Managing Attendance Policy

MANAGING ATTENDANCE POLICY

For application to: HR029 Managing Attendance Policy and HR029a Attendance Management Guidance
Ref: Published Temporary Amendments to Staff Terms and Conditions in response to COVID-19.
By: Angela Ogden, Senior HR Business Partner

COVID-19 PANDEMIC POLICY BRIDGING STATEMENT

Due to requirements in line with national guidance issued during the COVID-19 pandemic and/or in order to support business continuity and the delivery of clinical care during the pandemic, the following changes to Trust Policy were agreed at the Trust’s COVID-19 Safety, Legal and Regulatory Group.

Effective from 08/04/2020 Discontinued on dd/mm/yy

Changes proposed by: Angela Ogden, Senior HR Business Partner

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For full details see page 2 of this document

COVID-19 Safety, Legal and Regulatory Group on 22/04/2020
☑ Approved ☐ Requires revision ☐ Not approved
COVID-19 PANDEMIC POLICY BRIDGING STATEMENT

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**Details of change**
The overriding principle of the guidance is that all steps should be taken to ensure staff do not feel forced to work if they become unwell and that staff have as much flexibility as possible as far as circumstances allow.
The document mainly increases provisions set out with the staff T&Cs of employment (Agenda for Change and Medical & Dental Contracts) and Trust policies and procedures.

**Rationale**
In order that staff maintain their health and wellbeing and are therefore able to use their skills and experience to fight the Covid-19 pandemic.

See temporary amendments to the staff T&Cs [here](#)
To ensure that Lancashire Care NHS Foundation Trust provide a supportive, safe and inclusive working environment that encourages all employees to manage their health and wellbeing and maintain their attendance at work.

To provide a framework for a positive and pro-active approach to the management of attendance.

To provide the necessary support to employees, ensuring that employees are treated in a consistent and fair manner and to enable Lancashire Care NHS Foundation Trust to deliver quality health care.

**Supporting Health and Wellbeing**

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1.0 Introduction

1.1 This policy sets out the standards of attendance that are expected of all employees of LCFT and to encourage sustainable improvement in individual attendance. This policy must be read in conjunction with the Managing Attendance Guidance Document.

1.2 All staff involved with the application of this policy will ensure that confidentiality is maintained at all times.

1.3 It sets out the responsibilities and duties of management and staff in respect of attendance management issues.

1.4 This policy and procedure is in line with the relevant legislation and guidance as set out as follows:

- ACAS Advisory Booklet – Managing Attendance and Employee Turnover
- NICE public health guidance (PH19, NICE March 2009; and PH22 NICE, November 2009).
- The Trade Union and Labour Relations (Consolidation) Act 1992
- The Employment Rights Act 1996
- The Employment Act 2008
- Fraud Act 2006

2.0 Scope

2.1 This policy applies to all employees of LSCFT.

2.2 However, in the case of Medical and Dental staff this policy must be used in conjunction with the NCAS Guidance.

3.0 General Principles

The general principles of the Trust’s Attendance Policy are:

3.1 To ensure systems are in place to encourage a culture of good attendance; supporting Trust employees to manage their health and well-being and to return to work following or remain in work during periods of ill-health.

3.2 To ensure access to Occupational Health services.
3.3 To set and maintain high standards of work attendance by establishing clear
guidance and procedures for ensuring absence is managed fairly and
consistently across the Trust.

3.4 Ensure employees whose sickness absence has become unsatisfactory are
dealt with in a supportive and compassionate way, whilst ensuring the provision
to service users is not adversely affected as a consequence.

3.5 To manage long term sickness absence and incapacity in line with the best
practice identified in NICE public health guidance (PH19, NICE March 2009;
and PH22 NICE, November 2009). Enabling the Trust and its employees to
work together to ensure the right support is available to assist someone on
sickness absence to return to work as soon as they are able.

4.0 Definitions

4.1 Short Term / Frequent Absence

Short term absence is one day or more but less than four consecutive week’s
absence. Short-term absence may be self-certificated (absences up to 7 days)
or medically certificated (absences over 7 days) via a statement of fitness for
work (fit note). Frequent absence is defined as repeated periods of absence.
This can include unrelated reasons for absence or a reoccurrence of a related
medical condition.

