

Board of Directors' Meeting
11th March 2021

Agenda item	057/20			
Report	Workforce Policies for Approval			
Executive Lead	Workforce Director			
	Link to strategic pillar:		Link to CQC domain:	
	Our patients and community		Safe	
	Our people	✓	Effective	
	Our service delivery		Caring	✓
	Our partners		Responsive	
	Our governance	✓	Well Led	✓
	Report recommendations:		Link to BAF / risk:	
	For assurance		BAF1, BAF4	
	For decision / approval	✓	Link to risk register:	
	For review / discussion		970, 1083, 1930, 2027, 2065	
	For noting			
	For information			
For consent				
Presented to:	Workforce Committee February 2021			
Dependent upon (if applicable):	N/A			
Executive summary:	<p>Four updated Workforce Policies are being presented for approval by the Trust Board (as described below) along with a plan for their roll-out Trust wide in the coming months.</p> <p>Changes to these policies are designed to provide improved support to our staff who are going through difficult circumstances.</p>			
Appendices	<p>Appendix 1: Fit & Proper Persons Policy</p> <p>Appendix 2: Managing Employee Health & Wellbeing policy</p> <p>Appendix 3: Resolving Bullying & Harassment Policy</p> <p>Appendix 4: Grievance Policy</p>			

1.0 Introduction

1.1 Workforce Policies are reviewed on a regular basis to ensure they remain up to date and effective. This paper contains 4 Workforce Policies that have recently been reviewed and updated in consultation with our staff side representatives.

2.0 Fit & Proper Persons Policy

2.1 This policy outlines the Trust's methods for complying with the 'fit and proper persons' test set out in Regulation 5 of the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014*. The policy has been reviewed and amended in line with feedback from the Trust's auditors. Key changes include:

- A revised declaration form to provide further clarity
- Clearer description of what checks need to be made at what stages
- The responsibilities of the Trust Chair have been added
- Reference to the role of the Senior Independent Director has been added

3.0 Managing Employee Health & Wellbeing Policy

3.1 This policy describes the Trust's approach to supporting employee wellbeing and managing sickness absence. The pressures on NHS staff are greater than they ever have been, so this policy brings an increased focus to employee wellbeing and support.

3.2 Key changes include:

- Changing the title from "Managing Attendance and Employee Wellbeing". It is important that the focus of this policy is wellbeing support and preventing ill health and absence.
- Introduction of the wellbeing wheel and wellbeing action plans to support managers and employees in having better conversations about employee wellbeing
- Increased focus on early interventions and support when a health issue arises, not just when an employee has already had sickness absence.

4.0 Resolving Bullying & Harassment Policy

4.1 This policy outlines the processes and support available for staff who feel bullied or harassed. It describes the Trust's view of these behaviours and the action that will be taken in response to inappropriate behaviours.

4.2 The changes to this policy are aimed at providing better support to staff feeling bullied or harassed and outlining a clearer framework for them to get help and resolve their concerns.

4.3 Key changes include:

- Change of title from 'Dignity at Work Policy' so that it is clear the focus should be on resolution of concerns.
- The addition of a list of methods to resolve issues and support staff with a description to the pros and cons for each approach.
- Greater focus on supporting the wellbeing of those involved in these matters.

5.0 Grievance Policy

5.1 This policy describes the Trust's procedure for handling Grievances. Key changes include:

- A clearer outline of the 3 steps of the grievance process.
- Greater focus on supporting the wellbeing of those involved in grievances.

6.0 Risks and actions

6.1 Each of these policies plays an important part in our employee experience and these updated versions provide improved frameworks and support for our staff. It is important that we embed these improvements as quickly as possible, however this must be balanced with current demands on management teams due to COVID-19. There is a risk that if we roll-out these new policies now, the changes in approach will not be embedded into management practice.

6.2 To manage this risk, we will stagger the publication so that they do not all land at the same time. It is proposed that we launch the policies as follows:

Month 1 – Fit & Proper Persons and Resolving Bullying & Harassment

Month 2 – Managing Employee Health & Wellbeing

Month 3 - Grievances

6.3 Each of these policies will have a communications plan and will all (with the exception of the Fit & Proper Persons) have manager briefings/podcasts/resources/training as appropriate. In light of current demands these resources will be made as accessible as possible so that managers can choose to read and understand the changes at a time that suits them. We may also delay the publication of some of the training until managers have more capacity to attend.

7.0 Conclusion

7.1 These new policies bring improved processes that place a greater emphasis on caring for our staff. They must be embedded at the right time and in the right way to have the maximum positive impact on our staff. The Trust Board are asked to approve these policies and the roll-out plan associate with them.

Workforce Director
February 2021

Corporate Fit and Proper Persons Policy

W20

Additionally refer to:

Disciplinary Policy

Verification of Professional Registration Policy

Employee Performance Management Policy & Procedure

Appraisals and Pay Progression

Recruitment and Selection Policy

Freedom to Speak Up: Raising Concerns (Whistleblowing)

Managing Conflict of Interest Policy

Care Quality Commission. Regulation 5: Fit and Proper Persons: Directors (January 2018)

<http://www.cqc.org.uk/content/regulation-5-fit-and-proper-persons-directors>

Care Quality Commission. Fit and proper persons requirement: directors (NHS trusts) (June 2018)

<https://www.cqc.org.uk/guidance-providers/nhs-trusts/fit-proper-persons-requirement-directors-nhs-trusts>

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Document Lead	Deputy Workforce Director
Lead Director	Director of Governance and Communications
Date issued:	March 2021
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Target audience:	All Trust procedural document leads

Document Control Sheet

Document Lead/Contact:	Emma Wilkins Emmawilkins1@nhs.net
Version	1.3
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Date Equality Impact Assessment completed	January 2021
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Distribution	Please refer to the intranet version for the latest version of this policy. Any printed copies may not necessarily be the most up to date
Key Words – including abbreviations if these would be reasonably expected to be used as search terms	Well-Led; Appointment; Recruitment; Pre-Employment Checks
Dissemination plan	This document will be disseminated via policy leads and the management cascade.

Version history

Version	Date	Author	Status	Comment – include reference to Committee presentations and dates
V1	May 18	V Maher	Final	Approved
V1.1	May 18	C Jowett	Final	Addition of annual declarations for Board
V1.2	July 20	H Kauldhar	Final	Changes to reflect audit feedback and addition of: Appendix 1. Standard Operating Procedure. Appendix 2. Disclosure Form - New Starter. Appendix 3. Disclosure Form - existing post holders (Annual review and ad hoc declaration).
V1.3	January 2021	E Wilkins	Draft	Full review and update of policy following audit feedback.

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Policy on a page

This Policy applies to all Directors - Executive and Non-Executive, permanent, interim and Associate positions, irrespective of their voting rights. This includes those Directors who were already in post when the 2014 Regulations came into force.

This regulation has been integrated into the Care Quality Commission's (CQC) registration requirements, and falls within the remit of their regulatory and inspection approach.

Providers must not appoint to any qualifying post until all the fit and proper person requirements (FPPR) have been met.

The Trust will make every reasonable effort to assure itself about existing post holders and new applicants and to make specified information about board directors available to CQC on request.

The Director of Governance and Communications / Company Secretary will ensure the compliance with this policy working closely with the Workforce Team and will ensure that evidence of compliance is maintained electronically on the personal files of qualifying post holders.

The Trust is responsible for ensuring the continued "fitness" of those persons to whom the Requirements apply.

Where matters are raised that cause concerns relating to an individual being fit and proper to carry out their role the Chairman will address this in the most appropriate, relevant and proportionate way.

1.0 Introduction

The 'fit and proper persons' test set out in Regulation 5 of the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014* (referred to as the 2014 Regulations) came into force on 27th November 2014 and is aimed at making sure those individuals who have authority in organisations that deliver care, are responsible for the overall quality and safety of that care, and as such can be held accountable if standards of care do not meet legal requirements.

This Policy applies to all Directors - Executive and Non-Executive, permanent, interim and Associate positions, irrespective of their voting rights. This includes those Directors who were already in post when the 2014 Regulations came into force.

2.0 Purpose

- 2.1 All provider organizations must ensure that director level appointments meet the 'fit and proper persons test' and the regulations place a duty on NHS providers not to appoint a person or allow a person to continue to be an Executive Director or equivalent or Non-Executive Director if this test is not met.
- 2.2 This regulation has been integrated into the Care Quality Commission's (CQC) registration requirements, and falls within the remit of their regulatory and inspection approach.
- 2.3 The requirements of paragraph 3 of Regulations 5 of the Regulated Activities are that the following requirements must be satisfied to appoint to a director role;
 - a) The individual is of good character;
 - b) The individual has the qualifications, competence skills and experience which are necessary for the relevant office or position or the work for which they are employed;
 - c) The individual is able by reason of their health, after reasonable adjustments are made, to properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed;
 - d) The individual has not been responsible for, privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity; and
 - e) None of the grounds of unfitness specified in Part 1 schedule 4 apply to the individual (as per the Regulated Activities Regulations detailed below).

The Fit and Proper Person Requirements lists categories of persons who are prohibited from holding office and for whom there is no discretion. The grounds of unfitness specified in Part 1 of Schedule 4 to the Regulated Activities Regulations are;

- a) The person is an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged;
- b) The person is the subject of a bankruptcy restrictions order or an interim bankruptcy restriction order or an order to like effect made in Scotland or Northern Ireland;
- c) The person is a person whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;

- d) The person has made a composition or arrangement with, or granted a trust deed for creditors and not been discharged in respect of it;
 - e) The person is included in the children's barred list or the adults barred list maintained under section 2 of the Safeguarding Vulnerable Group Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland'
 - f) The person is prohibited from holding the relevant office or position, or in the case of an individual for carrying on the regulated activity, by or under any enactment.
 - g) The person is responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity, or discharging any functions relating to any office or employment with a service provider.
- 2.4 Providers have a general obligation to ensure that they only employ individuals who are fit for their role, the 'fit and proper persons' test must be applied for all new and existing directors and there must be systems and processes in place to provide ongoing assurance that the requirements are met. There is a duty on the organization to take such action as is necessary and proportionate to ensure on going compliance.
- 2.5 There is an expectation that senior leaders set the tone and culture of the organization that leads to staff adopting a caring and compassionate attitude. As such an assessment of a candidates values for all Director appointments are critical to take account of the values of the organization and the candidate's fit to these values.

3.0 Scope

- 3.1 This Policy presents a summary of the standards Executive and Non-Executive Directors and other Board level posts must comply with and the Trust process for monitoring and record keeping.
- 3.2 Guidance describes "directors" as Executive and Non-Executive Directors and any other persons performing the functions of or similar functions, to a director.
- 3.3 For the purpose of the Trust it has been agreed that the requirement should apply to all Executive Directors, Non-Executive Directors and Board level posts. This will be kept under review taking account of the emerging national guidance.
- 3.4 Where Interim Executive Directors are in place, the requirement to comply with and meet the standards also applies. All Directors will be required to complete a self-declaration form on at least an annual basis and an enhanced DBS check at least every 3 years. (Appendix 1)

4.0 Procedure

- 4.1 The introduction of the fit and proper person's requirements (FPPR) places the ultimate responsibility on the chair to discharge the requirement placed on the Trust, to ensure that all relevant post holders meet the fitness test and do not meet any of the 'unfit' criteria. Further detail is provided in the CQC Guidance for NHS Bodies: Fit and Proper Persons: Directors, November, 2014

http://www.cqc.org.uk/sites/default/files/20141120_doc_fppf_final_nhs_provider_guidance_v1-0.pdf

- 4.2 The Trust will make every reasonable effort to assure itself about existing post holders and new applicants and to make specified information about board directors available to CQC on request.
- 4.3 The selection process for all Director posts will be robust ensuring that the specific qualifications, skills and experienced required for the role are set out in the job description and person specification and thoroughly tested through the selection process as detailed below.

4.4 New Appointment

In order to confirm that an individual is of good character, the Trust will make pre- employment checks which will include the following:

- Full employment history with documented explanation of any gaps
 - Obtaining two references, one of which should be from the most recent employer
 - Qualification and professional registration checks
 - Right to work checks
 - Proof of identity
 - Occupational health clearance
 - Enhanced DBS clearance
 - Search of insolvency and bankruptcy register
 - Search of disqualified directors register
 - Web search of the individual
 - Removal from Charity Trustees check
 - Due diligence in relation to (or privy to) previous misconduct, mismanagement or professional disqualification
- 4.5 All checks must be recorded, evidenced, signed and dated by the Workforce Recruitment Team with the Director of Governance/ Company Secretary having final sign off.
- 4.6 In addition the selection process as a minimum will include an interview panel process and value based interview/ assessment.
- 4.7 The above will be overseen by the Director of Governance and evidence of the checks will be documented on the individual's personal file. On appointment, the individual will be required to complete a 'Fit and Proper Persons' self – declaration (Appendix 1), a declaration of Interest form, a confidentiality and privacy notice form. These will be retained on the individual's personal file.

4.8 On-going Review of Existing Directors

- 4.9 The Director of Governance/ Company Secretary will ensure an assessment of on-going fitness will be undertaken each year in April and will form part of the annual appraisal process. All Directors will be required to update their self-declarations (Appendix 1) annually and complete three yearly Enhanced DBS checks.

The annual checks will include;

- Insolvency, bankruptcy and disqualified director's registration
- Removal from Charity Trustees
- NMC/GMC/professional qualifications checks (if relevant)
- An on-going 'duty to report' to be included in contracts of employment
- The completion of an annual self-declaration by individuals within the scope of the policy (appendix 1)
- Annual formal appraisal processes which will include the Fit and Proper Person Requirements
- Maintenance of the register of declared interests
- Completion of mandatory and statutory training

4.10 Dealing with Concerns

- 4.11 If the Trust discovers at any point, information that suggests an individual Director does not meet the 'Fit and Proper Persons' criteria, the matter shall be referred immediately to the Chair (or the Senior Independent Director, if the concern relates to the Chair- see section 5.6).
- 4.12 The Chair shall take appropriate and timely action to investigate and rectify the matter, taking expert advice as necessary and ensuring any issues are dealt with in accordance with the Trusts HR Policies. There may be occasions where the Trust would contact NHS E/I for advice or to discuss a case directly. Where appropriate, findings in relation to a person's fitness may be referred to the relevant professional / regulatory body/bodies.
- 4.13 The Chair, in discussion with NHSE/I, will put in place Interim arrangements, if required, during any period of investigation, suspension or restriction from duties. Should there be sufficient evidence to support the allegation(s), then the Trust may terminate the appointment of the Director with immediate effect, in line with the Trust's Disciplinary policy.

5.0 Roles and Responsibilities

5.1 The Chair

It is the responsibility of the Trust Chair to:

- Confirm the fitness of all new directors, as assessed in line with the regulations.
- Ensure that an on-going fitness review is included within the annual appraisals of all Board Directors.
- Declare to the CQC in writing that he / she is satisfied that the Directors are fit and proper individuals for that role.
- Deal appropriately with any breach as required, seeking expert advice if deemed appropriate and discussing any concerns with the relevant Nominations Committee; this includes putting in place appropriate interim arrangements, pending an investigation, where this is required.

5.2 Care Quality Commission

- 5.2.1 The regulations give the Care Quality Commission powers to assess whether both Executive and Non-Executive Directors are fit to carry out their role an

whether providers have in place adequate and appropriate arrangements to ensure directors are fit and proper persons both on recruitment and whilst in post.

- 5.2.2 In undertaking inspections, the Commission will assess compliance as part of the well-led domain. Where compliance cannot be demonstrated this will be addressed as appropriate through the regulatory process.

5.3 Board post holders within the scope of the FPPR

- 5.3.1 Non-Executive Directors & Executive Directors and other Board level posts within the scope of this policy must ensure they comply with and continue to comply with the requirement of the Fit and Proper Persons Test and this policy.

5.4 Director of Governance and Communications / Company Secretary

- 5.4.1 The Director of Governance and Communications / Company Secretary will ensure the compliance with this policy working closely with the Workforce Team and will ensure that evidence of compliance is maintained electronically on the personal files of qualifying post holders.

5.5 Senior Independent Director (SID)

- 5.5.1 A Non-Executive Director who oversees the application of the Fit and Proper Person role for the chair. Additionally, with the support of the Company Secretary the SID can undertake investigations into any concerns raised about the Chair, including where the Chair has notified the SID they may no longer comply with Fit and Proper Persons requirements

6 Governance

The Director of Governance and Communications in conjunction with the Chairman and the Remuneration Committee will also ensure prompt action in accordance with Regulation 5, in the event of non-compliance with the policy by any qualifying post holder as per section 4.10.

6.1 On-going Governance

- 6.1.1 In conjunction with the Director of Workforce the Director of Governance and Communications will submit at least quarterly updates to the Remuneration Committee providing assurance on the Fit and Proper Person checks and escalate any risks/ required action.
- 6.1.2 In addition an annual assurance report will be submitted to Trust board and Remuneration committee which will also be published in the Trust's Annual Report.

7 Review Process

- 7.1 This policy will be reviewed if there are legislative changes, within 3 years or where other significant reasons arise.
- 7.2 In order that this document remains current, the appendix can be amended and approved during the lifetime of the document without the policy having to return to the ratifying committee.

8 Equality Impact Assessment (EQIA)

- 8.1 This policy applies to all employees equally and has no positive or negative impact on the protective characteristics within the Equality Act (2010).

9 Training

- 9.1 Appropriate training and guidance will be provided for those who carry out checks or have other responsibilities under this policy.

10 Process for Monitoring Compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Assurance of Fit and Proper Person checks	Audit	Director of Governance and Communications	At least quarterly	Remuneration Committee
Annual assurance report of Fit and Proper Person checks	Audit	Director of Governance and Communications	Annual	Trust Board and within Trust's Annual report.

11 References

- 9.1 Care Quality Commission. Regulation 5: Fit and Proper Persons: Directors (January 2018)
<http://www.cqc.org.uk/content/regulation-5-fit-and-proper-persons-directors>
- 9.2 NHS Employers. Employment Checks
<https://www.nhsemployers.org/your-workforce/recruit/employment-checks>
- 9.3 Care Quality Commission. Fit and proper persons requirement: directors (NHS trusts) (June 2018)
<https://www.cqc.org.uk/guidance-providers/nhs-trusts/fit-proper-persons-requirement-directors-nhs-trusts>

Appendix one

Fit & Proper Persons Director Declaration (to be completed annually)

Regulation 5 of the Health & Social Care Act 2008 (Regulated Activities) Regulation 2014 sets out the criteria that a Director must meet, to ensure unfit persons do not become or continue as governors or Directors (or those performing similar or equivalent functions). In exceptional circumstances and at NHSE/ I's discretion we may issue a license without the licensee having met this requirement.

I hereby confirm that

- I am not an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;
- I am not the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
- I am not a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986(40);
- I have not made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
- I am not Included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland;
- I am not prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment;
- I am not responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity, or discharging any functions relating to any office or employment with a service provider.
- I have not in the preceding five years been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on me.
- I have not been struck off a regulatory/professional register.
- I have not been prohibited from holding the position under any other law e.g. under the Companies Act or Charities Act.
- I have not suffered any health issues that could affect my physical or mental capability, in relation to my role as a Director.
- I have the qualifications, skills and experience necessary for the position I hold on the board.

Name: _____

Position: _____

Signature: _____

Date: _____



Our Vision To provide excellent care
for the communities we serve



Employee Wellbeing and Attendance Management Policy

W22

Additionally refer to:

Associated documentation listed in section 24

HR policies are available from: http://intranet/hr/HR_Policies.asp:

All others available on the Intranet via H&S or Infection Control

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Date ratified:	March 2021
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Lead Director	Workforce Director
Date issued:	March 2021
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Document Lead/Contact:	Erica Cobbold Senior HR Advisor
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Key Words	Sickness, absence, management of absence, review, health, wellbeing, support, early interventions, occupational health, counselling, phased return, graduated return, ill health retirement, patterns of absence, sick pay, trigger point, unauthorised absence, Employee Assistant Programme
Dissemination plan	Chatterbox, One Minute Brief, HR Newsletter, Managers Training

Version history

Version	Date	Author	Status	Comment – include reference to Committee presentations and dates
V5.1	3.10.18	Erica Cobbold	draft	Discussed at JNCC Policy Meeting
V5.2	February 2019	Erica Cobbold	draft	Further work on policy
V5.3	April 2019	Erica Cobbold	draft	Further work on policy
V5.4	November 2019	Erica Cobbold	draft	Further work on policy
V5.5	January 2020	Erica Cobbold	draft	Feedback from JNCC Policy Meeting
V5.6	February 2020	Erica Cobbold	draft	Feedback from JNCC Policy Meeting
V5.7	March 2020	Erica Cobbold	draft	Feedback from JNCC Policy Meeting and prior to policy group
V5.8	May 2020	Erica Cobbold	draft	Feedback from JNCC Policy Meeting and prior to policy group in June
V5.9	June 2020	Erica Cobbold	draft	Feedback from JNCC Policy Meeting and working group phone call
V5.10	July 2020	Erica Cobbold	Final Draft	Minor amendments following JNCC Policy Meeting

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1. Policy on a Page

The Trust has an important role to play in supporting the Health and Wellbeing of our employees. Effective and supportive management and early supportive interventions are essential to support Employees when they are not fit for work and assisting them to return to work successfully. We also know that patients receive better care from employees who are fit and well.

