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This document is a valid document, however due to organisation change some references to organisations, organisational structures and roles have now been superseded. The table below provides a list of the terminology used in this document and what it has been replaced with. When reading this document please take account of the terminology changes on this front cover

Terminology used in this Document	New terminology when reading this Document
Liverpool Community Health (LCH)	Mersey Care NHS Foundation Trust

This policy is deemed non-contractual and will transfer with their incorporated procedures but was agreed as being a necessary addition during staff side negotiation

**FOR OFFICE USE ONLY (Work Stream submission check)**

This document is compliant with current best practice guidance

This document is compliant with legislation required in relation to its content

What change has this document undergone in the policy alignment process relating to the South Sefton Transaction?

None  Minor  Major  This is a new document

This document has been reviewed and is no longer required

Does this document impact on any other policy documents?

Yes , if yes, which policies are effected? 33T

No

Signed:

Date: 25/05/2017

**SUPPORTING STATEMENTS** – this document should be read in conjunction with the following statements:

### **SAFEGUARDING IS EVERYBODY'S BUSINESS**

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### **EQUALITY AND HUMAN RIGHTS**

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

# **SUPPORTING POSITIVE ATTENDANCE**

## **Short Term Sickness Absence Procedure**

**To be used in conjunction with:**

**Supporting Positive Attendance Policy  
Long Term Sickness Absence Procedure  
Supporting Positive Attendance Toolkit for Managers  
Reasonable Adjustments Policy**

## Contents

Section	e
1. Aims and Objectives	3
2. Definition of Short Term Sickness	3
3. Trigger Points for Dealing with Short Term Absence	3
3.1 Part Day Absences	3
4. Procedure for Staff and Managers	3
4.1 Reporting Sickness Absence	3
4.2 Maintaining Contact	4
4.3 Resuming Work	4
4.4 Return to Work Discussion	4
4.5 Informal Advisory Discussion	5
4.6 Formal Absence Review Meetings	6
4.6.1 First Formal Review Meeting	6
4.6.2 Second Formal Review Meeting	7
4.6.3 Final Review Meeting	7
4.7 Appeals Procedure	8
4.7.1 Right of Appeal	8
4.7.2 Appeal – Written Warning and Final Written Warning	8
4.7.3 Appeal – Dismissal	8

## 1. Aims and Objectives

The aims and objectives of this procedure are:

- To ensure that all employees are given the appropriate support and guidance to maintain a satisfactory level of attendance
- To ensure that employees with attendance issues which arise from either problems in their work or domestic situation are given support and guidance
- To ensure all employee absence is monitored and therefore decisions made are based on facts
- To ensure employees who have frequent periods of absence are aware of the effect such absence has on patients, colleagues and the organisation.
- To enable managers to deal appropriately with a situation where an employee's level of absence is unacceptable
- To ensure employees with unacceptable attendance records are aware of the impact that their absence has on the service and what the expected level of improvement that is required. Where there is no improvement attendance then staff must be aware of the future potential action the Trust may need to take.
- To provide a toolkit to assist managers in the management of short term sickness absence (see separate document – Supporting Positive Attendance Toolkit for Managers).

## 2. Definition of Short Term Sickness

Frequent short term sickness is characterised by frequent absences of short duration, i.e. less than four weeks, either certified or uncertified, over a period of time, that are not related to a person's impairment/long term health condition.

## 3. Trigger Points for Dealing with Short Term Absence

The procedure requires a review of sickness absence to be undertaken with the employee when any of the following 'trigger points' are reached that indicate unacceptable levels of attendance:

- A cumulative total of 2 weeks of contracted hours in a rolling 12 month period;
- 3 occasions of sickness absence in a rolling 12 month period;
- A pattern of absence such as, e.g. always taking a Friday or Monday off sick

### 3.1 Part Day Absences

Part day absences, i.e. less than half the shift, arising from an employee attending work but then going home due to illness, will not normally count towards trigger points, although any subsequent days' absence following the day of going home will. However, if there is a pattern of part day absences, the manager should contact Human Resources for advice, as this may be reasonably considered as an unacceptable pattern of absence warranting a formal review.