4.2 Long Term Absence

This is defined as an absence of four consecutive weeks or more.

5.0 Duties & Responsibilities

5.1 Responsibility of the Trust Board and Chief Executive

5.1.1 To ensure that appropriate policies and procedures are in place to promote the
good health and well-being of all staff in order to enable employees to provide
regular and effective attendance at work

5.1.2 Ensuring the content of this policy is applied consistently and fairly across the
Trust.

5.2 Responsibility of the Human Resources (HR) Department

5.2.1 Overseeing the introduction, operation and monitoring of this policy and
reporting to the Trust Board on absence levels.

5.2.2 Ensuring the provision of training, guidance and support to Line Managers on
the implementation of the policy.
5.2.3 Promoting the adoption of consistent and fair application of the policy throughout the Trust.
5.2.4 Monitoring and reviewing the service provided by the Occupational Health Department.

5.3 **Responsibility of the Line Managers**

5.3.1 Dissemination and implementation of this policy within their teams.
5.3.2 Liaising with the relevant member of the HR team to seek professional advice and guidance on the implementation of the policy and to follow advice provided by the Occupational Health Department.
5.3.3 Remaining in contact with absent employees throughout their period of sickness. The frequency of contact will be guided by the individual circumstances of the absence. There needs to be a common sense approach to the regularity of contact.

5.3.4 Ensuring that employees are aware of their responsibilities in relation to the policy and understand what is expected of them with regard to attendance and that they are aware of the support available within the Trust.
5.3.5 Making employees aware of the notification procedures to be followed if an employee is unable to attend work and where they are due to return to work.
5.3.6 Ensuring that all employee sickness absence is recorded on ESR Manager Self Service and that sickness (including timely submission of fit notes) is monitored and regularly reviewed to ensure that problems or patterns are identified at an early stage. This includes closing an absence immediately upon the employees return to work to ensure that the data is up to date, accurate and employees are paid correctly.
5.3.7 Ensuring employees receive a copy of the Occupational Health report following referral appointments. Reports must be forwarded to employees in a timely manner, ideally within one week of receipt.
5.3.8 Making arrangements for and advising employees of the details of all sickness absence meetings.
5.3.9 Drafting Absence Review letters following the review meeting and, if required, agreeing these with the relevant member of the HR team.
5.3.10 That all return to work interviews are completed in a timely manner, preferably within three days of the employees return from sickness.
5.3.11 Managers are required to attend the relevant training sessions as provided by the HR department.

5.4 **Responsibility of the Occupational Health Service**

5.4.1 The provision of professional and impartial advice to Line Managers on the health, safety and welfare of employees at work.
5.4.2 The provision of a support service to all Trust employees.
5.4.3 The provision of advice regarding reasonable adjustments and adaptations as required under the Equality Act 2010.
5.4.4 The Occupational Health Service will provide reports following consultations to the referring manager in a timely manner.

5.5 Responsibility of the Employee

5.5.1 Have a contractual obligation to attend work to fulfil their contract of employment.

5.5.2 Following the notification procedure, contacting their line manager, when they are unable to attend work or are unavailable to cover their on-call due to sickness and for producing the appropriate certification.

5.5.3 Are required to maintain in contact with their Line Manager throughout the duration of their period of sickness absence.

5.5.4 Are responsible for ensuring episodes of absence are reported and certificated in line with this policy. Failure to do so could result in the delay or loss of sick pay.

5.5.5 Employees are not expected to work elsewhere (including LCFT Bank) whilst on sickness absence leave. Any work undertaken, including voluntary or unpaid work should be declared by the employee and discussed with their line manager. Failure to do so may result in criminal and/or disciplinary investigations being undertaken. These actions may be considered to be dishonest if it is established that the employee has worked elsewhere whilst claiming sickness absence benefit from the Trust.

5.5.6 To supply medical certificates at the earliest opportunity to ensure that an auditable trail is maintained in regards to sickness absence and pay.

6.0 Notification and Maintaining Contact

6.1 Employees who are unable to attend work must notify their manager (or appropriate person in the absence of their manager) at the earliest opportunity and, where possible, prior to the commencement of their shift. A telephone call should be made in all cases. Except in exceptional circumstances staff are required to make the notification personally as opposed to requesting a relative or partner to carry this out on their behalf. Texting, e-mail, phoning a colleague or leaving a voicemail is not appropriate and will not be accepted as notification of absence.