This Policy sets out key responsibilities for all parties in a clear, fair and consistent process to enable supportive management of sickness absence across the Trust.

- The Policy is for all Trust staff including Medical and Dental staff.

For employees:

- Take responsibility for their own health and wellbeing and where necessary seek support from their GP, line manager or other appropriate support.
- Notify their Manager when absent from work, maintain contact throughout periods of absence and certify absence appropriately.
- Attend and engage with Occupational Health and other related appointments to enable their manager to support them.

For Managers:

- Support and manage employees in line with the process set out in this policy.
 - Consider Early interventions to support employees when they are absent from work. Be open to exploring adjustments, new ways of working and to supporting employees to stay in work or return to work when they are able to.
- A flow chart outlining the process is included in Appendix B
 - A Welcome back meeting / return to work form is included in Appendix A
 - A Ready Reckoner for Annual Leave Entitlement after 12 weeks Sickness is in Appendix C

2. Document Statement

2.1 The Shrewsbury and Telford Hospital NHS Trust (SaTH) is committed to supporting the health, wellbeing and attendance of all its staff. The Trust recognises that maintaining and improving a healthy workplace and healthy employees is a fundamental factor in delivering the safest and kindest patient care. The objectives of the policy are:

- Support the health and wellbeing of employees in the workplace
- Support employees to return to work following a period of sickness absence safely and as quickly as possible
- Support employees to sustain their attendance at work
- Provide managers with guidelines and tools to support them in the process of managing health and wellbeing of staff and sickness absence

2.2 This policy recognises that each employee will be supported according to individual circumstances. It is designed to provide a framework for the fair, consistent, transparent, supportive and effective management of sickness absence, balancing the interest of the employee with the needs of the service. The focus is on what our staff can do, or might be capable of doing with reasonable help, and encourages managers to make reasonable workplace adaptations.

2.3 Managers, the Workforce team, accredited representatives and agreed companion will work in partnership for the best interests of the individual, patients and the service, and in support of the organisation's health and wellbeing agenda.

2.4 This policy applies to all employees of SaTH including Medical and Dental Staff, Very Senior Managers (VSM's) and staff engaged via the Temporary Staffing Department. This policy excludes agency staff and other contractors.

3. Overview

3.1 This policy relates to the Trust values in the following ways:

Proud To Care	Wants to do the best we can for patients and employees
Make It Happen	Focuses on solutions rather than problems
We Value Respect	Recognises and values employees for the work that they do and their contribution. Communicates and responds respectfully
Together We Achieve	Is supportive of others and encourages them to achieve their potential

3.2 This policy works alongside the Trust's Health and Wellbeing Agenda and assists staff in finding support to help manage their own health and wellbeing, thereby minimising absence from work.

3.3 The management of sickness absence under this policy and discussions about an individual's health will be handled with confidentiality by all those involved. In accordance with the General Data Protection Regulations any information obtained as part of this process may be retained within their personal file (held securely in their department) and/or stored securely (electronically or hard copy) within the HR department. Further information is available in the Maintaining Personal Files and Electronic Staff Records Policy.

3.4 This policy should be applied equally and fairly to all employees ensuring that there is no

discrimination as described within the provisions of SaTH Trust policy Equality & Diversity Policy or the Equality Act 2010.

- 3.5 Where it is suspected that an individual's sickness absence may be attributable to alcohol or substance misuse, please refer to Trust policy Alcohol and Substance Misuse. Where it is suspected that an individual's sickness absence may be attributable to domestic violence, please refer to the Trust's Guidance on domestic abuse, (Guidelines for Managers and Employees: Staff Subjected to Domestic Abuse), available on the intranet and Managers Resources Folder. In both cases make an immediate referral to the Trust's Occupational Health service for advice.
- 3.6 This policy is not designed to be used to manage poor performance unless the underlying cause of the poor performance is identified as relating to an individual's health condition.
- 3.7 Any abuse of this policy, including falsifying sickness or associated paperwork, or providing misleading information may lead to the individual losing their entitlement to NHS sick pay and Statutory Sick Pay, referral to the NHS Counter Fraud Team and action under the Trust's Disciplinary Policy.
- 3.8 Sickness absence in itself is not a disciplinary matter. However the Trust Disciplinary Policy may be used in certain circumstances, such as:
- where an explanation for absence is not forthcoming or satisfactory;
 - where this policy and procedure is not followed by the employee or manager;
 - where sickness absence is not reported in accordance with departmental and Trust procedures;
 - where sickness or evidence of sickness is believed to have been falsified, or misleading information is provided by the individual as part of their explanation for sickness absence;
 - where an individual fails to attend Occupational Health appointments and management meetings without justifiable reasons;
 - where a Fit Note is not provided within 7 days of issue, as reasonable practicable.

4. Definitions

Sickness Absence: Absence from work due to ill health.

Self-Certification: Employees are requested to complete the Return to Work form when they return to work to confirm they've been off sick for up to 7 calendar days.

Working Day: A period of time when an employee is expected to be in work.

Part Day Absence: Where an employee attends work and is unable to complete their working day due to sickness absence, see paragraph 6.1.

Fit Note: Statement of Fitness for Work issued by a GP to certify absence from work of 8 calendar days or more, or recommend adjustments to enable an individual to work.

Sick Pay: Employees absent from work owing to illness will be entitled to receive sick pay in accordance with their terms and conditions.

Short term:	Any period of absence that is less than 4 weeks.
Long term:	Absence from work that is (or is likely to extend to) a period of 4 weeks or more.
Episode:	An unbroken period of sickness absence lasting one or more working days. If one or more episodes occur within 7 calendar days for the same reason, they may be treated as 1 episode
Trigger Points for supportive conversations:	<p>We want to support our staff to be fit and healthy. Absence can also have an impact on teams, colleagues and patient care, therefore we have set some trigger points below where we would suggest managers have a supportive conversation with the member of staff, and if absence continues may need further discussions under this policy.</p> <p>These triggers will be assessed over a 6 and 12 month rolling period excluding the pattern trigger which may be assessed over a longer period, this is shown in the flowchart (Appendix B).</p> <ul style="list-style-type: none"> • 2 episodes in a rolling 6 month period • 4 episodes in a 12 month rolling period • If one or more episodes occur within 7 days they may be treated as 1 episode • Any absence greater than 4 weeks • Recognisable patterns/trends of absence
Managers discretion	Managerial discretion to apply this policy on an individual basis. This should be consistent and fair to determine how to reasonably support and manage an individual's sickness absence. Factors can include but are not limited to, previous levels of attendance, circumstances surrounding the absence, conditions covered by the Equality Act, advice from Occupational Health and length of service of the employee. Discretion may include increasing / extending triggers, phased returns or other adjustments. Managers are encouraged to seek advice from the HR Team. This discretion is to support employees and not to disadvantage employees.
Food handler:	<p>A term referring to an individual (directly employed or an agency worker/external contractor) who:</p> <ul style="list-style-type: none"> • directly touches open food as part of their work; or • touches food contact surfaces or other surfaces in rooms where open food is handled.
Gastroenteritis:	An over-arching term which includes diarrhoea, vomiting and Norovirus. For Food Handlers they should refer to the Section 15 and Food Safety Policies.
The Equality Act 2010:	The legislation that protects people from discrimination in the workplace and in wider society. This incorporates 9 'protected characteristics' These are age, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and disability.
Disability:	The Equality Act 2010 contains a very broad definition of disability, which includes both physical and mental impairments that last, or are expected to last, 12 months or more and are substantial in terms of

their effects on the person's day-to-day life.

Disability Leave Paid and unpaid Leave which can be requested under the Special Leave Policy to support the assessment, rehabilitation or treatment required as part of a Disability or long term condition.

Reasonable Adjustment: As required under the Equality Act 2010, an employers' requirements to make reasonable adjustments to ensure disabled people are not disadvantaged in the workplace.

5. Duties

5.1 Trust Board / Workforce Committee

- The Board has a responsibility to ensure the Trust commits to supporting employees Health and Wellbeing at a senior level through the necessary policies, occupational health and counselling provisions.
- The Board has a responsibility to oversee this policy and ensure that appropriate processes and actions are in place.

5.2 All Managers, Employees, Human Resources and Staff side colleagues

It is the responsibility of all parties to comply with:

- Health and safety requirements;
- The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (as amended);
- Disability discrimination legislation, The Equality Act 2010 and ;
- Any other relevant legislation.

5.3 Employees

- To take responsibility for their own health and wellbeing.
- Notify their manager as soon as possible of their absence in accordance with section 6.2 below.
- Advise managers of any work that may need to be covered in their absence. Provide Fit Notes to their manager within 7 calendar days of its issue, where reasonable practicable;
- Not knowingly withholding or falsifying information on their health record. This may result in disciplinary action and may constitute gross misconduct in certain circumstances.
- To take responsibility for their regular attendance at work in accordance with their contract of employment.
- To comply and co-operate with the requirements set out in this Policy.
- To consider advising their manager that they have/may have a disability (within the bounds of the Equality Act) so relevant support can be provided, using the Health Passport (available on the intranet or Managers Resources Folder).
- Keep in contact with their manager and update them on the progress as necessary, whilst accepting that the manager may also contact them at home during the period of absence, which should be by an agreed method and at agreed times wherever possible.

5.4 Human Resources

- To provide support and guidance on the implementation of this policy and ensure consistency of approach across the Trust.
- Monitor the application of this policy, adhere to relevant legislation and update the policy as required.
- Provide Training for Line Managers on the supporting Staff Health and Wellbeing and implementing this policy.

- Work closely with managers, staff and union representatives, in conjunction with Occupational Health where applicable, to facilitate and support return to work from sickness in an appropriate, safe and timely manner, Support managers in considering any requested adjustments so that all reasonable options are explored.

5.5 Care Group Director/Assistant Chief Operating Officer/Head of Service

It is the responsibility of the Care Group Director/Assistant Chief Operating Officer or equivalent Head of a corporate function (i.e. a manager one step away from a Board position) to:

- ensure effective management of health and wellbeing within their areas of responsibility;
- take timely decisions regarding the extension of paid sick leave;
- take decisions regarding the termination of employment with the Trust or delegate authority to an appropriate manager;
- take decisions regarding eligibility for Temporary Injury Allowance using the NHS Injury Benefit Scheme Employer Guidance.
- responsible for ensuring that this policy is effectively and appropriately implemented.
- responsible for ensuring that the processes within the policy are monitored and non-compliance is acted upon.

Although ultimate responsibility rests with the Care Group Director/Assistant Chief Operating Officer or equivalent Head of a corporate function, it can be delegated on an operational basis as appropriate - please refer to the Authority to Take Action Table in Appendix 4 of the Trust's Disciplinary Policy.

5.6 Managers

- To ensure they support the health and wellbeing of their staff, seeking advice as appropriate from other appropriate specialities (e.g. Human Resources, Occupational Health, Health & Safety or Manual Handling);
- To ensure they understand, comply with and are fully trained in the use of this policy and procedure and apply this consistently across their teams
- Where applicable ensure that staff rota (including allocation of bank shifts) allow for staff to take appropriate rest breaks in line with the Working Time Directive (WTD).
- Report absence via the appropriate system i.e. e-rostering and ESR. Where staff choose to take annual leave during a period of sick leave, managers must also ensure that they notify payroll to ensure appropriate payment is made, please refer to section 9.5.4.
- Conduct return to work discussions after each episode and as soon as possible and ensure that the return to work form is signed by the staff member as an accurate record and all Fit Notes (where required) have been submitted.
- Maintain ongoing, regular contact as agreed with absent staff in line with this policy
- Ensure that their staff understand this policy and procedure and how to access it;
- Work with the appropriate department (e.g. Pay Services, Health Roster) to ensure that the individual receives the correct sick pay, taking account of the provisions relating to work-related injury or disease;
- To regularly monitor and review arrangements to identify where and how the management of absence in their department can be improved, in partnership with relevant Trust and Staff Side representatives.
- Liaise with the employee and agreed support (see section 11.8) to ensure that meetings take place in a timely manner;
- Treat staff members sensitively and offer them appropriate support, ensuring that any work-related contributory factors or environmental issues affecting their health are dealt with as soon as reasonably practicable.

- Complete departmental and individuals stress risk assessments as necessary in line with HS12 Stress Management Policy and Risk Assessment Procedure.

5.7 Trade Union/Professional Organisation

Where the employee is a member of a Trade Union or Professional Organisation and has asked for representation, it is the responsibility of that accredited representative to:

- Support the employee effectively;
- Provide the employee with advice on all aspects of this policy;
- Liaise with the employee and manager to ensure that meetings take place in a timely manner;
- Work closely with managers to ensure that the policy and procedure are applied effectively;
- Work with the employee and the manager to facilitate a safe and appropriate return to work as soon as is reasonable, taking into account advice from any other appropriate specialities (e.g. Human Resources, Occupational Health, Health & Safety or Manual Handling);
- Support the organisation's health and wellbeing agenda.

5.8 Trust Employed Work Colleague

The role of the Trust Employed Work Colleague is to provide the employee with support. They may also take part in relevant meetings/hearings and speak on behalf of the employee with their permission.

The colleague does not have the right to answer questions on the employee's behalf, address the meeting, (if the employee does not wish it) or prevent the employee or employer from explaining their cases.

Family members or partners who are also employed by the Trust are not able to accompany an individual unless they are required to assist with disabilities or language difficulties or any other extenuating circumstances.

5.9 Occupational Health

Key responsibilities for Occupational Health:

- Provide impartial and evidence based advice to managers and staff on:
 - Fitness to work including reasonable adjustments
 - Rehabilitation into the workplace
 - Suitable alternative roles for redeployment
 - Fitness for continued employment and ill health retirement
- Establish the reason for absence, whether there is an underlying medical condition, if it is likely to be classified as a disability, advise on sustained attendance levels and in certain circumstances if rehabilitation, redeployment and retraining is appropriate.
- Indicate the likely length of continued absence
- Assess the effect of an illness/injury on the Employee's ability to do their job, what they are capable of undertaking and if any adjustments can be made to facilitate their return as soon as safe and practical. This may include liaising with the staff member's GP or consultant specialist(s), and interpreting records or seeking clarity where there may be a difference in medical opinion while maintaining medical confidentiality. This will be done with the written consent of the individual.
- Provide advice on a phased return to work from long term absence where appropriate and necessary.
- Encourage and empower employees to take ownership of their own health and wellbeing and provide support in the form of medical and lifestyle advice and through signposting to other support services or agencies (see Section 13) as appropriate.
- Advise staff and managers on the justification for ill-health retirement.
- Liaise with the line manager to ensure there is a full awareness and understanding of

the individual's role.

- Advise managers and HR on temporary exclusion from work on medical grounds in accordance with a statutory requirement or in the case of contact with a notifiable or contagious disease.
- Where OH becomes aware that a staff member has had a work-related injury, include this in their report to bring to the attention of the line manager to ensure it is reported via the Datix system and to Health and Safety as appropriate.

6. Reporting Sickness Absence and Maintaining Contact

6.1 Sickness at Work / Part day absence

If an individual becomes unwell whilst at work they should report their illness in person to their line manager (or other authorised person as specified in departmental procedures). The manager will then record the number of hours worked on E-Roster (if this is used), part day absences are not recorded on ESR and therefore will not appear on trigger reports as a period of absence.

Part day absences will be classed as a full day's attendance for pay purposes. The part day of absence will be recorded for monitoring purposes and a return to work form completed. Repeated part day absence (an employee repeatedly presents as unfit for work or becomes unfit during the course of the day) may trigger a review under 'patterns of absence,' see section 11.1.5. Part day absences can be reviewed looking at return to work forms or part day absences on e-rostering (where used).

If the member of staff continues to be unwell the following day, the absence should be recorded on ESR/E-rostering from this date, (the first full day of absence).

6.2 Notifying / Reporting Absence – Non-attendance at Work

Note: *During COVID-19 alternative arrangements for reporting absence may be in place. Please take note of any instructions given by your line manager or through Trust communications. If in doubt, ensure you follow the process outlined below.*

If an employee is too unwell to come to work they are required to personally contact their manager on the first day of absence (or other authorised person as specified in departmental procedures). Contact should be made at the earliest possible opportunity in order to arrange cover if necessary. Where reasonably possible, it is expected that a member of staff will notify their manager of sickness absence in an appropriate timescale for their work area bearing in mind that it may be necessary to find cover for the absence – for example:

- in areas such as wards which operate a 24 hour service, no later than 1 hour before the start of their shift and for staff on night duty, no later than 4 hours before the start of their shift;
- in areas staffed during usual 'office hours', (e.g. 9 am – 5 pm), as close to the normal departmental start time as possible.
- and at the latest by the time agreed locally for each department.

Employees will need to explain the nature of the illness, if it is due to a work related injury or illness and if possible, give some indication of the likely return to work date to assist their manager in planning for any cover that may be required.

The employee should also agree with their manager when calling in sick when they will next contact them, should the absence continue.

If the manager or his/her nominated deputy is not available to take this call, employees can leave a message to confirm their absence due to sickness and the manager will call them back that day.

Notification by text message, e-mail or any form of social media is not acceptable unless this has been pre-agreed with the manager.

In exceptional circumstances, it may be appropriate for a friend or family member to contact the employee's manager; however, you should call your manager yourself at the earliest opportunity.

6.3 Keeping In Touch during periods of absence

Regular contact should be maintained between the employee and their manager, (additionally a buddy may also be allocated by the Manager to keep in touch with the member of staff), throughout the period of absence. Please refer to section 13 on Early Interventions that can support an employee with their health and wellbeing and possibly shorten the length of their absence.

Should absence continue after 5 days then appropriate contact arrangements can be agreed. Should absence become long term then contact should be made at least fortnightly.

7. Certification/Recording of Sickness Absence

7.1 Self Certification

For all episodes of absence, including part day absences, a Return to work Form (Appendix A) must be completed to cover absence up to and including the first 7 calendar days. This will be completed jointly with the employee and their manager on the employee's return to work and placed on the employee's personal file with a copy given to the individual on request.

7.2 Medical Certification/Fit Notes

For all absences of 8 calendar days or more the employee must ensure that sickness absence is also certified by a Statement of Fitness for Work (Fit Note) issued by a GP or other Health Professional from the 8th calendar day of absence onwards. These Fit Notes need to be continuous until the individual returns to work or is no longer employed by the Trust.

The Fit Note must be provided to the line manager within 7 calendar days of its issue and by the 11th day of absence. If this is not possible or there are justifiable reasons for a delay, the employee must contact their line manager to provide an update.

During a period of long term absence the employee will need to provide up to date Fit Notes to their manager. This must be provided within 3 calendar days of the expiry of the previous note (even during periods of no pay), unless there are justifiable reasons for a delay as agreed with their line manager.

Where there are specific adjustments relating to an employee's sickness absence the employee must ensure that their Fit Note details these.

Employees are responsible for obtaining a Fit Note by an appropriate Health professional. Where a late or backdated Fit Note is submitted with no reasonable justification for the delay or no certificate is provided and the absence continues, this may be considered as unauthorised absence and may therefore lead to the withdrawal of sick pay and could lead to action under the Disciplinary Policy.

Private medical certificates will not normally be accepted as evidence of sickness, other than where it is not possible to obtain an NHS certificate (e.g. when sickness occurs abroad).

7.3 Unauthorised Absence

Failure to properly report sickness absence may result in the absence being considered as unauthorised and therefore unpaid. This could lead to action under the Disciplinary Policy.

The manager will make reasonable attempts to contact the employee during their absence. Should contact not be made by the employee and the absence continues for more than one day/shift then the manager should write to the employee to inform them that their absence is unauthorised and pay will cease. The Manager will instruct Pay Services accordingly.

Should there continue to be no contact within the timescales indicated in the letter or a pattern of failure to report absence, then the manager will contact HR for advice on progressing this through the Disciplinary Policy.