## 4. Procedure for Staff and Managers

### 4.1 Reporting Sickness Absence

The absence should be notified personally by the employee to the Manager or nominated deputy **prior** to commencement of the shift/period, at least one hour before commencement of the shift/period of duty. The reason for absence must be given, along with how long the individual expects to be away from work and information about key work that needs to be

picked up in their absence. Notification should be made via a telephone call; **it is not acceptable that sickness absence is notified by text or email messages**. If it is impossible for the individual to make contact personally, someone may do this on the employee's behalf eg a family member. As soon as the employee is able to make contact with their manager personally, they should do this without delay.

A self-certificate is required from the fourth day of absence and will cover the employee up to and including the seventh day of absence. For absences of less than seven calendar days, no certification is required/the employee must complete a Self-Certification Form (see the Supporting Positive Attendance Toolkit). The completed form must be submitted to the line manager upon their return to work.

For absences of seven calendar days or longer, the employee must provide a Statement of Fitness for Work ('Fit Note') signed by their doctor. If the absence continues beyond the period covered by the original certificate, the employee is required to submit further medical certificates as appropriate for the full duration of their absence. See the Supporting Positive Attendance Toolkit for further information about Fit Notes.

Managers must ensure that staff within their work area know what the notification obligations are under this Policy and any other local arrangements e.g. the time by which contact is expected.

Failure to report absence in line with this procedure may result in a period of no pay, regardless of service or entitlements.

#### **4.2 Maintaining Contact**

There is a responsibility on both the employee and the manager to maintain appropriate regular contact during periods of sickness absence. The frequency of contact will depend on the individual circumstances but in most cases, weekly contact would be deemed reasonable. A key aim of maintaining contact is to ensure that the manager is aware of any further support that they can provide. See Appendix 22 – Record of Employee Contact Form in Supporting Positive Attendance Toolkit for further information.

#### **4.3 Resuming Work**

Managers must ensure that staff within their area notify the central reporting line/Employees must notify their manager on the first day they resume to work following a period of sickness. even if you are returning on a day when you are not contracted to work i.e weekends.

For managers using ESR Self Service, the manager must then update ESR to end the absence accordingly. Failure to report a return to work will lead to absence being open ended, with contractual sick pay entitlements being applied. As such, open ended absence may lead to employees entering a period of half or nil pay.

#### **4.4 Return to Work Discussion**

A return to work discussion (RTW) is an informal meeting between a member of staff and their line manager that takes place when the member of staff returns to work after sickness absence. It can be a valuable way of offering support for those staff at an early opportunity who may have specific problems such as those related to a newly diagnosed disease or difficulties in the work or home environment and provides an opportunity to outline support that can be offered to staff that might reduce sickness absence incidence via family friendly working arrangements, short notice annual or unpaid leave etc.

Managers have a duty of care to ensure that members of their team who have been absent are now fit to resume duty by meeting with them face to face after every absence. The RTW

meeting should normally take place on the employee's first day back but if this is not possible, at the earliest available opportunity, which should not be more than three days after a return to duty. If the manager is unavoidably unavailable, for example due to annual leave, the RTW meeting should be undertaken by a deputising manager.

At the meeting, the manager and employee should:

- Discuss and document the reasons for absence
- Collect completed medical certification (if appropriate)
- Offer any appropriate help and support, e.g. referral to Occupational Health/Counseling Department, adjustments to working patterns, flexible working, etc.
- Share any concerns with the employee regarding their absence (for example emerging patterns of sickness absence, number of episodes/days sickness absence) and ensure that the employee is aware of the LCH trigger levels and formal procedures.
- Agree a plan of support (if appropriate)

A Return to Work Interview form (see the Supporting Positive Attendance Toolkit) must be completed at the meeting, signed by both the employee and manager, and submitted to the HR department to be placed on the employee's file.

#### **4.5 Informal Advisory Discussion**

Where a manager believes the level of attendance is of concern but has not yet hit any of the formal triggers, a confidential Informal Advisory Discussion will be held with the employee. The aim of the informal advisory session is for the manager and employee to have a meaningful conversation and to explore what, if any support is required.

Concerns may arise from trends in the pattern of absence eg single day absences always on a Monday or Friday, or in the reasons for absence eg frequent colds/headaches/vomiting etc.