6.2 Failure to follow the correct absence notification procedure may be subject to the Trust’s Disciplinary Policy and/or cessation of occupational sick pay.

6.3 Where an employee reports for work and completes half a shift or more, but due to sickness is unable to complete the whole shift, this absence will not be recorded on ESR. However, it will be recorded on the employees’ personal file and considered when managing the employee’s sickness absence.
6.4 Employees must submit self-certification (7 or less days) and/or medical certificates (absences over 7 days) as soon as possible at the beginning of the absence. Failure to supply certification within 7 days of expiry of the previous certification could result in non-payment of sickness pay.

If during a period of annual leave an employee is sick and wishes to reclaim planned annual leave for use at another time then this will require a Medical Fit note provided by the employees GP at the time of the illness. As an example, where an employee who has annual leave booked to go abroad or holiday in the UK and reports to be sick, where they have been able to take this holiday they will not be able to reclaim this. If they have been prevented from taking this holiday due to their sickness they will be able to reclaim this leave but will need to provide proof of cancellation and a medical certificate (GP fit note). Further information and guidance concerning employees taking annual leave during sickness absence is located in the Managing Attendance Guidance Document.

6.5 Employees must be aware that dishonestly claiming to be sick and therefore unable to work for the Trust, is an offence under the Fraud Act (2006). As a result, employees could be subject to the Trusts Disciplinary Policy and referred to the Trusts Anti-Fraud Specialist for criminal investigation.

6.6 Employees have a responsibility to maintain contact with their line manager during any period of sickness. This includes being available for Occupational Health appointments, sickness absence review meetings or any other managerial contact. Contact should be maintained throughout the episode of absence at a minimum of fortnightly intervals.

6.7 Where an absence is related to an accident where a claim is made for loss of earnings then any monies paid can be reclaimed by the Trust. Any work related incidents of this nature must be recorded on the Datix system. Information in regards to making claims for Temporary Injury Allowance is available through e-HR InfoPoint and/or the Human Resources Department.

6.8 Any absence for psychological reasons, such as stress, anxiety or depression should result in an immediate referral to occupational health. Managers should discuss with the employee that a referral will be made.

7.0 Monitoring Sickness Absence & Triggers

7.1.1 Achieving Trust attendance rate targets are the responsibility of each individual Network. Line managers are responsible for monitoring the attendance of their employees through the use of ESR Manager Self Service Business Intelligence and taking appropriate action.
7.1.2 Advice should be sought from Human Resources where the pattern of absence gives the manager cause for concern e.g. Mondays and Fridays; after annual leave; where previous annual leave requests have been refused etc.

7.1.3 Half day episodes or sickness absence constituting less than a half day (i.e. an employee leaves work reporting sick at 2pm during a 9 – 5 shift) may also be considered for the purposes of frequent/episodic absence management as these still represent episodes of sickness absence.

7.1.4 Employees are not allowed to take annual leave, time owing or flexi in place of sickness absence. Where an employee is having planned surgery and wishes to take annual leave to facilitate the period of absence required can be discussed with the line manager.

7.1.5 Maternity related illnesses will not be counted when assessing triggers of this policy.

7.2 Trust Absence Triggers

7.2.1 The current Trust trigger for management action (see 8.1) in regards to frequency of episodes is set at 3 episodes of absence in a rolling twelve month period (these can include episodes considered ‘long term’ under the above definition).

7.2.2 Where an employee has been absent for 8 weeks, following HR advice, the Manager must give the employee reasonable notice of a formal sickness review meeting.

8.0 Process for Managing Short Term/Frequent Absences

Following the end of any of the below review periods, a meeting must be held to ascertain whether an employee will continue to be monitored at the current stage, at the previous stage (where applicable) or be moved to the next stage.

8.1 Informal Counselling

An employee’s absence becomes a cause for concern if they have had three separate episodes of sickness absence within a rolling twelve month period. The employee must be informally counselled by their Manager. The informal counselling monitoring period is active for 3 months. In certain circumstances it may be appropriate to extend this to offer the employee an extended period of support for them to be able to improve and maintain their attendance at work.