7.4 Medical suspension

If a staff member displays symptoms of a serious illness which could impact on the Health and Safety of themselves, colleagues, or patients, the staff member may be suspended from work on medical grounds. Medical suspension is a neutral action to allow the Trust to investigate the nature of the health issue, advice should be obtained from Human Resources, Infection Control, Health and Safety and a referral to Occupational Health will be made for the staff member to determine their capability to work. During periods of medical suspension, the staff member will receive full pay.

Continuation of medical suspension should be reviewed at 10 day intervals and the staff member should be kept informed about the progress of the investigation at each interval.

7.5 Recording of sickness absence

Managers are responsible for ensuring that all episodes of sickness absence are properly notified to payroll through the details being entered into the ESR or E-rostering system.

This ensures that sick pay is correctly calculated and paid, that a correct record is maintained and that patterns of absence can be more readily reviewed and problems identified.

Managers will also complete return to work meetings for all episodes of absence, (including part days). Managers are encouraged to keep notes of telephone conversations and meetings related to absence for their own records. The individual will be provided with copies of notes taken and asked to sign these notes to confirm they are accurate.

8. Secondary Employment and bank work

Where an employee is off sick, they are indicating they are not fit to fulfil their role as an employee either in full or adjusted in line with their GP Fit Note or Occupational Health Guidance. No other paid employment (including other Trust jobs and Bank employment within the Trust) should normally be undertaken during the period of sickness. Managers should remind staff of this when they first call in sick.

Exceptionally, where the Fit Note has specified and allowed other employment, an individual may continue to work in that role whilst remaining off sick from their (other) Trust role. The individual must ensure that they notify their line manager(s) within the Trust in writing that they are working elsewhere, and provide a copy of the Fit Note that authorises

this. The line manager should liaise with the HR Team and Pay Services in order to ensure that appropriate payments are made.

Where an employee is found to be working elsewhere whilst in receipt of contractual sick pay and a Fit Note cannot be provided to confirm their eligibility to work in their secondary employment, this may be treated as gross misconduct under the Trust's Disciplinary Policy. The Trust Counter Fraud Officer will also be notified and this may be investigated as a criminal offence.

Where a volunteering (i.e. unpaid) role will be beneficial to the individual's recovery the employee may undertake such work provided this is reported in writing to their line manager.

8.1 Bank Work via the Temporary Staffing Department following sickness absence

The Trust recognises that returning to work following a period of absence can be tiring. To ensure that the employee has sufficient rest following a period of sickness absence that exceeds one working week, employees that hold bank posts in addition to their substantive post should only undertake bank work after one week from their date of return to work in their substantive post. Employees who are on a phased return to work will need to have returned to their full duties and contracted hours of work before undertaking any bank work. Exceptions to the above should be discussed and agreed with line managers.

8.2 Absences when a staff member is involved in a grievance or disciplinary

It is acknowledged that involvement in a grievance or disciplinary may impact on an employee's stress and anxiety levels. Early Occupational Health advice should be sought in order to confirm that the staff member is fit enough to proceed in any management discussions (where appropriate) with the aim of resolving the outstanding issues as quickly as possible in order to support an early resolution to the grievance or disciplinary.

9. Pay and other types of leave

9.1 Sick Pay

Pay will be in accordance with Agenda for Change NHS Terms and Conditions of Service Handbook, Section 14 or the National Conditions of Service for Medical Staff, Further information on sick pay can be found via the relevant links at the back of this policy.

9.2 Withholding Sick Pay

Employees will not be eligible to receive sick pay in the following circumstances:

- Where they fail to adhere to this policy and/or departmental sickness absence procedures,
- The absence is found not to be due to the sickness of the employee receiving sick pay;
- Following an accident, damages are received from a third party (see refer to paragraph 14.16 of the Agenda for Change Terms and Conditions of Service)
- Sick pay is also not normally payable for an absence caused by an accident due to active participation in sport as a profession, or where contributable **negligence** is proven (please refer to paragraph 14.15 of the Agenda for Change terms and Conditions of Service)

9.3 Payment of Enhancements when off sick

Not all staff are entitled to enhancements when off sick. In line with the Agenda for Change Terms and Conditions of Service, the following employees will have their pay during sickness absence calculated on the basis of what they would have received had they been at work. Pay will include regularly paid supplements, including any recruitment and retention

premia, payments for work outside normal hours and high cost area supplements. It will be based on the previous three months at work:

- For employees that have a basic salary of £18,160 or less.
- Those staff who are absent due to injuries, diseases or other health conditions sustained or contracted in the discharge of their duties of employment which are wholly or mainly attributable to their NHS employment, whom the employer determines are eligible to receive injury allowance in line with paragraphs 22.3 and 22.4 (see paragraph 14.7 of the Agenda for Change Terms and Conditions of Service Handbook).

9.4 Extension of Sick Pay

In accordance with the Agenda for Change Terms and Conditions of Service Handbook, sick pay for those employees who have exhausted sick pay entitlements will be reinstated at half pay, after 12 months of continuous sickness absence, in the following circumstances:

- staff with more than five years reckonable service:- sick pay will be reinstated if sick pay entitlement is exhausted before a final review meeting for long term absence has taken place;
- staff with less than five years reckonable service:- sick pay will be reinstated if sick pay entitlement is exhausted and a final review does not take place within 12 months of the start of their sickness absence

Reinstatement of sick pay should continue until the final review meeting has taken place. Reinstatement of sick pay is not retrospective for any period of zero pay in the preceding 12 months of continuous absence.

These arrangements will only apply where the failure to undertake the final review meeting is due to delay by the employer. In cases where the Trust decide to adopt a supportive approach and not progress to a Stage 3 meeting prior to 12 months this will not be considered as a delay by the employer. This will be to give employees further time to recover and hopefully return to work. Therefore, sick pay will not be reinstated when absence reaches 12 months.

In other circumstances the Trust has the discretion to extend the period of sick pay on full or half pay beyond the scale set out in the Agenda for Change Terms and Conditions of Service. Requests for extensions to sick pay should be made in writing addressed to the Assistant Chief Operating Officer / Care Group Director or Head of Service for the area where the employee works. On receipt of a request they should seek HR advice. Decisions will be confirmed to the individual in writing.

- Where there is the expectation of a return to work in the short term and an extension would materially support a return and/or assist recovery, particular consideration should be given to those staff without full sick pay entitlements;
- In any other circumstance that the Assistant Chief Operating Officer / Care Group Director or Head of Service deems reasonable.

9.5 Sickness Absence and Annual Leave/Public Holidays

9.5.1 Accruing Annual Leave during Sickness Absence

If you are absent from work because of long term sickness absence you will accrue your full occupational annual leave entitlement (excluding general public holidays) during the first 12 weeks of sickness absence. After this, you will accrue statutory annual leave only, at the

rate of 4.03hours per week (pro-rata for employees contracted for less than 37.5 hours per week).

(For a ready-reckoner demonstrating the effects for staff employed on Agenda for Change terms and conditions of employment please see Appendix C.)

For guidance on how to recalculate annual leave for someone who has been off sick longer than 12 weeks and a number of podcasts refer to the guidance in the Managers Resources Folder: <X:\Workforce\ManagersResources\PODCASTS>

9.5.2 Sickness during Annual Leave

If you become sick during a period of annual leave you can convert your annual leave into sickness absence so long as you report your sickness absence in accordance with your ward/department's sickness reporting procedure. If your sickness absence is 8 calendar days or more you will need a Fit Note or equivalent if overseas which must include the medical practitioners details and patient identifying reference. Failure to follow departmental reporting procedures will result in the annual leave not being reinstated.

If you have pre-booked annual leave that falls during a period of sickness absence your annual leave can be cancelled, unless you wish to take the annual leave, (see section 9.5.4).

- E-Rostering actions a cancellation automatically when sickness absence is entered onto the system. If the individual is taking the leave you will need to manually deduct the number of hours from their entitlement on E-rostering and instruct Pay Services to make a payment for the required hour's annual leave to the individual, (if in half or nil pay)
- Where E-rostering is not utilised employees are advised to discuss this with their manager to ensure their leave record is accurate. The manager should instruct pay services to make a payment for the required number of hour's annual leave, (if the individual is in half or nil pay).

Example 1 – Cancelling the leave

An employee has been off long term sick since April and had already pre-booked 2 weeks' annual leave in May for a holiday abroad. The employee is still off sick when the annual leave should be taken, and is too unwell to go on the planned holiday, therefore the 2 weeks' annual leave will be cancelled and the 2 weeks will be credited back.

9.5.3 Carry-over of annual leave due to Sickness Absence

If you are unable to take your annual leave in the current leave year, it is expected that you will take your reinstated annual leave as soon as possible in the new leave year, and definitely within three months of returning. In the unlikely event that this is not achieved, any leave must be taken within 18 months of the end of the year during which the holiday was accrued. Noting the carry over arrangements in relation to Coronavirus.

N.B. COVID-19 GOVERNMENT AGREEMENT - The government has introduced new temporary statutory rules to deal with COVID-19 pressures. Therefore if you are unable to take your annual leave entitlement due to COVID-19, you can carry over up to 20 days (pro-rated for part-time staff) of annual leave over a two year period into leave years 2021/22 and 2022/23. The following should be noted:

- If you cannot take bank holidays off due to COVID-19, you should use the annual leave at a later date in the current leave year.
- If this is not possible, bank holidays can be included in the 20 days' annual leave that can be carried over.

Managers are encouraged to discuss annual leave with their staff to try and support as much leave as possible to balance the needs of the service with the employee's wellbeing, allowing for rest and recuperation using their annual leave.

Example 2 – Carrying over leave following sickness

An employee goes off sick in December 2019 and returns to work in May 2020. They may have outstanding leave to use from the leave year 2019-20 to use, this needs be used by September 2021, (18 months after the end of the leave year in which it was accrued). As they were off sick for over 12 weeks their entitlement will reduce, see 9.5.1.

9.5.4 Taking annual leave when off sick

If you are off sick and wish to take a holiday (either in the UK or abroad), the Trust requires you to notify your line manager. Once this notification is received, your manager will consider the following factors as to whether your time should be recorded as Sickness Absence (to support and aid your recovery) or as annual leave and accordingly deducted from your leave entitlement. This needs to be a reasonable decision on a case by case basis considering the following factors:

- The distance the individual is planning to travel during the time away and will this be by car, plane etc.
- The individuals physical and mental health, and reason for sickness absence
- The nature of the holiday and if it will be beneficial to the individuals recovery
- Any advice from the individual's GP or Occupational Health
- Is the individual travelling to be cared for by family abroad or has little/no support network in this country or locally, (refer to section 9.5.5)

It does not matter if this holiday was pre-booked prior to the sickness or whilst off sick. Staff should only take holidays during sickness if it is not detrimental to their health or will not hinder their recovery. Annual leave should not be used to cover up sickness absence if you are not fit for work. For consistency and fairness, managers are encouraged to speak to the HR Advisory Team if they are unsure about whether to agree a request or not. Where an employee is dissatisfied with the decision the manager has made, they can seek advice from their Trade Union Representative and refer to the Trust's Grievance Policy.

Example 3a – requesting to take leave to support their recovery - supported

An employee has been off long term sick since April with personal stress and had already pre-booked 2 weeks' annual leave in May for a holiday abroad. The employee is still off sick when the annual leave should be taken, and notifies their manager that they wish to go abroad and will be travelling as they believe it will aid their recovery, their GP supports this. The manager agrees this would support the individual's recovery and agrees for them to be away whilst remaining off sick. If the member of staff is on half or nil pay they will continue to receive this pay unless the individual requests annual leave and therefore the manager will need to instruct pay services to make a payment in lieu of the annual leave and deduct annual leave from their leave entitlement. The sickness episode should remain open.

Example 3b – requesting to take leave to support their recovery – not supported

An employee has had an operation on their ears and is advised not to fly for a period of three weeks following the operation, due to pressure changes when flying. They request to go abroad, travelling by plane during the three weeks when they are recovering. The manager declines this request to be taken as Sickness Absence, as it is not deemed to be beneficial and/or could hinder the individual's recovery. The individual chooses to travel and takes annual leave which is deducted from their annual leave entitlement.

9.5.5 Being away from home during Sickness Absence

You can be away from home for an extended period (normally a period exceeding your

normal weekly days off), however you must notify your manager in advance that you will be away from home. This would normally be for a period of recuperation, either being cared for or supported by a friend/relative. Unless in extenuating circumstances, the Trust would not support this extended period being overseas. For clarity, this is not for taking a holiday either in the UK or abroad, please refer to section 9.5.4.

Your manager will need to explore your reasons for being away from home and discuss arrangements for maintaining regular contact during your absence. It is your responsibility to be available to attend any sickness related meetings during your sick leave. It is also your responsibility to keep in contact with your manager during sick leave. Failure to do so or abusing this policy position could result in sick pay being withheld and/or disciplinary action being taken. In these circumstances annual leave is not deducted from the individual's entitlement.

Example 4 – Being Away from home

An employee lives alone and has had a skiing accident and broken both arms. They are unable to care for themselves on a day to day basis. The employee speaks to their manager and lets them know they are going to stay with family elsewhere in the UK. The employee provides the manager with a contact number and agrees to keep in touch on a regular basis and to an occupational health referral being made, the manager does the review meetings over the phone.

9.5.6 Payment for Annual Leave when off sick

If you are off sick, your employment status will always be 'off sick' until you are fit to return to work. However, please refer to section 9.5.4. Practically this means that once you have notified your manager of the dates and number of hours annual leave you wish to take, these hours are deducted from your leave entitlement and you will receive a payment in lieu for your annual leave (if in receipt of half or nil pay).

Your manager will instruct Pay Services to make a payment to this effect in the next pay period. It is your responsibility to make sure you have fully explored all of your personal financial circumstances (including the effect of a leave payment on any benefits you may be receiving).

9.5.7 Sickness and Public Holidays

If you are off sick on a bank holiday you cannot reclaim that bank holiday entitlement.

9.6 Medical Appointments

Medical Appointments including GP, hospital, consultant and specialist appointments should all be taken in line with the Special Leave Policy (Chapter 8). Disability Leave maybe available to use in certain circumstances, as included in the Special Leave Policy. Reference may also be made to the Health Passport Document.

9.7 Pregnancy Related Absence and Maternity Leave

If an employee is off work ill, or becomes ill, with a pregnancy-related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later.

Sickness absence prior to the last four weeks before the expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate, shall be treated as sickness absence in accordance with this policy.

Odd days of pregnancy-related illness during this period may be disregarded if the employee wishes to continue working till the maternity leave start date previously notified to the Trust.

Employees who are absent from work due to sickness whilst pregnant should still be managed in line with this policy. However, periods of sickness absence relating to the pregnancy should not be counted as absences for the purpose of trigger points. Non pregnancy related sickness absence should be managed as usual in line with this policy.

9.8 Other types of leave

It is recognised that there are times of unexpected family or other difficulties. Employees may have problems that affect their ability to attend work. In such cases claiming sickness absence is not appropriate and would amount to misuse of the policy. SaTH has a range of policies (please refer to the Trust Leave Policy Cluster on the intranet) to provide staff with leave, often at short notice, to deal with personal problems or emergencies. It is advised that employees should discuss such problems and possible options with their line manager to identify support or assistance that can be provided.

10. Returning to Work

10.1 Welcome back /return to work meeting

The welcome back/return to work meeting is an important part of welcoming the employee back to work, updating them on any changes or work matters, discussing any Occupational Health advice, confirming any adjustments and length of this and also if a phased return is appropriate, (if not already discussed/agreed prior to returning).

Depending on the circumstances, it may be helpful for a manager and employee to discuss how they can be supported and reintegrated into the workplace following absence, particular for difficult and/or long periods/episodes of absence. What support (if any is required) will be down to the individual and the manager to agree. Reference should be made to section 13 on Early Interventions.

These informal discussions should take place as soon as possible following any period of sickness absence, regardless of duration. It is recognised that in some circumstances it is not always possible for managers and employees to meet face to face to conduct the return to work discussion. Where this is the case, it would be acceptable to conduct the discussion over the phone. (Refer to Appendix A for Welcome back/Return to Work form). This form should be completed by the manager and signed by both the manager and the employee, with a copy given to the employee and the original kept in the employee's personal file.

The purpose of the discussion is to:

- Welcome the staff member back to work.
- Establish the reason for absence and check that they are well enough to be back at work.
- Where relevant establish what the staff member has done or is doing to become fit for work again and what the manager could reasonably do to support this continuing (e.g. agreeing time off to attend counselling or other treatment in line with the Trust's Special Leave Policy).
- Determine any other support they may need to maintain their health and wellbeing, e.g. completing a wellbeing action plan.
- Update them on any local or corporate information, news, changes to staffing/process/systems etc. that occurred whilst they were absent.

If an individual is able to return to work but is not rostered for duty on that day, e.g. it is their non-working day/day off or they are on annual leave, it is important that they telephone their manager to confirm that they are fit to return to work to ensure that their sickness absence is correctly recorded. Guidance and podcasts are available to support managers in completing effective return to work discussions in the Managers Resources Folder.

10.2 Returning before the Fit Note ends

If an individual finds they are able to return to work sooner than indicated, they should inform their manager as soon as possible so that any cover that has been arranged can be cancelled. Should an individual wish to return to work before the date indicated on their Fit Note, they can choose to do so, providing that:

- It is safe for them to return; and
- They judge that returning early will not have a detrimental effect on their own health.

Where a manager has concerns about an individual's fitness to return to work, they should seek advice from Occupational Health and the HR Team.

10.3 Phased Return to Work / Temporary restrictions/adjustments

Advice will be given by Occupational health as to whether a phased return to work would be beneficial. If this is applicable Occupational Health can advise on the specifics of the phased return which will depend on a number of factors such as the reason for absence, how long the individual has been absent from work, the number of hours they are contracted to work and the type of job they do. The manager will meet/discuss over the phone with the staff member the recommended phased return/adjustments and whether it is possible to accommodate these within the service. It is ultimately the manager's decision on whether any recommended adjustments are reasonable and can be implemented. For further information on adjustments please refer to section 13.1 and also the Work adjustment/ return to work risk assessment form in HS11 Health and Safety Risk Assessment Templates Policy.

Where staff are awaiting or recovering from surgery or other treatments, or are returning to work following a period of long term sickness absence, it may be appropriate for their manager to agree temporary adjustments/restrictions in working arrangements. In reaching their decision, the manager must consider the needs of the individual together with the needs of the service with advice from Occupational Health.

The aim of temporary adjustments is to help the individual fulfil their potential to the extent of their capability for a defined period, normally up to 4 weeks, documented and reviewed using the work adjustment / return to work form. During this arrangement, the individual receives their full contractual pay whilst working differently. During a phased return individuals earning less than the £18,160 threshold should receive an average of their unsocial hours for four weeks.

Adjustments agreed in the run up to impending surgery or other treatment should be aimed at supporting the individual to stay in work in some capacity as opposed to taking sick leave or exacerbating their condition.

Any arrangements agreed should be reviewed after the time period indicated to using the Health and Safety Work Adjustment Risk Assessment form. If the individual is unable to return to full duties after the initial period of adjustments then a referral back to Occupational Health would be recommended and the adjustments reviewed on receipt of the report. An extended phased return to work plan may be facilitated using of some of the individual's annual leave entitlement.

Should it become apparent during a graduated return to work that the individual will be unable to fulfil their full role, the manager must consider all other possible solutions (e.g. permanent adjustments to hours or duties, redeployment into a suitable existing vacancy) to retain the individual in employment with the Trust. If it becomes apparent that the individual will not be able to return to their full role within a reasonable period of time it may be necessary for the manager to consider progressing to a Final Formal Review of the Trust's process for a panel to consider the individuals case including possible termination of employment.

11. Absence Management Procedure

11.1 Trigger Points for discussions

The procedure consists of 3 stages, which are progressive and intended to support staff to understand and achieve an acceptable level of attendance in conjunction with the framework for supportive conversations, the wellbeing wheel and wellbeing action plans.

The procedure requires a review of absence and wellbeing to be undertaken when the following levels of absence are reached that indicate possible unacceptable levels of sickness absence. Managers have the authority to apply a level of discretion in supporting an individual to improve their wellbeing and levels of attendance, please refer to section 4 on Managers discretion.

At all stages managers and employees are encouraged to refer to the Framework for supportive conversations, the wellbeing wheel and wellbeing action plan.