The purpose of the meeting is to enable the employee and manager to discuss any underlying issues that are contributing to their absences and to identify any support that could assist them and practical steps that might be taken to reduce absence levels in the future. However it is also an important opportunity to make the employee aware that further absence could lead to formal action and ensure they understand what that would involve.

At the meeting, the manager will explain why they have concerns about the level of absence and discuss the individual circumstances with the employee in a supportive and manner. It is important to create an environment in which the employee feels comfortable to disclose any difficulties that they are experiencing so that appropriate support can be identified. If the employee has an impairment/long term health condition that is contributing to their absence, it is important that they are supported to declare this so that reasonable adjustments can be implemented.

When reviewing the sickness absence record with an individual, consideration should be given to:

- The reasons given for each spell of absence;
- Whether the absence has been self or medically certificated;
- Information gathered from previous return to work interviews;
- Identifying any underlying reasons for the sickness absence;
- Whether the record indicates a discernible pattern, e.g. regular absence immediately before/after a weekend, regular absence before taking annual leave or regular absence on a particular day of the week etc;
- Whether the sickness reporting procedure has been adhered to;

- The employee's sickness absence record and length of service.

A written record of the meeting (see the Supporting Positive Attendance Toolkit), jointly agreed and signed by both parties, should be kept for future reference.

#### **4.6 Formal Absence Review Meetings**

The employee should be given at least five working days' notice of the date and time of the review meeting and the purpose of the meeting. There should be as short a time lapse as possible between notification of the meeting and the date of the meeting to minimise any stress or worry on the part of the employee.

If, for operational reasons, the date of the review meeting has to be re-arranged the line manager should advise the employee accordingly and extend the review period to the rearranged date.

If the employee is currently off sick and unwilling or unable to attend, or goes off sick before the interview, the manager should advise them in writing that the meeting will be re-arranged. Should this involve any unnecessary delay, then the advice of Occupational Health Department may be sought on whether the employee is fit enough to attend the meeting or not.

If the employee is deemed fit enough by Occupational Health to attend but still refuses to do so, the meeting will be held in their absence and a decision may be made based upon the information available.

If the manager has any concerns about the possible nature or causes of the absence it may be appropriate to seek further advice from Human Resources and/or Occupational Health before proceeding further.

If the manager decides that the situation needs to be closely monitored, i.e. if any of the trigger points are reached, they should arrange a first formal review meeting. A review date should be agreed (usually three months or when two further episodes of sickness occur, whichever is the sooner).

If, by the review date, there has been an improvement in the employee's sickness absence record such that there is no longer a concern an informal review meeting should be held with the employee. The purpose of the review meeting will be to discuss the improvement and to explore the factors leading to the improvement and how this can best be sustained. It will also be necessary to decide whether a further review should be undertaken. A letter should be sent to the employee confirming the outcome of the review meeting (see the Supporting Positive Attendance Toolkit).

##### **4.6.1 First Formal Review Meeting**

If shortly before the review meeting, it appears that the situation remains a cause for concern, a Human Resource Advisor should be contacted and consideration given to more formal action.

If more formal action is being considered the employee must be advised of their right to be accompanied at the review meeting by a Trade Union representative or work colleague (not acting in a legal capacity). It is the responsibility of the employee to arrange this representation.

Following discussion with the employee, if the manager is still concerned about the level of attendance, the employee may be issued with a written warning and informed

that if their record does not improve, further action may be taken. The written warning will remain on file for a period of 12 months from the date that the employee returns to work. A further review date should be set (normally three months or when two further episodes of sickness occur, whichever is the sooner) (see the Supporting Positive Attendance Toolkit). The outcome of the meeting should be confirmed to the employee in writing and of their right of appeal against the decision (see the Supporting Positive Attendance Toolkit)

Following the first formal meeting, if, by the review date, there has been an improvement in the employee's sickness absence record such that there is no longer a concern, a review meeting should be held with the employee. The employee has a right to be accompanied by a trade union representative or work colleague (not acting in a legal capacity) - it is the responsibility of the employee to arrange this representation. The purpose of the review meeting will be to discuss the improvement and to explore the factors leading to the improvement and how this can best be sustained. It will also be necessary to decide whether a further review should be undertaken. A letter should be sent to the employee confirming the outcome of the review meeting (see the Supporting Positive Attendance Toolkit).