8.2 Formal Stage 1 – First Letter of Concern
Should the level of sickness absence continue to be deemed as unacceptable following the informal stage being issued a more formal meeting may then be required in order to ensure that the Trust has offered all possible support and advice to the employee. The Formal Stage 1 – First Letter of Concern monitoring period is active for 6 months. In certain circumstances it may be appropriate to extend this to offer the employee an extended period of support for them to be able to improve and maintain their attendance at work. Advice should be sought from HR in regards to extended periods of monitoring. HR presence at this meeting may be required but is not mandatory.

Following successful completion of Stage 1, employees will continue to be monitored at the Informal Counselling stage which carries with it a further active period of 3 months. In essence, at this stage, an employee must achieve a total of 9 months improved attendance to come off absence monitoring altogether.

8.3 **Formal Stage 2 - Final Letter of Concern**

Where, following the Formal Stage 1 – First Letter of Concern review period, there is no significant improvement in an employee’s attendance, the Manager must give the employee reasonable notice of a further formal meeting. The Formal Stage 2 – Final Letter of Concern monitoring period is active for 12 months. In certain circumstances it may be appropriate to extend this to offer the employee an extended period of support for them to be able to improve and maintain their attendance at work. Advice should be sought from HR in regards to extended periods of monitoring. HR presence at this meeting may be required but is not mandatory.

Following successful completion of Stage 2, employees will continue to be monitored at Stage 1 – First Letter of Concern which carries with it a further active period of 6 months. In essence, at this stage, an employee must achieve a total of 18 months improved attendance to come off absence monitoring altogether.

8.4 **Formal Stage 3 – Potential Dismissal**

If an employee is unable to reach and sustain the required improvement in attendance by the agreed review date and all options for supporting an employee have been exhausted then termination of employment on the grounds of capability due to ill health could be considered.

8.5 The Hearing will adopt the format of the Trust Performance Improvement (Capability) process, however will not include a Professional Lead as part of the hearing panel.

9.0 **Managing Long Term Sickness Absence**
9.1 Managers must obtain advice from HR at the earliest opportunity when dealing with long term sickness absence.

9.2 Managers are expected to maintain contact with their employees during periods of long term sickness. How this is managed will be in agreement between manager and employee.

9.3 Regular meetings will be required between the manager and employee throughout the period of absence. These meetings should normally take place on Trust premises. Ideally at the employees normal base of work.

9.4 Time and Travel expenses to and from sickness absence review meetings and/or Occupational Health services will not be reimbursed under any circumstances.

9.5 Following the meeting the Manager must consider the most appropriate course of action, based on occupational health advice. It is the responsibility of the line manager to share a copy of the Occupational Health report, on receipt, with the employee as the OH provider will not do this.

10.0 Stages of Management, Sanctions and Options for Consideration during Long Term Sickness

10.1 First Formal Meeting – on or around 8 weeks

This would take the form of an absence review meeting between the line manager and employee. A likely outcome of this meeting could be that the case is reviewed in 8 weeks and if no return to work date has been identified then this will progress to the next stage.

10.2 Second Formal Meeting – on or around 16 weeks – First Formal Notification of Concern

As above. HR attendance at this meeting is not mandatory, however it is a requirement for managers to contact HR to seek advice and guidance. A First Formal Notification of Concern may be issued following this meeting depending on whether a return to work date is identified, if not the case will be reviewed again in a further 8 weeks and if no return to work date has been identified then this will progress to the next stage.

10.3 Third Formal Meeting – on or around 24 weeks – Second Formal Notification of Concern

As above. HR attendance at this point is mandatory. If the absence persists then it is appropriate at this time to discuss possible future considerations with the employee, one of which could be (but not limited to) termination of contract on the grounds of ill health. A Second Formal Notification of Concern may be
issued following this meeting depending on whether a return to work date is identified, if not the case will be reviewed again in 26 weeks and if no return to work date has been identified then this will progress to the next stage.

10.4 Final Formal Meeting Case Review – on or around 52 weeks – Final Formal Notification of Concern

On or around the 52 week mark, the case can be reviewed by the Line Manager, HR Representative and Service Manager to determine the most appropriate course of action in regards to an employee’s sickness absence. A final letter of concern may be issued following this meeting with a decision as to whether to progress to a capability hearing. Please note that this would not be a performance related capability hearing, but a medical capability hearing.