Level of Absence	Action required
2 episodes in a rolling 6 month period or 4 episodes in a 12 month rolling period or any absence greater than 4 weeks or Recognisable patterns/trends of absence <i>If one or more episodes occur within 7 days they may be treated as 1 episode</i>	Informal review – see details in 11.4 set further monitoring for next 12 months
If following an informal review an individual has: 2 episodes in following 6 month period or 4 episodes in the following 12 month period or any on-going absence which exceeds or expected to exceed 8 weeks or Recognisable patterns/trends of absence continues <i>If one or more episodes occur within 7 days they may be treated as 1 episode</i>	Formal review – see details in 11.5 set further monitoring for next 12 months
If following an Formal review an individual has:	Final formal sickness review – see details in 11.6

<p>2 episodes in following 6 month period or 4 episodes in following 12 month period or any on-going absence which exceeds or expected to exceed 20 weeks or Recognisable patterns/trends of absence continues</p> <p><i>If one or more episodes occur within 7 days they may be treated as 1 episode</i></p>	
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11.2 Managing Patterns of Absence

If a manager believes a potential pattern or trend of absence has been identified, they will raise their concerns with the individual at the time they become aware. They will seek to understand the reasons for the potential pattern of absence and utilise any of the support mechanisms at their disposal in order to assist the individual to achieve consistent attendance at work.

If appropriate, the manager may refer the individual to Occupational Health with the individual's consent. If, after this discussion, the manager genuinely believes a pattern has been identified, they will manage the individual in line with the stages set out in this policy. Notes of discussions should be documented in the meeting pro forma or in a file note which is signed by both employee and manager and kept on the individual's personal file.

Examples of patterns could include:

- Absence during planned annual leave (resulting in leave being reinstated).
- Absence prior to or following a period of annual leave, public holidays, rostered days off, study days **or** weekends.
- Absence prior to or following additional hours, bank work or overtime.
- Part day absences where the individual attends work and leaves before the end of their normal working day.
- Absence at the same time each year for example during school holidays, over festive periods, Eid, Christmas, New Year, or birthdays.
- Absence during large sporting events such as the World Cup, Olympics or other event.
- Absence following the end of a monitoring period as set under this policy.

11.3 Absence and Wellbeing Meetings

Using the Framework for supportive conversations, Absence and Wellbeing Meetings should be supportive to employees and identify ways to help employees return to work, improve and maintain their wellbeing and attendance. It is also noted that absence can have a negative impact on colleagues, teams and the delivery of patient care/services. There will be a time when the level of absence will need to progress and a Final formal review will be required after the process in this policy has been followed.

Meetings should be held when an employee has reached a sickness absence trigger (see paragraph 11.1) and/or their line manager has a cause for concern. This maybe where there has been no absence from work but the manager feels it would be beneficial to discuss the employee's wellbeing.

Unless it is impractical to do so, the employee will be given a minimum of 7 calendar days' notice of the date, time and venue of a formal sickness absence meeting, or with their

consent can be done sooner. The meeting will be conducted by the employee's line manager and at formal stages of the process may be attended by a member of the HR Team. The employee has the right to be accompanied at all formal stages of the process, in accordance with paragraph 11.8. No notice is required to be given for informal meetings or discussions although it may be helpful to check with the individual it is a convenient time for the discussion, e.g. at the end of a night shift may not be the best time.

Employees must be available to attend meetings unless agreed otherwise beforehand with the line manager. Not attending without good reason may be treated as misconduct and the meeting may go ahead in the absence of the employee. If the employee or their support is unable to attend at the time specified, they should immediately inform their line manager who will seek to agree an alternative time as soon as reasonable practicable. In the event that either the employee or their representative fails to attend a re-scheduled meeting, a decision will normally be made in their absence based upon the evidence available. The individual will be notified of the outcome in writing.

The individual's triggers will start from:

- Short term absence - the date of their return to work following the episode triggering a review. Or the date they report in as fit if applicable (e.g. staff who work compressed or shifts hours).
- Long term absence - the actual trigger point. For example at 4 weeks for an informal review or when a fit note for 4 weeks has been provided.
- Regular reviews are encouraged and will be used to assess and determine what support or appropriate further action is needed at each stage.

It is important to take account of the length of the individual's sick pay entitlement when setting review dates, and a review should be scheduled before the individual's sick pay reduces or ends. Employees should be made aware of their sick pay dates.

11.4 Informal Review Process

Informal reviews may be carried out face to face or by telephone. Prior to the discussion, the manager will give the employee a copy of the wellbeing wheel for the employee to complete to support the discussion. The employee and manager should discuss the scores of the individual and formulate a wellbeing action plan, included in the framework. The employee should be aware that the conversation is an informal review and informed of the next steps and any reviews of the action plan.

A record of the conversation, including any plans made and targets set to support the individual in improving their attendance at work, must be made on the wellbeing action plan document. Where the information recorded on the action plan and Return to Work Form is not sufficient for this purpose, a specific form or letter may be used – an example format is included in the Managers Resource Folder. A copy of the action plan and targets must be provided for the individual, and a copy retained on their personal file. Where a Return to Work Form is completed after the informal review has taken place, the plans and targets must be reiterated on that form.

11.5 Formal Review Meeting Process

For Formal review meetings these should normally be carried out face to face, with the outcome confirmed in writing. An example format is included in the Managers Resources Folder; managers may also find it helpful to refer to the Framework for supportive conversations in preparing for a Formal Review. A copy of the outcome confirmation must be provided for the individual, who should sign the form to confirm their agreement with the content, and a copy retained on their personal file. It should include any plans and triggers

set to support the individual in improving their attendance at work, as well as the consequences of further sickness absence from work.

Should an individual be unfit to attend review meetings at the workplace, it may be appropriate for a manager to discuss and agree an alternative location with the individual, such as their home or other suitable meeting place.

Staff who return to work from a long-term absence and are subsequently absent again within three months will be managed at the same stage of the procedure as they were being managed at previously.

There can be one or more Formal Review meetings as part of the process. For details of what should be discussed at these meetings please refer to the pro forma on the manager's resources folder and the framework for supportive conversations.

11.6 Final Formal Review Meeting Process

11.6.1 Where the line manager feels that Informal and Formal reviews have been exhausted, and all reasonable options to retain an employee at work with acceptable attendance have been explored, the employee will be invited to a Final Formal Review Meeting. Advice from the HR Team should be sought before taking this decision.

It is appropriate to move to a Final Formal Review where there is either/or:

- No prospect of a return to work in the near future.
- Continued unacceptable levels of attendance.
- No sustained improvement in attendance.
- Patterns of absence continue.
- The individual is unable to fulfil their duties and no other adjustments can be accommodated.

11.6.2 In exceptional circumstances in order to facilitate the wishes of the individual, and only with the express agreement of the individual, the manager may progress directly to Final Formal Review.

11.6.3 The process for a Final Formal Review is outlined in section 11.6.5, the chair of a Final Formal Review will have the Authority to take action as outlined in the table in the Trust Disciplinary Policy, (Table in Appendix 4 of Disciplinary Policy).

11.6.4 It is important that the following actions have been taken before progressing to a Final Formal Review:

- All reasonable efforts have been made to obtain appropriate medical evidence via the Trust's Occupational Health Service, including recent occupational health advice, on the likely outcome of a successful ill health retirement application; (if applicable) and
- All other options should have been considered, including phased return, a return to work with or without adjustments and redeployment into a suitable existing vacancy with or without adjustments in order to return the individual to work or improve their levels of attendance; and
- The employee has been fully consulted and advised of the consequences of their continued inability to attend work regularly.

11.6.5 Process for Final Formal Sickness Review

1. The purpose of the meeting will be:

- To review the meetings that have taken place and matters discussed with the employee along with all paperwork related to the process, an example of a format for this and the minimum information required is included in the Managers Resource folder.
- To consider any further matters that the employee may wish to raise
- To consider whether there is a reasonable likelihood of the employee achieving the desired level of attendance in a reasonable time, taking into account advice from Occupational Health, the employee's absence history, length of service and targets already set
- To make a decision on the employee's contract of employment, which could include termination
- The effect the on-going absence has had / is having on service delivery within the department / ward

2. The Hearing Panel

- 2.1 The formal meeting will be chaired by a manager with authority to dismiss, (see appendix A), or has delegated authority. Where authority is delegated this should be done so in writing prior to the process. They will be supported by a member of the HR team.
- 2.2 The role of the HR representative is to provide support and advice to the Chair (and other members of the panel) and to participate in the hearing and decision-making process, with the chair making the final decision. All members of the panel may ask questions at the hearing and this process will be led by the chair.

3. Exchange of Evidence and Witnesses

- 3.1 The employee will be given reasonable notice of the hearing date and provided with a copy of the management summary and all relevant documentary evidence. This will be as soon as possible but no later than 10 working days prior to the hearing (unless there is an exceptional circumstance).
- 3.2 If the individual intends to rely on any written evidence at the hearing which is not already included in the management evidence, this should normally be presented to the Chair, together with the names of any witnesses to be called and a brief reason for calling them. This will normally be at least 3 working days prior to the hearing.
- 3.3 The Chair of the panel may agree to alternative timescales following discussions with the manager presenting the case at the hearing and the employee or their representative.
- 3.4 It is the responsibility of the chair of the panel to arrange for exchange of documents prior to the hearing.
- 3.5 It will not normally be acceptable for either party to present their written evidence on the day of the hearing. If written evidence is presented, the hearing may be adjourned to allow time for all parties and the panel to consider this evidence. The party presenting the evidence will be expected to explain to the panel the reasons for it not being available in advance of the hearing.

4. The Process

- 4.1 The Chair will open the hearing with introductions and will outline the process to be followed.

- 4.2 The Manager will present their case and summarise the management of the absence and support offered to the employee in relation to their absence. The Manager may be supported in the hearing by a representative from Human Resources.
- 4.3 The employee or their representative may question the Manager.
- 4.4 The Chair and other members of the hearing panel may question the Manager.
- 4.5 The employee or their representative will present their case.
- 4.6 Management may question the individual.
- 4.7 The Chair and HR support may question the individual.
- 4.8 Management will sum-up the case.
- 4.9 The employee or their representative will sum-up their case.
- 4.10 The Chair of the hearing will ask any further questions of either party to resolve any outstanding queries or matters that have arisen during the hearing.
- 4.11 The Chair of the hearing may adjourn the hearing at any time to seek advice or clarification on any matters that remain outstanding, for example if further evidence is required on any issue raised.
- 4.12 Once all evidence has been presented, the panel will adjourn to consider the information and reach a decision.
- 4.13 The Chair will reconvene the meeting, calling back the employee and their representative and the Management representative(s) to inform them of the decision. In many cases, the hearing will reconvene on the same day. In other circumstances, the Chair will inform both parties that more time will be required before a decision can be reached.
- 4.14 On reconvening the panel, the Chair will inform the employee of the decision. Where appropriate, he/she will also inform the employee of the right of appeal.
- 4.15 In all cases the Chair will confirm the outcome of the hearing and, where relevant, of the right of appeal in writing to the employee, with copies to the employee's representative and to the management representative.

5. Attendance

- 5.1 In certain circumstances (e.g. where the employee is not well enough to attend, or has failed to attend previous meetings) and normally with the consent of the individual, it may be appropriate to conduct this meeting in their absence. An individual can nominate a representative or colleague (see section 11.8) to act on their behalf. They must notify the Chair in writing to advise they do not plan to attend and provide written consent of their permission for the representative or colleague to act on their behalf.
- 5.2 If it is necessary to postpone any hearing then another will be arranged by the Trust. Where an employee fails to attend a hearing without reasonable cause notified before the date of the hearing, the hearing will go ahead in their absence and a decision made on the evidence presented.

6. Records

6.1 All hearings will be recorded. With the consent of all parties and written consent of the employee, this will normally be an audio recording using digital recording equipment. The audio recording will only be transcribed if there is an appeal.

7. Possible Outcomes

7.1 Possible outcomes could include return to substantive employment, redeployment into a suitable existing vacancy, extension of a monitoring period or the termination of employment.

7.2 If notice of termination because of capability due to ill health or some other substantial reason is issued, notice will be paid in lieu and the balance of any annual leave entitlement will be paid in the final payment.

11.7 Appeals against Termination of Employment

11.7.1 Employees have a right of appeal against termination of employment. The right shall be stated in the written notice of termination. If an employee wishes to exercise this right, they should write to the designated manager, typically the next level of management, setting out the grounds for appeal no later than 14 calendar days after the receipt of the letter.

11.7.2 The lodging of an appeal will not suspend the notice of dismissal.

11.7.3 The manager hearing the appeal will arrange a meeting - at which the employee will have the right to be accompanied, refer to section 11.8.

11.7.4 Where an individual or their representative cannot attend the appeal meeting, it will be rescheduled to a mutually agreed date as quickly as possible and normally within 14 calendar days of the original date.

11.7.5 In the event that either the employee or their representative fails to attend the re-scheduled meeting, the appeal hearing will proceed in their absence. A decision will be made based upon the evidence available.

11.7.6 The purpose of the appeal panel is not to re-hear the case but to review the decision to dismiss, and to assess whether this was appropriate based on the evidence presented at the formal meeting. The appeal hearing will consider:

- Why the employee considers the decision unfair or unreasonable; and
- The rationale and justification of the decision to dismiss.

11.7.7 Outcome of the appeal could include reinstatement or that the original decision is upheld. The decision of the manager hearing the appeal is the final stage of this policy.

11.7.8 The manager hearing the appeal will confirm the outcome in writing to the employee, with a copy to the employee's representative, normally within 7 calendar days of the hearing.

11.8 Right to be accompanied

The employee has the right to be accompanied by a companion at all formal stages under this policy. The companion may be an accredited representative of a Trade Union / Professional Organisation or colleague employed by the Trust. Family members or partners who are also employed by the Trust are not able to accompany an individual unless they are required to assist with disabilities or language difficulties or any other extenuating circumstances. In exceptional circumstances and with the agreement of the line manager, the employee may attend an informal meeting with their representative or colleague, where this will be beneficial in supporting the employee's wellbeing.

12. Occupational Health

Occupational Health (OH) services provides support by offering professional advice in assisting employees and line managers to prevent potential sickness absence and in returning the employee to work as soon as practicable following sickness absence. They have a dual responsibility to both the employee and the employer and are required to be impartial whilst balancing the needs of the individual against the needs of the organisation-

The Trust are conscious that work is an integral part of life and there is strong evidence to show that work is generally good for physical and mental health and wellbeing and that long periods out of work can have a detrimental impact on an individual's mental and physical health.

The Trust will refer employees to OH for an independent clinical opinion and assessment regarding an individual's health and, as far as possible, seek advice on supporting the individual to undertake their contractual duties and/or suitable alternative duties. The purpose of a referral is to gain an understanding of the health issues affecting the employee's ability to undertake their contractual duties and to ensure that the Trust is offering the employee all appropriate support in this respect. Employees do not need to be absent due to sickness/ill health in order to be referred to OH.

The manager must discuss and agree the referral content with the member of staff prior to making the referral and direct them to the Occupational Health Service Privacy Statement available on the intranet. A copy of the referral form can be made available to the employee, should they wish to receive a copy. As a condition of employment Employees are expected to co-operate with the OH assessment and attend the OH service when asked to do so by their manager. It is essential that the employee attends the occupational health appointment so that management can take informed decisions about them based on accurate and current information on their health.

Failure to attend their appointment may result in the manager making decisions on the employee's employment based on the information available. If an employee is unable to attend an appointment arranged, they must contact their manager in advance to discuss the reasons for being unable to attend. They must then contact Occupational Health directly to ask for this to be rescheduled at the earliest possible opportunity. Referrals should be made via the online Portal however in exceptional circumstances can may be made directly over the phone. Referrals must include as much detail as possible to enable the OH professional to make a clear assessment and offer relevant support and advice, a copy of the job description may assist this process.

Staff may refer themselves to the Trust's OH service at any time on their own health concerns, although they are encouraged to discuss their circumstances with their line manager to ensure that appropriate workplace support can be provided. Self-referral means a report will not be sent to the manager.

The Trust supports managers in making an early referral to OH to support early intervention in the management of health problems adversely affecting work attendance or performance and can facilitate a quicker return to work or assist in offering advice to allow the individual to remain in work and will allow the OH service to signpost early to appropriate support services.

An early referral can prevent acute health issues developing in longer term chronic problems. This would be considered on a case by case basis, particularly for the following reasons for absence:

- Stress or other psychological illnesses
- Musculoskeletal disorders
- Pre-planned surgery

When Managers are making the referral it is really important that they provide as much information as possible about the reasons for referral. The clearer and more relevant the reason behind the referral the better the report and advice from the referral. This may include:

- Absence history
- Any adjustments that have previously been put into place
- Any performance or disciplinary issues.
- Core physical and psychological requirements of the job
- Any specific questions, including them in the referral. The more specific the questions, the more likely the answers will help, for example '*Can X carry out cardiac compressions due to their bad back?*'
- If the referral is related to work related stress it is helpful to include a copy of the stress risk assessment to help OH understand the root causes.

This informed referral will all help to ensure both the Manager and Employee receive an informative report. A video is available to support managers on the Occupational Health pages of the intranet on 'Making an effective referral.'

Management referrals should not be made for needlestick injuries, in these circumstances please follow the process outlined in the Health and Safety Policy: Prevention and management of needlestick injuries.

Occupational Health may provide clearance, where appropriate, for Food Handlers to return to work, please refer to the Food Safety Policy for further information.

13. Early interventions

We encourage managers to have early discussions with staff to help prevent absence or support when an individual has to go off. Please refer to the Framework for supportive conversations document.

In addition to Occupational Health, the Trust uses a number of supportive measures to try and support staff during periods of ill health, whilst either remaining at work or during absence from work. These include:

Care First Employee Assistance Programme - The Trust provides an Employee Assistance Programme (EAP) named Care First. This is a 24-hour, 7 days per week service available to all staff and their immediate family. The EAP provides a completely independent, confidential and off-site professional counselling and advice service which provides information regarding legal, financial and work issues. Leaflets are readily available at employee's place of work, or further information can be obtained on the Trusts intranet. Please call **0800 174319** to access the service. http://intranet.sath.nhs.uk/hr/Counselling_support.asp

Fast Track Physiotherapy - The service is available to all staff who are suffering from muscle or joint pain allowing staff to self-refer for Physiotherapy. You will be contacted within 2 days of your referral and offered an appointment within 2 weeks. For more information please visit <http://intranet/therapy/physiotherapy/Fasttrackphysio.asp>

Shift Your Stress - Five weeks intervention based on CBT. This is a self-managed therapeutic intervention that is focussed on the development of psychological resilience. For more information please visit http://intranet/library_intranet/documents/hr/h&w/stressposter.pdf

Resilience Videos - Resilience is our ability to deal with, and recover from, difficult times. It's about how we cope with challenging situations and manage stress so that we can emerge stronger and wiser. These short e-learning videos looks at four different ways to build your resilience and bounce back when things go wrong: <X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Support>

Local and National Support Groups - The Trust has put together a list of national and local support groups including, domestic abuse, debt advice and mental health/behaviour support. The list can be found on this page <X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Support\National and Local Support Groups.pdf>

Mental Health Champions - Mental Health Champions are a point of contact if you, or someone you are concerned about, are experiencing a mental health issue or emotional distress. They are not therapists or psychiatrists but they can give you initial support and signpost you to appropriate help if required. For a list of Mental Health Champions visit http://intranet/Library Intranet/documents/HR/H&W/H&W_new/Mental%20Health%20Champions.pdf

Mindfulness - The Trust runs a one day and eight-week structured stress reduction mindfulness programme to alleviate the suffering associated with stress and anxiety. You can book onto these directly via the Training Diary. <https://sathtrainingdiary/SelectCourse.aspx>

Peer 2 Peer - We have trained a group of staff from across our two hospitals as volunteer listeners to support other colleagues. Volunteers are trained to provide confidential, non-judgemental, peer support; signposting to other agencies. <http://intranet/hr/p2p.asp>

Coaching - The Trust has a number of coaches throughout the organisation. If you are looking for a coach to help you work through some current issues and challenges please visit: <http://intranet.sath.nhs.uk/learning/CoachingandMentoring.asp>

Workstation Assessment - You can request a work station assessment, more information can be found here http://intranet/health/display_screen_equipment.asp

Moving and Handling Risk Assessment / Training - It's important that all of us have the right skills in order for us to do our jobs as effectively and safely as possible, as such the Moving and Handling Training is delivered as part of statutory training for all staff. Training courses are listed on the Training Diary here <https://sathtrainingdiary/SelectCourse.aspx> There is also some Advice for supporting and managing individuals who are struggling with manual handling tasks available on the Managers Resources Folder: <X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Supporting and managing individuals struggling with manual handling tasks.docx>

Stress Risk Assessment - It's important that we take all reasonably practicable measures to protect the health, safety and welfare of our staff at work. The Stress Risk Assessment process allows for the assessment of the causes of work-related stress and the introduction of prevention and control measures. For more information click here http://intranet/health/stress_at_work.asp

13.1 Other supportive measures to consider

- **Permanent Redeployment** - enabling the retention of staff unable to do their own job through ill health or injury as an alternative to ill health retirement or termination. Staff should be made aware of the provisions within the NHS Pension scheme to assist this process through “step down and wind down” arrangements. Temporary or permanent redeployment to another role internally. This would be following the advice from Occupational Health.
The redeployment process is detailed in the Trust Guide to Managing Alternative Employment (available on request/intranet)
- **Phased return**- enabling staff to work towards fulfilling all their duties and responsibilities within a defined and appropriate time period, whilst receiving their normal pay, (see section

10.3).