#### **4.6.2 Second Formal Review Meeting**

If, following a written warning, the employee's attendance record remains a cause for concern as required by the review date, the employee will be required to meet with the manager, the employee's representative, if desired, and the appropriate Human Resources Advisor and a final written warning may be issued.

The final written warning will describe the time limit (three months or when two further episodes of sickness occur, whichever is the sooner (see the Supporting Positive Attendance Toolkit) in which there must be a recognised improvement in the employee's attendance and will define the improvement that is expected

The employee must be advised that if the required improvement is not achieved by the review date they may be dismissed. The content and outcome of the meeting will be confirmed to the employee in writing and of their right of appeal against the decision (see the Supporting Positive Attendance Toolkit).

#### **4.6.3 Final Review Meeting**

If, following a final written warning, the employee's attendance record has not improved as required by the review date, the employee will be required to meet with the manager and the appropriate Human Resources manager and an outcome of the meeting may be to refer to a capability hearing. The employee has a right to be accompanied by a trade union representative or work colleague (not acting in a legal capacity) - it is the responsibility of the employee to arrange this representation. The employee should be advised that an outcome of the hearing may be the termination of their contract of employment.

The meeting should be arranged with the appropriate manager, who is authorised to dismiss the employee and who has not had any previous involvement in the earlier stages of the process, a Human Resources representative and the employee's representative.

The employee may be dismissed on the grounds of capability (health grounds).

The final review meeting will be conducted in accordance with the process outlined in the Supporting Positive Attendance Toolkit.

## **4.7 Appeals Procedure**

### **4.7.1 Right of Appeal**

The employee will have the right of appeal against the decision to issue them with a written warning and a final warning to a higher level of management not previously involved (the notified officer). The employee will also have the right of appeal against the decision to dismiss them, to an appropriate senior manager,

For example, an employee may choose to appeal because:

- They think that the outcome applied to them is unduly severe;
- The FAIR model has not been applied appropriately
- New evidence comes to light;
- They think the short-term sickness absence procedure was not followed correctly.

The purpose of the appeal meeting is to consider whether the action taken by management was fair and reasonable taking into consideration all the relevant facts and circumstances of the case, and whether the correct procedure was applied in deciding the sanction.

### **4.7.2 Appeal – Written Warning and Final Written Warning**

An employee who wishes to lodge an appeal against a written warning and a final written warning must do so to higher level of management (the notified officer) not previously involved. It must be lodged in writing with the notified officer within 14 calendar days of the date of the letter confirming the sanction and clearly state the grounds for the appeal.

The notified officer will respond to the appeal within five working days. Following the initial response the employee will be invited to attend an appeal meeting. This should be held within three weeks. The employee has the right to be accompanied at this meeting by a Trade Union representative or work colleague (not acting in a legal capacity) if they so wish. It is the responsibility of the employee to arrange this representation.

The notified officer will inform the employee about the appeal decision and the reasons for it, as soon as possible. This decision will be confirmed in writing. The employee will also be advised at this point that the notified officer's decision is final and there is no further level of internal appeal.

The procedure for conducting the appeal hearing is outlined in the Supporting Positive Attendance Toolkit.

### **4.7.3 Appeal – Dismissal**

An employee who wishes to appeal against dismissal must do so to the Director of Human Resources and Organisational Development. Such an appeal must be lodged in writing within 14 calendar days of the date of dismissal and clearly state the grounds for appeal

The Director of Human Resources and Organisational Development will respond to the appeal within five working days. Following the initial response, the employee will be invited to attend an appeal meeting. This will normally be heard within six weeks of the receipt of the appeal unless otherwise agreed. The employee has the right to be accompanied at this meeting by a Trade Union representative, work colleague or friend (not acting in a legal capacity) if they so wish. It is the responsibility of the employee to arrange this representation. The Chair of the panel, will inform the employee about the appeal decision, and the reasons for it, as soon as possible. This decision will be confirmed in writing. The employee will also be advised at this point that the Panel's decision is final and

there is no further level of internal appeal.

The framework for the appeal hearing is outlined in the Supporting Positive Attendance Toolkit.