputting the date and reason for sickness on the Trust reporting system.
- Maintaining communication with staff on sick leave, and where appropriate referring staff to Occupational Health and arranging meetings as necessary.
- Contacting Employee Relations for advice before any formal action is taken.
- Ensuring all employees are aware of their responsibilities within the policy and procedures and that attendance reporting procedures are agreed and communicated effectively at a local level during induction.

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- Writing to employees to confirm discussions at meetings and agreed actions in a timely manner.
- Writing management reports outlining actions taken to support an employee throughout their sickness absence.
- Acting quickly to deal with high sickness absence to prevent it escalating and impacting on the workload of a team / department.
- Ensuring that employees complete any necessary Trust mandatory training e.g. Integrated Governance, after returning from a period of sick leave.
- Ensuring that absence is calculated correctly (include weekends and days off)
- Discussing any proposed phased return to work with Occupational Health before agreement. If a phased return to work cannot be accommodated this must be discussed with Occupational Health and Employee Relations.

#### 4.2 Occupational Health are responsible for:

- Providing impartial clinical advice to both managers and employees about the employee's ability to fulfil the requirements of their posts both in the short and long term. This will include liaising with the employees' GP where appropriate.
- Seeing employees and providing an assessment of their fitness for work following a management referral.
- Advising managers on employees' current fitness to work, progress whilst on sick leave, likely length of absence, prognosis for return to work, rehabilitation and phased return to work.
- Assessing health problems and environmental hazards associated with particular jobs.
- Advising if the nature of the condition is likely to be defined as a disability under the Equality Act 2010;
- Providing advice on reasonable adjustments and the suitability of redeployment into alternative employment where an employee is incapable of continuing in their present post, on medical grounds.
- Advising whether an application for ill health retirement benefits could be an appropriate option for employees to consider.
- Providing a confidential support service to all employees.
- Providing a confidential counselling service that enables employees to discuss work or personal problems in complete confidence.

#### 4.3 The Employee Relations Team/HR are responsible for:

- Advising and supporting managers to enable them to manage sickness absence
- Providing workforce information on sickness absence records.
- Advising on best practice taking account of current employment legislation e.g. the provisions under the Equality Act 2010.

#### 4.4 Employees are responsible for:

- Reporting sickness absence promptly and following the local absence reporting procedure.
- Agreeing with their manager a regular pattern of contact to keep them informed of progress if the sickness absence continues.
- Maintaining communication with line managers whilst on sick leave.

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- Attending work when fit to do so.
- Completing a self certification form for 1-7 days of continuous absence (including weekends and off duty). If the absence continues longer than 7 days they should complete the self-certification form (sent by their manager) and return it to their manager within 5 days of receiving the form.
- Providing a 'Statements of Fitness for Work' from the 8<sup>th</sup> day of absence which must arrive by no later than the 10<sup>th</sup> calendar day of absence or within 3 days of expiry of the previous Statement of Fitness for Work to ensure concurrent certification of absence.
- Attending Occupational Health if requested to do so.
- Making themselves available to attend meetings with their manager when requested to do so.
- Making arrangements if they choose to have a trade union representative, or work colleague accompany them to formal meetings.
- Complying with the Trust's rules on "reporting sickness absence and certification required". This document is available on the Trust intranet.
- Being pro-active to aid recovery and refraining from any activity that may prevent or delay recovery.
- Refraining from working on the bank or for another employer whilst on sick leave; any breach of this condition may be regarded as potentially fraudulent use of the conditions for sick pay and could result in action being taken under the Disciplinary Policy including dismissal. Occupational sick pay may also be withheld or recovered. If employees have another job please refer to section 3.2.
- Refraining from working bank shifts for one week after any period of sickness absence.

All new employees will be informed of their responsibilities regarding reporting of sickness absence and the certification required when they commence employment with the Trust. If correct certification is not provided within agreed timescales or if the employee does not follow the correct sickness reporting procedures, the absence may be treated as unauthorised and treated as misconduct and entitlement to sick pay suspended.

## 5. RESPONSIBILITY AND MONITORING

- 5.1 HR will send monthly reports to managers, detailing Trust and departmental sickness rates and details of staff who have been absent due to sickness.
- 5.2 HR will submit quarterly reports on Trust sickness absence to the Trust Board, and monthly reports on sickness absence by Trust and division compared to the Trust target, to the Trust's Performance Review Group.
- 5.3 Compliance with the Trust's policy and procedures on managing sickness absence are monitored by the Deputy Director of Human Resources.

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## 6. POLICY REVIEW

- 6.1 This policy and the associated procedures will be reviewed at the date stated and may be subject to change at that time, or at an earlier date if necessary, subject to consultation with staff representatives recognised for that purpose.

**Note:** Please refer to either the [Managing Frequent and Intermittent Sickness Absence Procedure](#) or to the [Managing Long Term Sickness Absence Procedure](#) for guidance on the processes to be followed by managers when managing sickness absence. These documents are saved on the Trust Intranet.

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