- **Adjustments** - Temporary reasonable adjustments to enable the individual to return to/stay in work and/or prevent absence continuing, (for example, a reduction in hours, restricting certain duties/responsibilities/temporary redeployment/change in location/site of work). These would vary by role, person and department as the service can accommodate. Applications not part of a graduated return or permanent changes will need to be requested using the Trust's Flexible Working Policy.
- **Permanent adjustments** – these should only be implemented after seeking advice from Occupational Health and discussing with the Senior Manager to ensure a permanent adjustment is reasonable for the needs of the service. Agreed permanent adjustments should be documented using the Health Passport document available on the Managers Resources Folder with a copy signed by and given to the individual and a copy placed on the personal file.

13.2 Local and National Support available on the intranet

There is a wealth of local and National Support groups available to staff, for a full up to date list, please refer to the [manager's resources folder](#) or [Health and Wellbeing Intranet Pages](#).

14. Disabilities and Equality Act 2010

Where an individual has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities, the management of their absence may fall within the scope of equality legislation. This legislation protects individuals against discrimination on the grounds of their disability and the Trust has a legal obligation to accommodate their disability as far as is reasonable, considering adjustments and removing barriers as far as possible to enable them to do their role, see section 13.1 on adjustments and the Health Passport Document on the Managers Resources Folder.

Generally, conditions falling within the scope of the legislation must:

- Affect an individual's everyday living activities, whether affecting their ability to perform their normal work duties or not.
- Have lasted for at least 12 months or be likely to last for the rest of the affected person's life.

An individual may still be considered to have an impairment if the condition goes into remission but is likely to recur. Additionally, a condition which is controlled or treated by medication or physical aids is still considered to be on-going if the absence of measures is likely to lead to a recurrence of symptoms.

14.1 Support for staff with disabilities and long term health conditions

One of the key provisions of the Equality Act 2010 for staff with a disability is to make reasonable adjustments to assist them in mitigating against the adverse effects of their disability in performing their role.

Any staff member with an underlying health condition or disability should be referred to OH for their advice regarding any potential adjustments that may need to be made to enable the staff member to carry out their role effectively, improve attendance and/or return to work. This may occur at commencement of employment or at any other time the Trust becomes aware of a staff member's health condition or disability.

The manager should discuss OH recommendations with the staff member, completing the Health Passport together and also consider adjustments suggested by the staff member themselves. Managers should consider adjustments in conjunction with the requirements of

the service but must not unreasonably refuse to implement them and HR advice should be sought.

Reasonable adjustments that may be appropriate include:

- Allowing reasonable paid time off for hospital appointments, counselling or other treatment, or to have disability aids such as wheelchairs or hearing aids repaired/maintained (see Disability Leave available through the Trust's Special Leave Policy),
- Delaying formal management under this policy to allow for reasonable adjustments to be put in place
- Flexing the targets to be met during monitoring periods. This should be set as a reasonable achievable target with reference to the staff member's absence record
- Agreeing temporary or permanent adjustments to hours or duties.

In order to access the support available to staff they should bring any underlying health condition or disability to the Trust's attention which they believe may affect their attendance or ability to perform their duties, either through their line manager, HR or OH.

Where it is identified that a staff member is unable to carry out the full duties of their role or attend work regularly due to a disability, reasonable adjustments to the role should be considered as above. Further support can also be accessed through the Government-funded programmes, including Access to Work, which aims to help disabled people stay in work.

If it has not been possible to make any recommended adjustments to the existing role or following adjustments the staff member is still unable to effectively carry out the amended duties or attend work regularly, redeployment opportunities should be considered. Redeployment should be explored in conjunction with HR, the staff member, the manager and OH and in line with the process outlined in the Trust Guide to Managing Alternative Employment.

15. Gastroenteritis

Where staff develop gastroenteritis, even though they might feel better after the initial period of illness has passed NHS Choices health advice states that individuals may remain infectious for up to 48 hours after symptoms stop. This being the case, the entire period of absence from work will be defined as sickness absence.

Food Safety have produced a flowchart which should be referred to by Managers and Employees to assess if Food Handlers have appropriate symptoms or clearance to return to work, available in the manager resources folder. Where a Food Handler has absence related to Diarrhoea and/or vomiting they are advised to refer to the Food Safety Policy.

16. Work related injury and Injury Allowance

Section 22 of the NHS Terms and Conditions of service Handbook outlines the entitlement and payment of injury allowance. Where an employee is absent due to an accident or physical/psychological injury or having contracted a disease attributable to NHS employment, a DATIX form must be completed as soon as possible following the event and the Health and Safety Team notified. The individual should have notified the Manager at the commencement of the episode that the reason was due to a work related injury or illness. If absence is wholly or mainly attributed to their duties they may be entitled to apply for Injury Allowance. Please refer to the Injury Allowance Process.

Where a physical injury at work results in absence lasting seven days or more (whether immediately or sometime after the event), or where it is linked to an occupational disease, the incident must be reported to the Health and Safety Executive under RIDDOR regulations (please see Trust policy Health and Safety Incident Reporting and Investigation Policy). Further advice is available from the Health & Safety team.

Absence following a work related injury will be managed under this policy; however, the line manager may apply discretion with regards to progressing to the next stage of the policy as appropriate.

17. Ill Health Retirement

During the management of an individual's sickness absence, a decision may be taken to terminate their employment on the grounds of incapability independently of any application they may have made to the NHS Pension Scheme for ill health retirement.

Where an individual's ill-health retirement application is successful and they choose to take Ill Health Retirement, this will be treated as a resignation by the employee and therefore there will be no entitlement to notice pay or pay in lieu of notice. At this point, as this is a resignation the employee will discuss and agree a date of termination with their manager. Any other outstanding payments due to the employee, such as outstanding annual leave, will be paid in accordance with the Terms and Conditions of Service.

Please refer to the separate process for Ill Health Retirement. If an employee wishes to seek advice regarding continuing to work on receipt of a successful tier 1 application please speak to the Trust's Pension Team.

18. Training

There is no mandatory training associated with this policy. If staff have queries about its operation, they should contact their line manager in the first instance. Managers should ensure they are familiar with the policy and competent to support and manage a member of staff under this policy. Podcasts are available to view in the manager's resources folder. Managers and Employees can contact Human Resources for advice and guidance on the implementation of this policy. Support will also be provided by the HR Team on a case by case basis. Training will be run periodically and is bookable via the Training Diary.

19. Review

The Trust will review this policy when there are changes to the Agenda for Change Terms and Conditions Handbook, relevant legislation or good practice, or within the normal policy review cycle, i.e. 5 years. This version of the policy will be reviewed 12 months after ratification.

In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the policy having to return to the ratifying committee.

20. Equality Impact Assessment (EQIA)

This policy applies to all employees equally and has no negative impact on the protective characteristics within the Equality Act (2010). The Trust is supportive of those with disabilities and will make all reasonable adjustments to support them.

21. Standards of Business Conduct

The Trust follows good NHS Business practice as outlined in the Anti-Bribery and Fraud Policy and has robust controls in place to prevent bribery. Due consideration has been given to the Bribery Act 2010 in the review of this policy document and no specific risks were identified.

22. Process for monitoring compliance of policy

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
That the policy document complies with statutory requirements and good practice in the management of sickness absence.	Review of policy when updated	Workforce Director	On policy review	JNCC Policies
Reporting Arrangements	Monthly sickness absence reports	ESR Team	Monthly Annual report	JNCC, Workforce Committee, Senior Leadership Team, Trust Board

23. References

23.1 Legislation

Equality Act 2010 (as amended)
Employment Act 1996

23.2 Other References

Agenda for Change Terms and Conditions handbook. Available from:

http://intranet/hr/Non_Medical_Staff_Terms_and_Conditions.asp

Health and Safety Executive requirements on Reportable Incidents. Available from:
<http://www.hse.gov.uk/riddor/reportable-incidents.htm>

24. Associated Documentation

Please refer to the front cover of this policy to the main associated policies/documents and also the following:

Equality and Diversity Policy
Handling Concerns About Doctors and Dentists Conduct and Capability
Alcohol and Substance Misuse Policy
Disciplinary Policy
Employee Performance Management Policy and Procedure
Leave Cluster (includes Annual leave, Maternity Leave and Special Leave)
Employee Investigations Policy
Flexible Working Policy
Ill Health Retirement Process and Guidance
Injury Benefits Process
Maintaining Personal Files and Electronic Staff Records
Guidance for Managing Alternative Employment
HS01 Health and Safety policy
HS02 Health and Safety Incident Reporting and Investigation Policy
HS08 Safe Moving and Handling Policy
HS11 Health and Safety Risk Assessment Templates
HS12 Stress Management Policy and Risk Assessment Procedure
Infection Prevention & Control Policy: Norovirus
Infection Prevention & Control Policy: Diarrhoea &/or Vomiting: Management of Infected Patients and Staff
Infection Prevention & Control Policy: Management of Infections in Staff
Prevention and Management of Needlestick Injuries
Food Safety Policy: http://intranet/Facilities_Department/Part_A.asp
Code of Practice and Procedure No. 1: Reporting and Notification of Conditions of Illness – Employment Practices: http://intranet/Facilities_Department/Part_B.asp
Injury Allowance – A Guide for Employers. Available from <http://www.nhsemployers.org/-/media/Employers/Publications/injury-allowance-employers-guide.pdf?la=en&hash=AFCDDBED18A4F1E5F98BFCBAA7F6DC3D2CCB5243>
Health Passport: <X:\Workforce\ManagersResources\Managing Employee Health and Wellbeing Policy>
Wellbeing Wheel: <X:\Workforce\ManagersResources\Managing Employee Health and Wellbeing Policy>
Mind Wellness Action Plan and Guidance for Employees and Managers: <X:\Workforce\ManagersResources\Managing Employee Health and Wellbeing Policy> Framework for Supportive Conversations: <X:\Workforce\ManagersResources\Managing Employee Health and Wellbeing Policy>
Creating a Healthy Workplace: <X:\Workforce\ManagersResources\Managing Employee Health and Wellbeing Policy>
Domestic Abuse Guidance: <X:\Workforce\ManagersResources\OTHER USEFUL INFORMATION\181019 Domestic Abuse Guidelines.docx>
National and Local Support Groups: <X:\Workforce\ManagersResources\HR31 - Managing Attendance & Employee Wellbeing\National and Local Support Groups.pdf>
Line Managers guide on Mental Health: <X:\Workforce\ManagersResources\HR31 - Managing Attendance & Employee Wellbeing\Line Managers Guide to Mental Health in the Workplace.pdf>
Access to work: <X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Other Absence Related Information\Reemploy-Access to Work Contact Details.doc>
Annual Leave and public holiday ready reckoner and examples: <X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\2019.03.21 Sickness and Public Holidays info FV.pdf>
Risk Assessment for Food Handlers: <X:\Workforce\ManagersResources\Managing Attendance &>

[Employee Wellbeing\Food Handler Risk Assessment and Process when D&V Symptoms](#)
Access to work Mental Health Support Service: [X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Support\Access To Work - Employee Leaflet.pdf](#)

Podcasts:

How to...complete a Return to Work Interview:

[X:\Workforce\ManagersResources\PODCASTS\Sickness Podcasts\How to... Complete a Return to Work Interview.wmv](#)

How to...Manage long term sickness: [X:\Workforce\ManagersResources\PODCASTS\Sickness Podcasts\How to... Manage Long Term Sickness.mp4](#)

How to...Manage short term sickness: [X:\Workforce\ManagersResources\PODCASTS\Sickness Podcasts\How to... Manage Short Term Sickness.mp4](#)

How to...Take a sickness phone call: [X:\Workforce\ManagersResources\PODCASTS\Sickness Podcasts\How to... Take a Sickness Phone Call.wmv](#)

Appendix A – Return to Work form Welcome back meeting

To be completed for EVERY episode of sickness absence, including part days. For absences of up to 7 calendar days, this form will also act as the self-certification form. For absences of 7 calendar days or more, the member of staff must also provide Statement of Fitness for Work (Fit Note).

Part 1 – To be completed when the employee first reports their sickness absence

Name:					
Job Title:			Ward/ Department:		
Absence reported to:		Time:		Date:	
Reason for absence: (list symptoms <u>and</u> causes)					
First day of illness:			First day of absence:		
If the employee attended work, what time did they leave			What shift were they working:		
Adjustments considered to allow the employee to attend work if appropriate (e.g. reduced shift length, alternative duties, alternative work location)					
Date of expected return to work:					
Agreed method and frequency of contact:					
Early interventions to discuss during initial phone call (refer immediately if required): <ul style="list-style-type: none"> • <i>Occupational Health (for stress absence, if work related stress, also consider completion of a stress risk assessment)</i> • <i>Fast-Track Physio for MSK – referral form via link below: (http://intranet.sath.nhs.uk/therapy/physiotherapy/Fasttrackphysio.asp)</i> • <i>Care First Employee Assistance programme (0800 174319) www.carefirst-lifestyle.co.uk (username: sath pw: employee)</i> 			Occupational Health	Yes / No / Declined	
			Fast-Track Physio	Yes / No / Declined	
			Care First EAP (self referral)	Yes / No / Declined	
Does the employee hold additional employment either inside or outside the Trust?			YES / NO If yes, is it appropriate for the employee to undertake work in other post? Add details		
If diarrhoea/vomiting have IPC confirmed outbreak on ward/department at the time of absence?			Yes / No		
Additional Notes / Comments:					

Part 2 – To be completed when the employee returns to work

Last day of illness:		Return to Work Date:	
Total number of working days of absence for this episode: (if over 7 calendar days fit note required)			
Does the employee believe the absence is the result of an injury at work, or work-related accident or illness?		Yes / No If no, move to summary below	
Datix No:		Reported to HSE under RIDDOR	Yes / No
Is the absence the result of an accident where damages may be claimed from a third party (e.g. road traffic accident, professional sport injury)?		Yes / No (If yes, please give further details and notify pay services)	
<p>Food Handlers: if the employee is classed as a Food Handlers (directly touches surfaces that food is handled) – Please refer to IPC flowchart and complete risk assessment in completing their welcome back meeting: X:\Workforce\ManagersResources\Managing Attendance & Employee Wellbeing\Food Handler Risk Assessment and Process when D&V Symptoms</p>			

Summary of Sickness Absence in Previous 12 Months

Dates of Absence	No. working days/shifts:	Reasons for absence:	Stage of Procedure / Pattern Identified (if applicable)

To be completed if the individual has triggered a stage of the sickness absence procedure, *(please refer to the wellbeing wheel and Framework for Supportive Conversations on the Managers Resources Folder or Intranet)*

Already in a monitoring period?	Yes / No	Stage:	Informal/Formal	Date Discussion took place:	
Does this episode trigger a review?	Yes / No	Start Date of targets (day of return):		End Date of targets:	
If attendance at work does not improve, the individual will reach the trigger point for the next Stage once the following number of episodes is reached:					Episodes AND/OR

AND/OR

The individual will reach the trigger point for the next Stage if the following pattern of absence continues:	
--	--

Next steps for supporting individual wellbeing and improving attendance

Individual given copy of wellbeing wheel for completion prior to meeting	Yes - Date given: Not applicable
Discussion arranged to review wellbeing wheel and action plan.	Yes - Date for meeting: Not Applicable
Referrals required to Occupational Health or Fast Track Physiotherapy? Is a stress risk assessment required?	Yes / No If yes, provide details
Individual provided with details of support agencies they may approach (e.g. Care First EAP, Disability Employment Advisory Service, Job Centre Plus, Remploy, Access to Work, Moodzone, MIND etc.)	Yes / No If yes, provide details
<i>If there is a likelihood that the condition will recur, require further treatment or become part of an ongoing health condition, please detail the agreed support arrangements in the wellbeing action plan and agree a date for reviewing this with the individual.</i>	
Additional Notes / Comments:	

Employee Declaration

I certify that I have been unable to work during the above period due to sickness that I am now fit for work and the content of this form is an accurate account of the welcome back meeting.			
Signature:		Date:	

Manager Confirmation

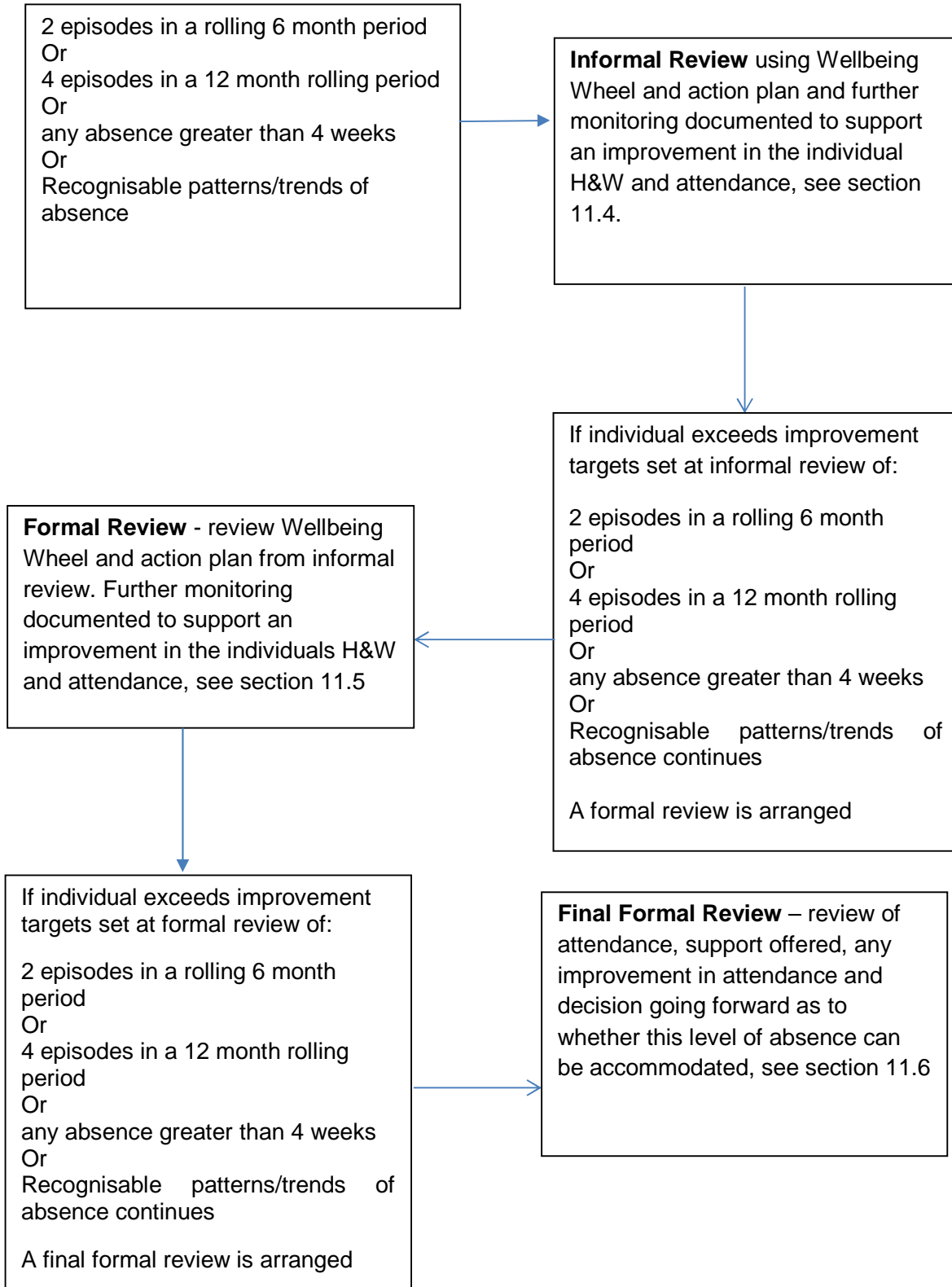
I certify that this form represents an accurate account of the welcome back meeting.			
Manager Signature:		Date:	
Absence opened and closed on ESR / E-Rostering (tick box and date when complete)			

Please retain this form on the personal file. If new targets at Informal or Formal stage have been set, a copy MUST be given to the employee.

Appendix B – Process on a page Flowchart

N.B. Managers discretion can apply at all stages of the process and regular wellbeing discussions are encouraged to support employees to improve their own health, wellbeing and attendance at work.