10.6 Options for Consideration (at any point of the above stages)

10.6.1 Return to Work

Return to Work interviews should be undertaken for all periods of absence and formally documented for each episode of sickness absence. Additionally all episodes and return to work details must be updated on ESR within 3 days.

Guidance on facilitating a return to work including using a phased Return to Work and what constitutes reasonable adjustments is available in the Trust Managing Attendance Management Guidance Document. As a general rule, a phased return to work is normally available to an employee returning from long term sickness absence and is based on individual circumstances. Occupational Health should provide advice concerning appropriateness of applying a phased return. The structure of a phased return to work will be decided by the employee and their manager. A phased return to work can be offered for up to a maximum of 4 weeks, pro rata for part-time staff. In these circumstances the first 4 weeks of this phased return to work will be supported by the organisation. In situations which may require a phased return to work beyond the initial 4 weeks, then this must be approved by the manager and the balance supported by use of the employees’ annual leave.

10.6.2 Medical Redeployment

Guidance on Medical Redeployment can be found in the Trust Medical Redeployment Guidance Document.

In line with the NHS Terms and Conditions of Service, pay protection may be applicable where the need for permanent medical redeployment is due to a
work related illness, work related injury or work related health condition and the
new post is at a lower band than the employees existing post.

Medical Redeployment must be recommended by the Occupational Health
Department.

10.6.3 No Foreseen Return to Work

If a return to work is not anticipated in the foreseeable future (at any time during
a long term period of absence) and all options to facilitate a return to work,
including medical redeployment have been exhausted then termination of
employment on the grounds of capability due to ill health will be considered.
This would take the form of a capability hearing in line with the Trust
Performance Improvement (Capability) Policy (with the omission of a
Professional Lead on the panel). Any termination on these grounds would
be officially recognised as termination on the grounds of ill health and is
not in any way related to Performance Management.

Where an employee notifies the Trust that they wish to pursue an application
for Ill-Health Retirement, they will have by virtue of the request confirmed they
are unable to return to work. As a result, progression to move to a capability
hearing due to ill health will be considered.

10.6.4 Long Term Conditions / Terminal Illness

Cases involving long term conditions or terminal illness should be handled with
particular compassion and sensitivity to ensure a supportive outcome for the
employee concerned. Where parties are in agreement that all options have
been exhausted, and evidence is provided by an Occupational Health Report
supporting Ill Health Retirement / or a successful Ill-Health Application has been
made a Formal Capability Hearing may be avoided in place of a Final Sickness
Absence Review Meeting. In such circumstances the advice of HR must be
sought at the earliest opportunity.

10.6.5 Change in Pay Status

Employees dependant on their continuous NHS service will have differing
occupational sickness payment entitlements, therefore managers should
discuss with HR/Payroll to gain information concerning when employees will
reach their half pay and nil pay status’.

11.0 Appeals against Dismissal

All employees have the right to appeal against the decision of dismissal.
Employees must appeal the decision within 14 working days of the decision
being communicated. The appeal must be made in writing to the Director of
Human Resources clearly stating the basis on which the appeal is being made.
The Appeals hearing will be held in accordance with the Trust’s Disciplinary Appeal Procedure.

12.0 Training

Line managers may access one-to-one advice and guidance from the HR department. Regular training on Managing Attendance is provided to managers across the Trust.

Further advice and support in relation to this policy can be obtained through E-HR or the HR advice centre.

Training on the use of ESR Business Intelligence can be requested via the Workforce Information Team.

13.0 Monitoring (Including Standards)

13.1 The governance of this policy, including the reviews, monitoring and reporting will be overseen by Trust’s Partnership Group and/or HR Delivery and Governance Group. The reviews will be undertaken in accordance with the review date set out within the policy or at appropriate intervals when required.

13.2 The effectiveness and the compliance of this policy will be monitored by the HR Department. Monitoring will be undertaken on a monthly basis for areas such as rates of return to work interviews, long term and short term absence cases.

13.3 Managers should use ESR Business Intelligence to assist in adherence to this policy in regards to trigger points.

14.0 Reference Documents

- The Code of Conduct for Employees
- Anti-Fraud Bribery and Corruption Policy
- Dignity at Work Policy
- Grievance Policy
- Maternity Policy
- Managing Attendance Guidance Document
- Staff Leave Policy