If one or more episodes occur within 7 days they may be treated as 1 episode



Appendix C - Annual Leave Entitlement Ready Reckoner after 12 weeks Sickness

	First 12 weeks of sickness			Over 12 weeks of absence	Leave accrued per public holiday (in hours)
	Entitlement below shows contractual leave accrued per week (in hours) This figure can be used for calculating entitlement prior to sickness, on return and during first 12 weeks of absence				
Weekly Basic Contracted Hours	On Appointment	After 5 Years' Service	After 10 Years' Service	Statutory leave per week (in hours)	
37.5	3.88	4.17	4.75	4.03	7.50
37	3.84	4.12	4.69	3.97	7.44
36.5	3.79	4.07	4.62	3.92	7.31
36	3.73	4.01	4.56	3.87	7.25
35.5	3.68	3.95	4.50	3.81	7.13
35	3.62	3.89	4.43	3.76	7.00
34.5	3.58	3.85	4.37	3.71	6.94
34	3.53	3.79	4.31	3.65	6.81
33.5	3.47	3.73	4.25	3.60	6.75
33	3.42	3.67	4.18	3.54	6.63
32.5	3.37	3.62	4.11	3.49	6.50
32	3.32	3.57	4.06	3.44	6.44
31.5	3.27	3.51	3.99	3.38	6.31
31	3.21	3.45	3.93	3.33	6.25
30.5	3.16	3.39	3.86	3.28	6.13
30	3.11	3.34	3.80	3.22	6.00
29.5	3.06	3.29	3.74	3.17	5.94
29	3.01	3.23	3.67	3.11	5.81
28.5	2.95	3.17	3.62	3.06	5.75
28	2.91	3.12	3.55	3.01	5.63
27.5	2.85	3.06	3.48	2.95	5.50
27	2.80	3.01	3.42	2.90	5.44
26.5	2.75	2.95	3.36	2.85	5.31
26	2.69	2.90	3.30	2.79	5.25
25.5	2.65	2.84	3.23	2.74	5.13
25	2.59	2.78	3.16	2.69	5.00
24.5	2.54	2.73	3.11	2.63	4.94
24	2.49	2.68	3.04	2.58	4.81

	First 12 weeks of sickness			Over 12 weeks of absence	Leave accrued per public holiday (in hours)
	Entitlement below shows contractual leave accrued per week (in hours) This figure can be used for calculating entitlement prior to sickness, on return and during first 12 weeks of absence				
Weekly Basic Contracted Hours	On Appointment	After 5 Years' Service	After 10 Years' Service	Statutory leave per week (in hours)	
23	2.39	2.56	2.92	2.47	4.63
22.5	2.33	2.50	2.85	2.42	4.50
22	2.28	2.45	2.79	2.36	4.44
21.5	2.23	2.40	2.72	2.31	4.31
21	2.18	2.34	2.67	2.26	4.25
20.5	2.13	2.28	2.60	2.20	4.00
20	2.07	2.22	2.53	2.15	4.00
19.5	2.02	2.18	2.47	2.09	3.94
19	1.98	2.12	2.41	2.04	3.81
18.5	1.92	2.06	2.35	1.99	3.75
18	1.87	2.00	2.28	1.93	3.63
17.5	1.81	1.95	2.22	1.88	3.50
17	1.76	1.90	2.16	1.83	3.44
16.5	1.72	1.84	2.09	1.77	3.31
16	1.66	1.78	2.03	1.72	3.25
15.5	1.61	1.73	1.97	1.66	3.13
15	1.55	1.67	1.90	1.61	3.00
14.5	1.51	1.62	1.84	1.56	2.94
14	1.46	1.56	1.77	1.50	2.81
13.5	1.40	1.51	1.72	1.45	2.75
13	1.35	1.45	1.65	1.40	2.63
12.5	1.29	1.39	1.58	1.34	2.50
12	1.25	1.34	1.52	1.29	2.44
11.5	1.20	1.29	1.46	1.24	2.31
11	1.14	1.23	1.40	1.18	2.25
10.5	1.09	1.17	1.33	1.13	2.13
10	1.04	1.11	1.27	1.07	2.00
9.5	0.99	1.06	1.21	1.02	1.94
9	0.94	1.01	1.14	0.97	1.81
8.5	0.88	0.95	1.08	0.91	1.75
8	0.83	0.89	1.02	0.86	1.63
7.5	0.78	0.83	0.95	0.81	1.50
7	0.73	0.79	0.89	0.75	1.44

	First 12 weeks of sickness			Over 12 weeks of absence	Leave accrued per public holiday (in hours)
	Entitlement below shows contractual leave accrued per week (in hours) This figure can be used for calculating entitlement prior to sickness, on return and during first 12 weeks of absence				
Weekly Basic Contracted Hours	On Appointment	After 5 Years' Service	After 10 Years' Service	Statutory leave per week (in hours)	
6.5	0.68	0.73	0.82	0.70	1.31
6	0.62	0.67	0.77	0.64	1.25
5.5	0.58	0.61	0.70	0.59	1.13
5	0.52	0.56	0.63	0.54	1.00
4.5	0.47	0.51	0.58	0.48	0.94
4	0.42	0.45	0.51	0.43	0.81
3.5	0.36	0.39	0.45	0.38	0.75
3	0.32	0.34	0.38	0.32	0.63
2.5	0.26	0.28	0.32	0.27	0.50
2	0.21	0.23	0.26	0.21	0.44
1.5	0.16	0.17	0.19	0.16	0.31
1	0.11	0.12	0.13	0.11	0.25
0.5	0.06	0.06	0.07	0.05	0.13



Our Vision To provide excellent care
for the communities we serve



Resolving Bullying & Harassment Policy

Human Resources Policy No W4

Additionally refer to: Development & Training Support
Disciplinary Policy
Employee Investigations Policy
Equality & Diversity
Freedom to Speak Up: Raising Concerns (Whistleblowing)
Grievances and Disputes
Violence and Aggression Policy

Version:	V3.2
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Date approved	February 2021
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Document lead	HR Team Manager
Lead Director	Workforce Director
Date issued:	March 2021
Date of Next Review	March 2024
Target audience:	All staff, managers

Resolving Bullying & Harassment Policy

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Version history

Version	Date	Author	Status	Comment
1	Aug 08	Sara Hayes	Final	
2.0	Aug 11	Sara Hayes	Draft	Updated Amendment to Job Titles following organisational restructure
2.1	Oct 11	Sara Hayes	Draft	Amendments to sections 8, 9 and 10 following feedback Addition of policy statement, references, and associated documentation
2.2	Oct 11	Sara Hayes	Draft	Amendments to sections 8 and 9 following TNCC
2.3	Nov 11	Sara Hayes	Final	Further amendments to sections 8 and 9 following TNCC
2.4	Feb 12	Bridget Chambers	Draft	Further amendments to sections 2.6, 4.2,11,14,15,16,17, Appendix A following TNCC Review date for Board review updated to Nov 2014
2.5	April 12	Bridget Chambers	FINAL	Further amendments to sections 2.6, 6.2,8.3,11.1,11.2,14.1, appendix A & B
3.1	May 19	Nick Dowd	Draft	Changed policy title from "Dignity at Work" and number from HR45 to W4. Re-written policy with focus on early resolution.
3.2	Jan 20	Nick Dowd	FINAL	Added appendices and finalised wording following discussion with staff side.

Resolving Bullying & Harassment Policy

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Policy on a Page

The policy provides information for employees about the type of behaviour that is unacceptable and a range of supportive mechanisms for those who believe they are recipients of bullying or harassment to raise concerns and seek resolution.

The Trust recognizes that it has a responsibility to protect employees from bullying and harassment at work by other members of staff, the public, contractors, service users and patients.

The aim of the policy is to encourage positive behaviour at work, to provide support to staff suffering from bullying and/or harassment and to outline a clear process for resolving issues.

The Trust's process has 3 parts: Challenge It, Share It, Resolve It.

Challenge It - Politely tell colleagues when you think they're not behaving appropriately

Share It – Talk about it, get some help and support, report serious concerns

Resolve It – Work with others to resolve problems

Appendix C contains a list of various methods to resolve issues and get support.

1 Policy Statement

This policy outlines the processes in place for staff affected by dignity at work issues and the support available for them. It outlines the steps to follow and provides guidance for the management of such issues.

2 Introduction

2.1 The Trust believes that all employees have a right to be treated with dignity and respect at work and recognises that bullying and harassment is an inappropriate and unacceptable form of behaviour that causes stress at work and will not be tolerated under any circumstance.

2.2 To prevent bullying and harassment, the Trust takes a number of steps:

- Having clear Trust Values that are well known within the Trust
- Values Based Recruitment, to ensure we are employing people who meet the Values of the Trust
- Providing Values Based Conversations training and other leadership training to promote supportive conversations
- Creating a culture where reporting concerns about behaviour is normal, by providing a number of methods to report poor behaviour
- Having processes that encourage informal and timely resolution of concerns
- Carrying out a formal investigation and taking appropriate action when serious concerns are raised or there is evidence of repeated poor behaviour.

3 Scope

3.1 This policy applies to all employees and workers engaged through the Temporary Staffing Department.

3.2 Students, trainees, agency staff and contractors are also expected to adhere to the Trust values and any concerns will be referred to the relevant employer and, where appropriate, the individual may be removed from working within the Trust.

3.3 All staff will be treated fairly in accordance with the Trust's Equality and Diversity Policy. Attention should be paid to ensuring the policy is understood when using it for staff new to the NHS or Trust; by staff whose literacy or use of English is weak or for persons with little experience of working life.

4 Definitions

4.1 Bullying

4.1.1 Bullying can be described as behaviour that is unwelcome, unwarranted and causes a detrimental effect (see section 6).

4.1.2 For clarity, the Trust considers the behaviours below as bullying, but this list is not exhaustive and there may be occasions where there is disagreement over what is bullying and what isn't.

- insulting someone by word or behaviour either in person or via email, text, social media etc.

Resolving Bullying & Harassment Policy

- spreading malicious rumours
- making critical comments about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – including touching, standing too close, displaying offensive materials, sexual comments
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

4.2 Harassment

4.2.1 Behaviours of harassment are similar to bullying, but it is defined as harassment where the behaviours are relevant to a protected characteristic within the Equality Act 2010. The protected characteristics are:

- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.
- disability

4.2.2 Appendix A provides more detailed definitions of harassment associated with sex, culture and disabilities.

4.3 Victimisation

4.3.1 Victimisation under this policy is where an individual is treated less favourably because they have, or are believed to have, made a complaint, assisted in bringing a complaint or been involved in the investigatory or decision making process regarding a complaint. The Trust will ensure that complaints of victimisation are dealt with appropriately.

4.4 Line Manager

4.4.1 In this policy the term 'line manager' is sometimes used to describe the person whom a concern has been shared with. This will not always be the line manager (e.g. in circumstances where the line manager is the alleged perpetrator) and could be any of those listed in section 7.2.

5 Responsibilities

5.1 Trust Board

5.1.1 To oversee the policy and ensure that managers take appropriate action to prevent and to deal with instances of bullying and harassment promptly and affectively.

5.2 Managers

5.2.1 All Managers are responsible for the implementation of this policy and supporting any staff who report concerns. Support and guidance may be sought from Human Resources.

5.2.2 In order to promote a positive working environment all Managers should:

Resolving Bullying & Harassment Policy

- Conduct themselves in a way which does not intimidate or cause offence or embarrassment to others, and to be aware of behaviours which may cause offence, even if unintentional
- Promote awareness that bullying and harassment will not be tolerated
- Take all reasonable steps to ensure that bullying and harassment does not occur in their ward/department
- Treat all complaints of bullying and harassment seriously, sensitively, fairly and confidentially and ensure complaints are dealt with promptly.

5.3 Employees

5.3.1 It is the responsibility of all employees:

- To conduct themselves in a way which does not intimidate, cause offence or embarrassment to others, and to be aware of behaviours which may cause offence, even if unintentional
- To conduct themselves in a way that adheres to the behavioural standards/agreement developed using the Trust Values: http://intranet.sath.nhs.uk/Library_Intranet/documents/HR/Values/values.pdf
- To help promote a working environment in which the dignity of employees is respected
- To discourage bullying or harassment by making it clear that they find such behaviour unacceptable and to report any concerns in accordance with this policy
- To offer to support colleagues who suffer such treatment, encouraging them to raise concerns in accordance with this policy and to report incidents of bullying or harassment as appropriate

5.4 Workforce Directorate

5.4.1 The Workforce Directorate is responsible for:

- providing support and guidance to staff and managers on the implementation and application of this policy
- monitoring the application of this policy and updating it as required.

6 General Principles

- 6.1 It is for the recipient to define what they consider to be inappropriate behaviour. Whether the behaviour is intentional or not, is irrelevant, the key point is that it is viewed as unacceptable by the recipient. On becoming aware of the impact of their actions on others, it is expected that staff will adjust their behaviours to prevent causing further offence.
- 6.2 Appropriately conducted and justifiable management of an employee's behaviour or job performance does not constitute bullying or harassment.
- 6.3 If you observe another employee suffering from bullying or harassment, you are encouraged to discuss it with them and support them in reporting it. You may take action on their behalf by raising the issue with an appropriate manager or someone listed in section 7.2.
- 6.4 No individual who raises a legitimate concern will be victimised if the concern is later found to be incorrect.
- 6.5 All discussions and resolutions should remain confidential.
- 6.6 Staff may seek appropriate advice and support from their colleagues. However, involving too many people in the matter could make it more difficult to resolve and staff should be careful not to create divisions within their team.

7. The Trust Approach to Resolving Bullying and Harassment Concerns

The Trust believes early resolution of concerns is best for everyone involved, although there may be cases where a formal investigation is appropriate. The Trust's process has 3 parts:

- **Challenge It** - Politely tell colleagues when you think they're not behaving appropriately
- **Share It** – Talk about it, get some help and support, report serious concerns
- **Resolve It** – Work with others to resolve problems

Every situation will be different. There is not one correct approach to dealing with concerns (e.g. there may be cases where informal resolution is not appropriate, such as cases where there are very serious allegations). Employees are advised to seek advice from someone listed in paragraph 7.2 if they are unsure how best to resolve their concern.

7.1 Challenge It - Politely tell colleagues when you think they're not behaving appropriately

7.1.1 All staff have a duty to challenge inappropriate behaviours at work. In most cases this can be done informally, usually on a one to one basis, in a professional and supportive way aimed at helping the perpetrator understand the affect of their behaviour. Ideally, this would happen very soon after any specific incident.

7.1.2 Witnesses to inappropriate behaviour can play an important part in diffusing and resolving issues between their colleagues. All staff are encouraged to politely challenge their colleagues if they see inappropriate behaviour.

7.1.3 Guidance on how to prepare for, and hold, this conversation can be found in Appendix C, Option 1.

7.1.4 If staff do not feel able to have this conversation directly, it could be done in an alternative way. Appendix C contains a list of different ways of resolving the issue.

7.1.5 Where this fails to resolve the matter, further options are available in section 7.3.

7.2 Share It – Talk about it, get some help and support, report serious concerns

7.2.1 The Trust recognises that for a variety of reasons it may be difficult for staff to make a complaint against someone who has bullied or harassed them.

7.2.2 The Trust encourage any staff affected to seek advice and support from a colleague (see paragraph 6.7) or any of those listed below. Where an employee wishes to remain anonymous they should discuss this with the person they are seeking advice from.

- Line manager
- An alternative manager
- Human Resources (ext 4527 or email: sath.hradvice@nhs.net)
- A Trade Union/Professional Organisation representative (details and contact numbers are available on the HR pages of the Trust intranet site or via switchboard)
- Freedom to Speak Up Guardians (F2SU) (telephone via switchboard or email: sath.fts@nhs.net). You can better understand how F2SU can help you by reading the 100 Voices article here: https://www.nationalguardian.org.uk/wp-content/uploads/2020/03/100_voices_2020.pdf

- Trust Equality, Diversity & Inclusion Lead (07704349612)
- Occupational Health or the Trust's Employee Assistance Programme (see Appendix C, option 8).

7.3 Resolve It – Work with others to resolve problems

7.3.1 The Trust believes that timely and informal resolution of most issues is best for all involved, although this will not be appropriate for serious concerns. There are a number of ways that matters can be resolved informally, as listed below. See Appendix C for more detail and guidance.

Direct Informal Discussion - The recipient speaks with the alleged perpetrator directly to explain how they feel and ask them to modify their behaviour.

Facilitated Informal Discussion – An appropriate manager meets with the recipient and alleged perpetrator together, to support a direct discussion between them about their perspectives and seek agreement on how they will work together to avoid issues in future.

Mediation – A trained mediator will meet with each party individually, to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties.

Alternative Employment – With the express consent of the recipient and their line manager, the Trust may consider supporting them to find suitable alternative employment with the Trust.

SDI Review – A Strength Deployment Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals, to understand their own behaviours, and those of others.

Coaching – You can be assigned a trained coach to help you on a 1 to 1 basis, to assist you to think about things differently and to support you in understanding what you want to change and how you can change it.

Peer to Peer Listening Service – A confidential listening service made up of trained 'first line' staff able to signpost colleagues to other services where appropriate: sath.p2p@nhs.net.

Employee Assistance Programme – Our external provider (Care First) offer professionally qualified Counsellors and Information Specialists, who are experienced in helping people to deal with all kinds of practical and emotional issues including workplace issues and relationship problems. Telephone: 0800 174319.

See Appendix C for more information.

8. Formal Complaint Process

8.1 Where the concerns are considered by the Line Manager (or a more senior manager if appropriate) to be sufficiently serious, the matter may be investigated using the Trust's Employee Investigations Policy. Advice must be sought from the HR Advisory Team before any formal investigation starts.

8.2 Formal investigations may be appropriate where the alleged behaviour could constitute misconduct, including (but not limited to) sexual harassment/assault, physical abuse, discrimination (e.g. sexist, racist, homophobic) and bullying behaviours that are deliberate (i.e.

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they are intended to cause distress or they continue after being informed that they are causing distress).

- 8.3 Managers who commission a formal investigation must appoint a suitable investigating officer and, in cases of a sexual nature, should consider whether someone of a particular gender may be best suited (e.g. female staff may find it more comfortable speaking to a female investigating officer).
- 8.4 Formal complaints should be made as soon as possible after the incident. Although serious concerns that occurred historically may still be investigated, due to the passage of time it may be difficult to gather relevant evidence and staff are encouraged to keep a timeline of events.
- 8.5 To ensure that appropriate decisions are taken, employees raising a concern should provide as much information as possible when making a formal complaint. This would normally include:
 - The name(s) of the other person(s) involved,
 - The nature of the alleged behaviour giving rise to the complaint,
 - Dates and times where the alleged behaviour took place,
 - Names of any witnesses to any alleged incidents,
 - Details of the impact of the behaviour on them,
 - Any action already taken by them or on their behalf to stop the behaviour from continuing.
 - Any other supportive documentation or evidence

Appendix B contains a template to help with this.

- 8.6 If the allegations are substantiated, appropriate action will be taken against the alleged perpetrator. This may include formal disciplinary action in accordance with the Trust's Disciplinary Policy.
- 8.7 At the end of an investigation, the commissioning manager should consider the best way to communicate the outcome to those involved, taking into account the seriousness of the issue, the effect on those involved and the next steps that will follow.
- 8.8 After an investigation those involved should consider whether the informal resolution options in Appendix C would be appropriate and helpful in rebuilding working relationships.
- 8.9 All discussions taking place in the formal process are strictly private and confidential to the individuals concerned; however, any outcomes will be recorded on the relevant personal files.
- 8.10 The Trust recognises that being accused of bullying or harassment is difficult and managers should consider how best to support those who are accused. This might include some of the options available in Appendix C. It is important that no judgement is made until all relevant information has been collated and considered.

9. Bullying or harassment by non-employees

- 9.1 The Trust will not tolerate bullying or harassment towards staff from patients, service users, members of the public, agency staff or contractors.
- 9.2 Please see the Violence and Aggression Policy for more information. The Trust has also created a guide to help managers support staff who have been assaulted or suffered an act of aggression. This can be found in the Managers Resources Folder or by contacting the HR Advisory Team.

10. Training

- 10.1 It is expected that any manager involved in the formal part of this policy will receive training and/or receive guidance from a Workforce representative.
- 10.2 The HR Advisory Team can, on request, provide short briefing sessions for managers or teams to support the application of this policy.

11 Review Process

- 11.1 The Trust will review this policy when there are changes to relevant legislation or good practice, or within 5 years.
- 11.2 In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the document strategy having to return to the ratifying committee.

12 Equality Impact Assessment (EQIA)

- 12.1 An EQIA has been carried out on this policy which has been found not to have a negative impact on groups of staff or potential members of staff.

13 Process for monitoring compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Process for raising concerns about bullying and harassment	Retrospective review of incidents & cases to determine compliance with the process. Staff Survey outcomes	HR Team	Annual report	JNCC
Process to be followed once a concern has been raised				
Organisations expectations in relation to staff training	Management and monitoring of training will be in accordance with the Trust's Development & Training Support and Risk Management Training Policy			

14 References and Additional Reading

- Equality Act 2010
- The Health and Safety at Work etc, Act. 1974
- The Protection from Harassment Act 1997
- The NHS Employers website provides further information and resources on bullying and harassment: www.nhsemployers.org.

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- The Equality Act 2010, available from: <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- ACAS - Bullying and harassment at work: A guide for managers and employers (2014) available from: www.acas.org.uk.
- British Medical Association (BMA). (2006). *Bullying and Harassment of Doctors in the Workplace*. London: BMA. Available at: www.bma.org.uk
- Chartered Institute of Personnel and Development (CIPD). (2005). *Bullying at Work: Beyond Policies to a Culture of Respect*. CIPD. Available at: www.cipd.co.uk
- NHS Employers. (2010). 'Health and safety essential guide'. *NHS Employers website pages*. NHS Employers. Available at: www.nhsemployers.org
- 100 Voices of 2020, National Guardian Freedom to Speak Up, [https://www.nationalguardian.org.uk/wp-content/uploads/2020/03/100 voices 2020.pdf](https://www.nationalguardian.org.uk/wp-content/uploads/2020/03/100%20voices%202020.pdf)

Appendix A

Sexual Harassment is defined under the Employment Equality (Sex Discrimination) Regulations 2005 as '*Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment*'.

Sex-related harassment regulations were introduced in 2008 which mean that unwanted conduct related to an individual's gender, but not necessarily directed at them, is unlawful. An example may be sexist banter which is not directed at any one individual but causes offence to them.



Cultural Harassment is where certain practices or behaviours may cause distress or offence to staff from a particular racial or religious group.

Disability Harassment may take place where unwanted and offensive behaviour is shown towards an individual with a disability or where an unreasonable failure to take account of the needs of a disabled person at work causes distress or offence.

Appendix C - Methods of Informal Resolution and Support

Option 1 - Direct Informal Discussion

This is where the recipient, or a witness to poor behaviour speaks with the alleged perpetrator directly to explain how they feel and ask them to change their behaviour.

	<p>Good When: You feel comfortable talking to perpetrator alone, you are in the right headspace to talk about it in a calm manner.</p>		<p>Drawbacks: Not suitable for serious concerns, can create further conflict.</p>
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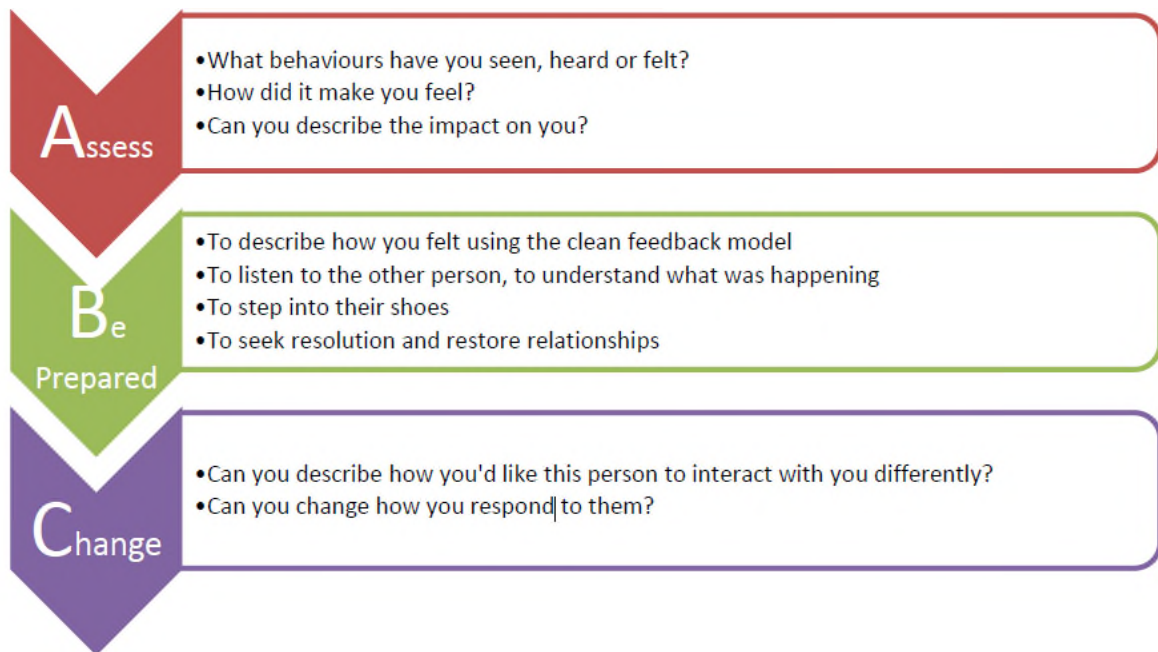
This can be a difficult conversation to have and if not done appropriately can make matters worse. But, it can also resolve matters very quickly with no-one else having to become involved. In many cases the perpetrator will be unaware of the consequences of their behaviour and will learn from this feedback.

Some things to think about...

- Think in advance about what you want to say and how it might be received. In essence, you want to make clear how you feel about their behaviour and ask them to change.
- Using **clean feedback** is important. Clean feedback is about using facts, not judgments. It asks you to describe what you saw, or heard. In presenting fact, it is unarguable.
- Practice the conversation with someone close to you to see how you come across. If it helps, make some notes of the key points you want to get across, have the notes with you when you meet. Choose the right time and place; make sure it's somewhere private and that you're not catching them at a time they're very busy or stressed
- Start by explaining what you want to talk to them about, and ask if now is a suitable time for you to do that. Some people may need time to process what you're saying before they can talk about it. It also gives them a way out if they don't think they're in the right mind-set to have the conversation.
- One helpful way of explaining how you feel is to outline how you feel when they behave in a certain way, and then make a suggestion. For example, "when you send me emails in capital letters I feel like you're shouting at me and it upsets me. If you could avoid using capitals I'd find it much easier to focus on what the email says rather than how you're saying it".

You could use the ABC Feedback Model over the page to help you.



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The Trust provide a 1-day training session called 'Values Based Conversations' which can help all staff to have better conversations.



If you don't feel able to have this conversation directly, you could ask a manager to sit in on the conversation (see Facilitated Informal Discussion below) or you could write your feelings in a letter to the perpetrator and have it delivered by an appropriate manager. If you do write a letter, it's important to explain why you're writing to them rather than speaking with them and describe to them what you want to happen next (e.g. do you want them to come and talk to you about it, do you want them to write back to you, do you just want to move on and continue your professional relationship). You may want to ask a colleague or line manager (where appropriate) to confidentially review the letter and give you feedback before you send it.

Option 2 - Facilitated Informal Discussion – An appropriate manager meets with the recipient and alleged perpetrator together to support a direct discussion between them about their perspectives and seek agreement on how they will work together and avoid issues in future. Many of the 'things to think about' for the direct informal discussion (above) apply here as well.

	<p>Good When: You don't want to talk to the perpetrator alone, there is someone suitable who can facilitate and is available.</p>		<p>Drawbacks: Not suitable for serious concerns, could cause delays, having a 3rd person there could make it harder for people to 'open up' or make it feel more serious.</p>
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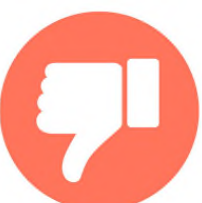
Option 3 - Mediation – A trained mediator will meet with each party individually to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties.

Mediation can also be used for where there is conflict within wider teams, and all members of the team can take part in group mediation sessions. Further information about mediation can be requested from the HR Advisory Team on ext 4527 or email sath.hradvice@nhs.net.

	<p>Good When: You need someone independent to guide the discussion, the relationship is complicated, there are problems within a team</p>		<p>Drawbacks: Not suitable for serious concerns, can take time to organise, involving a 3rd person can make it feel more serious.</p>
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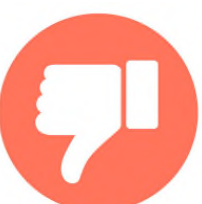
We have a small number of trained mediators within the Trust, please contact the HR Team for more information on how to contact them. Care Groups can also consider using an external mediator. Please contact the HR Advisory Team on ext 4527 for more information.

Option 4 – Redeployment - With the written agreement of both the recipient and their line manager, the Trust may consider supporting them to find suitable alternative employment with the Trust

	<p>Good When: Other efforts to resolve matters have failed, the problems are likely to continue, there are likely to be other posts in the Trust that are suitable</p>		<p>Drawbacks: Leaves issues unresolved, can only happen if there is a suitable vacancy somewhere else.</p>
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The line manager (or an appropriate senior manager within that department/care group) and the employee must agree to redeployment and the HR team must be involved before the process starts. The HR team can provide advice and support on how the process works.

Option 5 - SDI Review – A Strength Deployment Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals to understand their own behaviours, and those of others.


	<p>Good When: You want to learn more about your own behaviours, you want to understand someone else's behaviours</p>		<p>Drawbacks: Can take time to complete, helps understanding but doesn't resolve issues by itself</p>
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Please contact sath.leadershipacademy@nhs.net to get more information and to access the tool.

Option 6 - Coaching – Coaching is based on the principle that an individual is ultimately responsible for their lives and the results they are getting. If we acknowledge that we are responsible for something, it follows that we have power and influence over it. A coach may encourage you to:

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- Understand the situation more clearly
- Develop new ideas or approaches for situations
- Take constructive action that gets you the results you want


	<p>Good When: You want help to understand situations and develop ideas, you don't want to address the issue with the alleged perpetrator directly</p>
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	<p>Drawbacks: Not suitable for serious concerns, need to be open-minded, does not resolve issues by itself</p>
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You can be assigned a trained coach to help you on a 1 to 1 basis. More information on coaching, including a list of Trust coaches, can be found on the Leadership Academy section of the Trust Intranet or by email to sath.leadershipacademy@nhs.net.

Option 7 - Peer to Peer Listening Service (P2P) - A confidential listening service made up of trained 'first line' staff able to signpost colleagues to other services where appropriate. To access this service email: sath.p2p@nhs.net.

	<p>Good When: You want someone to listen to you with non-judgement in a confidential way and can signpost you to other services offered in and out of the organisation</p>
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	<p>Drawbacks: Not suitable if issues need to be escalated. P2P is not an advice line a counselling service or a method of colleague representation.</p>
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Option 8 – Employee Assistance Programme – All staff have access to the Trust's Employee Assistance Programme which is delivered by Care First. Care first are an independent provider of professional employee support services. They employ professionally qualified Counsellors and Information Specialists, who are experienced in helping people to deal with all kinds of practical and emotional issues including workplace issues and relationship problems.

The service is free of charge and staff don't need to tell anyone (including their manager) that they are contacting Care First. The service is available 24 hours a day, 7 days a week, 365 days a year and is accessible by phone or online.

Website: www.carefirst-lifestyle.co.uk
Telephone: **0800 174319**



Our Vision To provide excellent care
for the communities we serve



Grievance Policy W8

Additionally refer to:

Version:	V3.10
Approved by	JNCC, Policy Assurance Group, Workforce Committee
Date Approved	February 2021
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Date ratified:	March 2021
Document Lead	HR Business Partner for Employee Relations
Lead Director	Workforce Director
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Review date:	March 2024
Target audience:	Trust Employees

Version Control Sheet

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Document ID	W8 (previously HR16)
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Distribution	Please refer to the intranet version for the latest version of this policy. Any printed copies may not necessarily be the most up to date
Key Words	Grievance, facilitated discussion, outcome, informal, formal, appeal
Dissemination	Staff Quarterly Newsletter, HR pages on the Intranet, Team Brief and specific training

Version history

Version	Date	Author	Status	Comment
2.1	May 2014	Anna Martin	Draft	Draft Policy to TNCC Policy Group 9 th June 2014. Full redraft of original policy. Suggested amendments received.
2.2	June 2014	Anna Martin	Draft	Updated Draft Policy after discussion at TNCC Policy Group 9 th June <ul style="list-style-type: none"> • Reworded paragraph 2.3 • Updated flow chart • Reworded paragraph 7 • Amended paragraph 8.3
2.3	July 2014	Anna Martin	Final	Updated Draft Policy after discussion with TNCC representatives
2.3	December 2018	Nick Dowd	Final	Added reference to W37 Employee Investigations Policy
3.1	January 2019	Kate Youlden	Draft	Policy Review
3.2	February 2019	Kate Youlden	Draft	Policy Meeting February 2019
3.3	November 2019	Kate Youlden	Draft	Policy Refresh – People First Agenda – encouraging resolution by ‘normal working practice’ and informal approach. Mirroring new Bullying and Harassment Policy
3.4	January 2020	Kate Youlden	Draft	Feedback from circulation to Policy Group
3.5	February 2020	Kate Youlden	Draft	Update following February Policy Group discussion
3.6	March 2020	Kate Youlden	Draft	Updated following March Policy Group Discussion
3.7	May 2020	Kate Youlden	Draft	Updated from comments from Staff side
3.8	June 2020	Kate Youlden	Draft	Changes to Status Quo based on staff side feedback
3.9 and 3.10	June 2020	Kate Youlden	Draft	Changes based on staff side feedback

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1. Policy on a Page

- 1.1 This policy outlines the process that staff can follow to raise a grievance.
- 1.2 This policy sets out at section 2 the concerns to which it applies and those concerns to which it does not apply.
- 1.3 Informal resolution should be sought in the first instance.
- 1.4 This policy outlines the approach the Trust will adopt in managing and attempting to resolve any grievance. Mirroring our approach to Bullying and Harassment and Freedom to Speak Up the Trust believes that early resolution of concerns is best for all involved ideally through conversations and discussions that take place as part of 'normal working practice' (Stage 1 – Discuss it – Informal Resolution).
- 1.5 Where these approaches have failed to resolve the concerns this policy provides an individual with the opportunity to raise concerns through:-
 - Stage 2 – Raise it – Formal Resolution
 - Stage 3 – Appeal it - Appeal against Decision at Formal Resolution (Stage 2)
- 1.6 It is expected that in many situations staff will undertake facilitated conversations to support the resolution of their concerns at the informal and formal stages of this policy.
- 1.7 A flow chart outlining the stages of this policy is set out in appendix C.

2. Document Statement

2.1 This policy is for the resolution of:

- Individual grievances
- Collective grievances

2.2 The Trust recognise the impact of unresolved grievances on affected employees, other colleagues, managers, patient care and service provision. It is therefore in the interests of all parties to resolve grievances as quickly as possible. This policy provides a framework to ensure a fair, effective, consistent and timely method of dealing with grievances.

2.3 Where timescales are set out in this policy every effort should be made to meet them, however there will be occasions where it is appropriate to vary these (wherever possible by mutual agreement). This should be recorded in writing.

2.4 It is an expectation that both the Trust managers and our employee(s) will actively work together to resolve any grievance(s).

2.5 It is expected that all grievances will be raised as soon as is reasonably possible and in all events within 3 months of knowledge of the action being complained of. Exceptional circumstances leading to a delay in raising concerns will be considered and not unnecessarily barred a matter being raised.

3. Overview

3.1 This policy applies to all staff employed by the Trust and those staff engaged through the Trust Temporary Staffing Department (bank).

3.2 This policy is to be used in situations where an individual employee - or where a group of employees has a grievance have a grievance against a management decision, action or omission that has been taken, is proposed or has failed to have been taken in relation to an employee's – or employees - employment . It is designed to bring these matters to a speedy and fair conclusion.

3.3 It should be noted that Grievances cannot be taken out “against” any individual employee or employees of the Trust – the Grievance must be in relation to specific decisions, actions or omissions taken by the relevant manager on behalf of the Trust. See section 3.6.

3.4 This policy is intended to apply to resolving concerns relating to matters such as:-

- The application or interpretation of agreements, policies and procedures
- Health and Safety
- Working arrangements
- Working environment
- A breach of statutory employment rights
- Any other issue affecting an individual's employment (excluding those set out below)

3.5 This policy is not intended to apply to resolving concerns relating to:

- Dismissal or other disciplinary matters, including probationary or performance management (see section 7.1)
- Individual sanctions that result from disciplinary action
- Suspension from work
- Harassment or Bullying/ Dignity at work

- Freedom to Speak Up (whistleblowing)
 - Matters concerning nationally agreed terms and conditions of employment or matters within the scope of formal negotiations at a national level
 - Matters of strategic policy which have been decided by the Trust (i.e. service redesign decisions – TUPE in or Out, Service transformation)
 - Matters related to national insurance, income tax and rules of pension schemes
 - Any policy with its own review or appeal mechanism.
- 3.6 Any member of staff who feels they are being discriminated against in relation to a protected characteristic under equality legislation, feels they are the subject of bullying and harassment or wishes to raise a concern under Freedom to Speak Up (whistleblowing) should follow the specific policy relating to these (speak to the HR team or your representative if you are not sure which policy may be relevant). Where a concern is raised under the Grievance policy that is in part or whole about bullying and harassment, equality or freedom to speak up the elements of the concern relating only to grievance will be addressed through this policy. Other elements will be addressed through another relevant policy.
- 3.7 Staff covered by the Agenda for Change Agreement who have a grievance concerning their job banding must raise the matter under the specific policy relating to this.
- 3.8 If an employee(s) wishes to report possible malpractice, wrongdoing or illegal activities they must do this in accordance with Trust Freedom to Speak Up Policy and Anti-Bribery and Fraud Policy.
- 3.9 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equality, Diversity and Inclusion Policy. Special attention should be paid to ensuring the policy is understood when using it for staff new to the NHS or Trust.
- 3.10 The Trust recognises that having a grievance raised about your actions is difficult and managers should consider how best to support those who have a grievance raised against them. It is important that no judgement is made until all relevant information has been collated and considered.
- 3.11 If this policy is utilised as a means of appeal (where the relevant policy does not contain its own mechanism) the appeal will be heard under Stage 3 of this policy – Appeal It.
- 3.12 If the grievance is proven to be knowingly malicious or vexatious, the individual raising it will be subject to disciplinary action in line with the Trust Disciplinary Policy.
- 3.13 In the interest of good staff relations, each stage of the policy should be undertaken without unreasonable delay. Whilst any delay should be kept to a minimum, it is also acknowledged that each case will be individual. Throughout this procedure, Managers should promptly communicate the timeframe within which they will respond to the Grievance with the individual(s) in writing, this timeframe must be reasonable. For example, if a manager receives a notification from a member of staff raising a grievance it would be reasonable that within 5 working days the manager will have confirmed (verbally or in writing) when they will be back in contact with the staff member.

4. Duties

4.1 Trust Board

The Board has responsibility to oversee this policy and ensure that appropriate processes and actions are in place to ensure employees are treated in a fair and consistent manner.

4.2 Directors/Chief Operating Officer (COO)/Assistant COO

Are responsible for ensuring appropriate systems and processes are in place across their Care Groups and Departments to monitor grievance matters, disseminate shared learning from any matters arising from the cases and ensuring that grievance matters are dealt with in a timely manner and in accordance with this policy.

4.3 Line Managers

Line Managers are responsible for ensuring employees are aware of this policy and its contents. Any manager who is undertaking any formal stage of the policy would be expected to contact the Workforce Directorate in the first instance for advice and support on the implementation of the policy.

4.4 Workforce Directorate

The Workforce Directorate will provide support and guidance to ensure a fair and consistent process is followed.

4.5 All Staff

All staff are responsible for taking reasonable steps to resolve their concerns as part of normal working practice at stage 1 of this policy. It is anticipated that, where it is appropriate, all staff will enter into facilitated conversations as a route to resolution, unless specific reasons are identified to prevent this.

4.6 Where an employee wishes to be accompanied or represented during the formal stages (stage 2 &3) of the policy by either their trade union representative or Trust employed work colleague, they will be responsible for arranging this. In some circumstances this may be beneficial at stage 1 and any request to be accompanied will not be unreasonably refused. If the manager is considering refusing this request they must discuss this with HR; the manager or HR support may contact the representative directly to explore this.

4.7 Trade Unions/Work Colleague

Trade union representatives and work colleagues are expected to promote the benefits of early and informal resolution in the best interests of the individuals concerned and the Trust. Representatives will work with members to support the individual to identify the best course of action.

4.8 The role of the trade union representative or Trust employed work colleague is to act as an advocate and representative and to provide the employee with advice and support on matters relating to any grievance (s) when requested by the individual.

5. Right to be accompanied

5.1 Your companion may be an accredited representative of a Trade Union / Professional Organisation (TUPO) or colleague employed by the Trust. Family members or partners who are also employed by the Trust are not able to accompany an individual unless they are required to assist with disabilities or language difficulties or any other extenuating circumstances.

5.2 The employee has the right to be accompanied by a companion at any formal meeting under the grievance policy. Please refer to Stage 1 – Discuss It - Informal Resolution for clarification regarding normal attendance at these discussions.

- 5.3 The companion is allowed to address the meeting, to put and sum up the case, and confer with the employee during the meeting. In extenuating circumstances they may also respond on the employee's behalf to any views expressed at the meeting if the individual is unable to do this personally.
- 5.4 On occasions it may be suggested that there is a conflict of interest in the involvement of a manager, HR representative, or companion. Where these circumstances arise the HR Representative and Employee's Representative will together agree the most appropriate person to make the decision as to whether there is a conflict of interest and, where it is determined, the necessary course of action to be taken to manage the conflict.

6. Status Quo

- 6.1 "Status quo" refers to the maintenance of the existing arrangements in operation immediately prior to the grievance being lodged. Should the employee wish to invoke the status quo this should be done as soon as possible. It can be requested at any stage as part of your grievance submission (see appendix A & B), but in most cases should be done immediately when the grievance is first raised.
- 6.2 Status quo will generally apply whilst the grievance is being heard, unless the manager has evidence that implementing the proposal or failing to implement the proposal which has led to the grievance being lodged would place the Trust in:
- breach of legal obligations;
 - a position which would compromise patient care; or
 - a position which could compromise the wellbeing or safety of other staff.
- 6.3 The manager receiving the grievance will respond in writing to any request within 10 working days, unless exceptional circumstances apply. In these circumstances they will confirm why they are unable to make a decision within this timeframe.

7. Links with the Disciplinary/Performance Management /Probationary/Managing Attendance Policies

- 7.1 Where a grievance is raised during disciplinary/ performance management/ probationary/ managing attendance proceedings:
- The disciplinary/performance management/ probationary/ managing attendance proceedings may be temporarily suspended in order to deal with the grievance if it is related to alleged inappropriate application of that policy (see section 3.5 – re matters not intended to be resolved via this policy)
otherwise
 - The grievance and disciplinary/performance management/ probationary/managing attendance proceeding will be run concurrently to any grievance process where a concern is raised by an employee being managed under one of these policies but the grievance is not related to matter.

8. Facilitated discussion

- 8.1 A facilitated discussion is a confidential process that seeks to help to resolve disputes in the workplace. It is an informal process where colleagues whose relationship is under strain because of a decision or omission have the opportunity to air their differences in a voluntary, safe, confidential meeting with the other party, in the presence of a trained or experienced facilitator. Matters relating to working relationships should be raised under the Bullying and Harassment Policy.

- 8.2 In order to support the individuals to reach an agreement on a way forward without the need to raise concerns at the informal or formal stages of this policy, both parties can volunteer to participate in a facilitated discussion (similar to mediation). Additionally at any stage of this policy, it may be recommended that a facilitated conversation is sought as a means to gain resolution. Where this is identified as a beneficial approach it is expected that, in most circumstances, this approach will be adopted.
- 8.3 The facilitator must be someone who has not previously been involved in the issue, whose involvement is considered to be beneficial by both parties, and their involvement must be agreed by both parties.
- 8.4 If both parties agree to engage in the facilitated discussion process as a way of resolving their issues, then the relevant manager must contact the workforce team as soon as possible so this can be arranged.
- 8.5 If facilitated discussion is explored and it is not successful or this opportunity is declined, the concern can be raised at the informal or formal stages of the grievance policy as relevant.
- 8.6 If a grievance has been raised but it has been decided to pursue facilitated discussion, the grievance may be paused while that discussion is taking place. If the issue is resolved through facilitated discussion, the formal grievance will be closed.

9. The Grievance Stages

9.1 Stage 1 – Discuss It - Informal Resolution

- 9.1.1 Dealing with grievances informally can often lead to speedy resolution of problems. In most circumstances concerns should be discussed and resolved as ‘normal working practice’ in an informal and supportive way through discussion between the employee and their immediate line manager (normally the manager who has made, is intending to make or has omitted to make the decision which has caused the individual(s) concerns – if this is not suitable the employee may raise the matter with the managers line manager at this stage). This enables managers and individuals to have meaningful conversations about the impact of a decision, where possible allowing the decision making manager the opportunity to reflect on the feedback provided and together resolve the concerns.
- 9.1.2 Where an individual wishes to raise a concern at Stage 1 of the grievance policy, they should make it clear to the relevant manager that they are raising a grievance at Stage 1 – Discuss It - Informal Resolution and clarify the outcome they are seeking.
- 9.1.3 Managers and individuals are encouraged, wherever possible, to be open minded when trying to identify ways of resolving differences in order to maintain good employment relations. It is expected that individuals will enter into reasonable discussions, with the aim of resolving a particular issue. A resolution could be achieved by taking the time to discuss the concerns and explore the reasons and rationale for the decision (even when the decision remains unchanged as a result). It would be reasonable to expect that matters will be significantly progressed, if not concluded, within 2 weeks.
- 9.1.4 It is expected that regular and supportive conversations take place between an employee and their manager to aid the early resolution of individuals concerns. Many of these conversations will take place without a TUPO representative or HR colleague present. A member of staff may request that their TUPO representative or member of the HR team is present and this request will not be unreasonably refused. As set out above, if *the manager is considering refusing this request they must discuss this with HR; the manager or HR support may contact the representative directly to explore this.*

- 9.1.5 To ensure clarity on outcomes a record of discussions is required; this could include (but is not limited to) a file note for the individual's personal file (a copy must be provided to the individual) or a short letter/email to confirm discussions and/or agreements reached. The manager and individual may together agree another way to record the outcome of their discussion.
- 9.1.6 Matters may not be considered at the formal stages of this policy if there is no evidence that the employee has attempted to seek resolution through meaningful conversation and discussion with the relevant decision making manager or that individual's line manager. See 9.2.2.

9.2 Stage 2 – Raise It - Formal Resolution

- 9.2.1 If the grievance has not been resolved through normal working practices at stage 1 (Discuss It) the individual can request formal resolution at stage 2 (Raise It). To raise a concern at stage 2 the individual must put the complaint in writing by completing the Record of Grievance Form (Appendix A). The form must be submitted to the line manager of the manager party to the Stage 1 (Discuss It) discussions.
- 9.2.2 In appropriate circumstances (these are anticipated to be rare), an employee may request that their concerns are progressed under Stage 2 (Raise It) without discussions at Stage 1 (Discuss it). In these instances the Record of Grievance (Appendix A) should be submitted to the line manager of the manager who has made the decision which has resulted in the employee raising concerns. The manager about whose decision the grievance relates to, will be given the opportunity to respond to the grievance to ensure that a balanced judgement can be formed.
- 9.2.3 Raising a concern via this route does not automatically mean that the manager to whom the concerns have been raised will not attempt to resolve the matter through meaningful conversation similar to Stage 1 (Discuss It) or support a resolution through facilitated conversations.
- 9.2.4 The Record of Grievance Form (Appendix A) should explain the basis of the grievance. It is helpful to include any relevant dates, facts and any thoughts the individual may have on the outcome they are seeking. The individual should outline actions taken to resolve the concern as through Stage 1 (Discuss It).
- 9.2.5 On receipt of the Record of Grievance Form (Appendix A) the manager will acknowledge receipt and arrange to meet with the individual without unreasonable delay. This manager should not have been previously involved in the decision making resulting in the matter that has given rise to the grievance, where the individual receiving the grievance form recognises their previous involvement they should escalate the matter to their manager or delegate it to another within the Care Group/Service structure. It would be reasonable to expect that matters will be significantly progressed, if not concluded, within 2 weeks.

Stage 2 (Raise It) Meeting

- 9.2.6 The purpose of any meeting at Stage 2 (Raise It) will be to consider all the points raised and seek the agreement of the individual to any steps or actions to try and resolve the grievance.
- 9.2.7 In exceptional circumstances, an employee or manager may request that an impartial manager joins the meeting to provide an independent view and challenge any decision making or the employee or manager may request that an alternative manager is appointed to oversee the stage 2. Where the request is made the employee or manager must justify why this is necessary in the circumstances. The employee can raise an objection to the impartial/alternative manager appointed stating their reasons for objection and request another manager; this will not be unreasonably refused. The impartial/alternative manager will be identified by HR based on the nature of the matter under consideration.

9.2.8 The individual has the right to be accompanied at the Stage 2 (Raise It) Meeting by their companion or TUPO representative.

9.2.9 Any person(s) who are subject to a complaint should also be made fully aware of the complaint and be given the opportunity to respond to the allegations.

9.2.10 During the meeting the manager may:-

- a) Reach a mutually agreeable outcome with the individual and agree next steps to implement the agreed resolution. This resolution will be confirmed in writing with the individual within 5 working days.
- b) Reach a decision in relation to the individual elements of the individuals concerns through meaningful discussion. The manager may need to adjourn the meeting for a short period to enable consideration to be given to the matters raised with a view to confirming their decision on the same day. The decision will be confirmed in writing with the individual within 5 working days.
- c) Adjourn to gather other relevant information to support their decision making in relation to the concerns raised. (Fact find).
- d) Adjourn to commission an investigation into the concerns that have been raised. This will only be appropriate if the concerns are complex.
 - Any investigation would be undertaken under the Trust's Employee Investigations Policy W37.
 - The manager receiving the grievance will undertake the role of the Commissioning Manager and will review the investigatory report upon completion of the investigation.
 - The Commissioning Manager is responsible for keeping the individual informed of the details and progress of the investigation.
 - The investigation report will normally be shared with the employee, however it may be redacted or in some circumstances it may not be appropriate to share. The decision with regard to sharing this report rests with the commissioning manager.

Note:- This may not be an exhaustive list of options available to the manager. Any other options should be explored with the individual and confirmed in writing setting out the reason for pursuing the decided route.

9.2.11 Where the meeting has been adjourned under (c) or (d), a further meeting will be arranged with the individual when the manager is able to confirm their decision or is in a position to continue discussions with regard to reaching a mutually agreed resolution on the basis of any findings. The decision or resolution reached at this follow up meeting will be confirmed in writing within 5 working days.

9.2.12 The individual has the right of appeal against the decision reached during Stage 2 (Raise It). The appeal should be sent to the person named in the outcome letter within 10 working days of receipt of the letter.

9.3 **Stage 3 – Appeal It - Appeal against Formal Resolution**

9.3.1 If the employee is not satisfied with the outcome at Stage 2 (Raise It), they may appeal. To do this, they must appeal in writing using the Grievance Appeal Form (Appendix B). The Form must be completed clearly and fully, setting out the grounds of the appeal in line with the list below. Additional documents can be included with the form to support the appeal. The Grievance Appeal Form and any supporting documents will be considered to be a complete record of the individual's appeal case at the Appeal Meeting.

9.3.2 Appeals can be made in relation to the following circumstances:

- that their grievance was not upheld where the evidence does not support this outcome;
- the correct policy or process was not followed;
- new evidence related to the grievance has come to light that would change the outcome;
- the outcome is inconsistent with how others have been treated.

9.3.3 The manager will acknowledge receipt and arrange to meet with the individual without unreasonable delay confirming arrangements for the meeting in writing. This manager should not have been previously involved in decision making. Where necessary the matter should be escalated to this manager's manager or delegated to another within the Care Group/Service structure.

9.3.4 The purpose of the appeal meeting is not to re-visit the elements of the individual's grievance, but to consider and discuss the points of appeal stated in the Grievance Appeal Form (and review any new evidence if any has been submitted). The intention of this meeting is to enable a meaningful and supportive discussion regarding the points of the individuals appeal.

9.3.5 The individual has the right to be accompanied at the appeal meeting by their companion.

9.3.6 It will not always be necessary for the manager who considered the concerns at Stage 2 (Raise It) will be present at the Stage 3 (Appeal It) Meeting – this will be determined on a case by case basis by the manager hearing the stage 3 appeal. Regardless of attendance, the Grievance Appeal form and paperwork will be shared with the stage 2 manager and they will be required to provide a formal written response to the points raised. This response will be shared with the employee in advance of the appeal meeting (timescales will be dependant upon the complexity of the concerns).

9.3.7 In exceptional circumstances, an employee or manager may request that an impartial manager joins the meeting to provide an independent view and challenge any decision making or the employee or manager may request that an alternative manager is appointed to oversee the stage 2. Where the request is made the employee or manager must justify why this is necessary in the circumstances. The employee can raise an objection to the impartial/alternative manager appointed stating their reasons for objection and request another manager; this will not be unreasonably refused. The impartial/alternative manager will be identified by HR based on the nature of the matter under consideration.

9.3.8 The outcome of the appeal may be to overturn or confirm the original decision or apply a different resolution, including facilitated discussion if appropriate. The appeal outcome will be confirmed in writing within 10 working days of the appeal meeting (in exceptional circumstances the manager considering the appeal may require a reasonable period of time to consider their decision or gain clarification on relevant matters).

9.3.9 There is no further right of appeal.

10. Records

10.1 A copy of the all documentation relevant to the management of individuals concerns will be retained on the individual's personal file. Employees should receive a copy of any documents placed on their personal file. Where there are learning points or feedback for the manager against whom the grievance was raised, the appropriate decision maker will ensure these are communicated to that manager in writing, with a copy being placed on their personal file where appropriate.

11. Training Needs

- 11.1 It is expected that any manager involved in the grievance process would receive training and where necessary be supported by a Workforce representative for guidance on the process.
- 11.2 Any manager who is undertaking any of the formal stages of the policy would be expected to contact the Workforce Department in the first instance for the advice and support on the implementation of the policy.

12. Review Process

- 12.1 This policy will be reviewed if there are legislative changes, within 5 years or where other significant reason arises.
- 12.2 In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the document strategy having to return to the ratifying committee.

13. Equality Impact Assessment (EQIA)

- 13.1 This policy applies to all employees equally and has no positive or negative impact on the protective characteristics within the Equality Act (2010).

14. Process for Monitoring Compliance

- 14.1 The monitoring of this policy includes an annual audit of the points set out in the table below. Where non-compliance is identified an action plan will be drawn up and monitored at the Workforce Committee. Where remedial action can be taken immediately, the action must be recorded appropriately.

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring (job title)	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
The policy is fairly applied to staff in a transparent manner	Use of workforce database	HR Business Partner for ER	Yearly	Workforce committee
Number of cases being referred to HR Advisors/Managers for support	Use of workforce database	HR Business Partner for ER	Yearly	Workforce committee
Number of appeals against decisions taken under this policy.	Use of workforce database	HR Business Partner ER	Yearly	Workforce committee
Ongoing discussions with JNCC representatives	Deputy Director of Workforce	Ongoing	JNCC Yearly	JNCC

15. References

- Legislation
 - Employment Act 2008
 - Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008
 - Employment Rights Act 1996 as amended
 - Employment Rights Dispute Resolution Act 1998
 - Employment Relations Act 1999
 - Employment Rights Act 2004
- CIPD – Good Practice Guidelines for Disciplinary and Grievance Procedures (Members only section of website)
- ACAS – Code of Practice for Disciplinary and Grievance Procedures

16. Associated Documents

Equality, Diversity and Inclusion Policy
Policy for Handling Concerns about Doctors and Dentists
Alcohol and Substance Misuse
Managing Attendance & Employee Wellbeing
Employee Investigations Policy
Disciplinary Policy
Managing Employee Performance Policy
Probationary Period Policy
Annual appraisal and pay progression policy

RECORD OF GRIEVANCE AT STAGE 2 - (Raise It – Formal Resolution)

To be completed by the employee (or representative) raising a Grievance.

This form should be submitted if you wish to raise a grievance formally at Stage 2 of the Grievance Policy where your grievance was not resolved at Stage 1 (Discuss It – Informal Resolution)

You are required to complete this form and submit it to the next level of management within 10 working days of the confirmation outcome of the Stage 1 – ‘Discuss It’ – Informal Resolution (verbal or written).

Please read the Grievance Policy before completing this form. If you require assistance completing this form please contact your Trade Union Representative, HR or your manager (an electronic version of this form is available from the HR Team). If you consider you will require any adjustments to enable you to attend any meetings to discuss your grievance please specify below:-

Name:		Date:	
Job Title:		Ward/ Department:	
Home Address:			
Contact Number:			
Email Address:			
Preferred method of written communication (delete as appropriate)	Email	Postal	
Adjustments required:			
Name of TU Rep or Work Colleague Companion			
Contact email address for Representative or Companion			
Do you consent to information be shared directly with your representative? (TU rep only)	Yes	No	

For collective grievances please list the names, job titles, department and contact details for each individual on a separate sheet of paper. The individual listed above will be used as the main point of contact and spokesperson for the group.

Have you attempted to ‘Discuss It’ previously?	Yes/No	If yes, with whom?
Outcome:		
<i>Please include the name of the individual you have approached at Stage 1 ‘Discuss it.</i>		
If no, why is this not appropriate? (see section 9.2.2)		

Please note:- Concerns will not be considered at stage 2 unless all reasonable steps have been taken to resolve matters at Stage 1 (Discuss It – Informal Resolution).

NATURE OF GRIEVANCE

<p><i>What management decision, action or omission that has been taken, is proposed or has failed to have been taken is your grievance against?</i></p> <p><i>Please include who communicated this decision, action or omission to you?</i></p>	
<p><i>Are you requesting that 'status quo' is invoked?</i></p> <p><i>Please note status quo will normally apply unless it can be demonstrated that this would prevent change necessary for the effective operation of the Trust.</i></p>	
<p><i>Please describe the nature of your Formal Grievance.</i></p> <p><i>Please provide a description of your concerns including precise information such as dates of events, meetings or correspondences, whether this is one off or part of a sequence of events, names or those involved and any reference documents or policies.</i></p> <p><i>Please attach any supporting information to the Form.</i></p> <p><i>(continue on another sheet if required)</i></p>	
<p><i>Please state your desired outcome and why and how you believe this will resolve the issue?</i></p> <p><i>(continue on another sheet if required)</i></p>	

Signed:..... Date:.....

GRIEVANCE APPEAL FORM (Stage 3 – Appeal It)

To be completed by the employee (or representative) appealing against a Grievance Decision at Stage 2 (Raise it – Formal Resolution).

This form should be submitted if you wish to appeal against the decision reached at Stage 2 ('Raise It – Formal Resolution) in relation to your grievance.

You are required to complete this form and submitted it to the manager detailed in your Stage 2 outcome correspondence within 10 working days of the receiving written confirmation of outcome at Stage 2.

Late appeals or appeals on any other grounds to those set out in the policy will only be considered in exceptional circumstances.

Please read the Grievance Policy before completing this form. If you require assistance completing this form please contact your Trade Union Representative, HR or your manager (an electronic version of this form is available from the HR Team). If you consider you will require any adjustments to enable you to attend any meetings to discuss your grievance please specify below:-

Name:		Date:	
Job Title:		Ward/ Department:	
Home Address:			
Contact Number:			
Email Address:			
Preferred method of written communication (delete as appropriate)	Email	Postal	
Adjustments required:			
Name of TU Rep or Work Colleague Companion			
Contact email address for Representative or Companion			
Do you consent to information be shared directly with your representative? (TU rep only)	Yes	No	

For collective grievances please list the names, job titles, department and contact details for each individual who is part of this appeal on a separate sheet of paper. The individual listed above will be used as the main point of contact and spokesperson for the group.

Stage 2 (Raise It – Formal Resolution) Grievance

Date of Stage 2 meeting	
Manager reaching decision at stage 2	

Reason for Appeal – Stage 3 ‘Appeal it’

What is the reason for your appeal?	See section 9.3.2	Please Tick all that apply
<i>NB if your appeal is on the basis of new evidence – you must explain why this previously undisclosed information was not presented/available at stage 2.</i>	My grievance was not upheld where the evidence does not support this outcome	
	the correct policy or process was not followed	
	new evidence has come to light that would change the outcome	
	the outcome is inconsistent with how others have been treated	
<p><i>Are you requesting that ‘status quo’ is invoked?</i></p> <p>Please note there is no automatic right for status quo to apply. It would normally apply unless it can be demonstrated that this would prevent change necessary for the effective operation of the Trust.</p>		
<p>Please detail the grounds for your appeal and why an Appeal is being requested?</p> <p><i>(Please attach any supporting information to the Form)</i></p> <p><i>(continue on another sheet if required)</i></p>		
<p>What outcome do you seek?</p>		

IF THIS GRIEVANCE HAS PREVIOUSLY BEEN CONSIDERED AT EITHER STAGE 1 OR 2, please summarise the outcome or attach the relevant outcome letter or other documentation.

Signed:..... **Date:**.....

GRIEVANCE PROCESS

Appendix C

