Sickness Absence Management Policy

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**DOCUMENT CHANGE HISTORY**

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<td>1 July 2010</td>
<td>Juliet Ormerod</td>
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The East of England Ambulance Service NHS Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups. This policy applies to all individuals working at all levels and grades for the Trust, including senior managers, officers, directors, non-executive directors, employees (whether permanent, fixed-term or temporary), consultants, governors, contractors, trainees, seconded employees, homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with the Trust.

All Trust policies can be provided in alternative formats.

Contents

1. Introduction
2. Purpose
3. Duties
4. Definitions
5. Sickness Benefits
6. Conditions of Contractual Sick Pay
7. Sickness Absence Monitoring
8. Time off for Medical Appointments
9. Annual Leave

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Linked procedural documents Stress and Psychological Well-being in the Workplace Policy, Occupational Health and Wellbeing Policy, Alcohol and Drug Misuse Policy, Dignity at Work Policy, Special Leave Policy, Maternity Leave Policy, Employment Break Policy, Induction Policy, Disciplinary Policy (Managing Conduct and Performance), Grievance Policy, Terminal Illness Policy, Standards of Business Conduct Policy, Conflicts of Interest and Secondary Employment Policy, Annual Leave Policy, Local Counter Fraud/Human Resources Liaison Policy, Occupational Health Referral Pack

Dissemination Requirements
1. Introduction

1.1 This document outlines the Sickness Absence Management Policy and Procedures for the East of England Ambulance Service NHS Trust (the Trust). In line with the provisions of current legislation, the Trust is committed to managing, supporting and reducing sickness absence in a fair, robust and consistent manner and in managing the risk of premature and unnecessary ill health retirements.

2. Purpose

2.1 The policy aims:

- To provide support and advice for those employees with long term health problems in respect of the ongoing management of their individual circumstances.

- To encourage all employees to maximise their attendance at work and provide help and support where appropriate.

- To improve employees welfare and morale, particularly for those who have ongoing health problems.

- To ensure a consistent approach and support for employees who, due to ill health and/or injury, fail to meet reasonable required standards of attendance in their job.

- To give employees the opportunity to improve their attendance and provide guidance and assistance in accessing appropriate support.

- To provide a means by which employees may have informal and formal discussions around their attendance levels, and the potential consequences for their employment should their level or pattern of absence not improve significantly.

- To set out the responsibilities of managers, employees and occupational health in relation to sickness absence.
2.2 In managing sickness absence, the emphasis must be on supporting the individual, taking into account the advice of the Occupational Health Service and any other relevant specialist reports; however, consideration should be given at all times to ensuring high standards of service are maintained in order to deliver our critical objective of patient centred care.

2.3 All employees have a responsibility to attend work and fulfil their contract of employment on a regular basis, and this policy aims to facilitate achievement of this through supportive measures.

2.4 It is recognised that employees may be unable to attend work from time to time because of illness. A positive approach to the management of absence is required in order to optimise attendance rates and enable the Trust to provide a safe service for our patients who must be our over-riding priority. Employees are to be advised that unacceptable levels of sickness absence may result in formal actions being taken which could result in dismissal, however, supporting the employee through their sickness absence and return to work should be viewed as the primary objective.

2.5 The procedures which are aligned to this policy will address all absences whether these are short or long term absences.

2.6 This Policy applies to all employees of the Trust.

2.7 The misuse of the Trust’s Sickness Absence Management Policy e.g. working whilst claiming sick leave (without informing the Trust) could be construed as misrepresentation under the Fraud Act 2006 and be referred to the Counter Fraud Service for investigation.

3. Duties

3.1 All employees have a duty to:

- maintain their health and well-being to ensure regular attendance at work;
- attend work as contracted, unless otherwise authorised by their line manager (e.g. being stood down);
- report to the Occupational Health service immediately or at the first opportunity when they know they will be absent from work;
- give the reason for absence and provide an expected date of return to work or expected length of absence,
- agree frequency and method of contact with the Occupational Health Service, and maintain contact with their line manager or nominated deputy on an on-going basis;
- ensure they make themselves available for welfare checks/visits/health review meetings when absent from work.
- familiarise themselves and co-operate fully in the use of the sickness absence procedures, including attendance and active participation in sickness absence review meetings and Occupational Health appointments;
• inform their line manager should they receive or expect to receive any damages or payment as per paragraph 6.7;

• inform their line manager of any situation or personal circumstances which might put themselves, their colleagues, patients, the public or subsequently the Trust at risk. Employees must also disclose to occupational health any medication they are currently taking. Occupational health will advise whether it may impact on the employee’s ability to undertake their job role. This will also be applicable during any period of suspension. Employees should be aware of their individual responsibility for example under Road Traffic Law, DVLA Group 2 Medical Standards, HCPC Code of Conduct and other Trust policies, where applicable to their role.

• be aware of the provisions for emergency domestic leave, carers leave and compassionate leave under the Special Leave Policy;

• advise the occupational health service whether they have a disability which may be covered under the Equality Act 2010 and whether a period of absence is related to this disability.

3.2 Line managers have a duty to:

• communicate appropriately with their absent employees and ensure appropriate welfare checks are carried out;

• agree frequency and method of contact with the employee and maintain contact informing them of any changes relevant to the individual and their job role;

• conduct regular reviews to assess and monitor employees when they are absent due to sickness and ensure appropriate actions are taken in line with Trust policies;

• document the reason for absence following notification of commencement of sickness and create a detailed record (GRS and/or paper);

• record all contact with employees with respect to managing sickness absence in line with the Sickness Absence Management policy. All sickness absence information must be stored confidentially and securely;

• discuss the impact of any employee’s primary/secondary employment on their sickness absence;

• use management information and systems appropriately to ensure quality data is available on sickness absence. This includes recording episodes of non-absence and subsequent actions.

• advise employees of the provisions for emergency domestic leave, carers leave and compassionate leave under the Special Leave Policy should the employee not actually be sick when notifying their absence;

• in long term sickness absence cases management should hold the first meeting, which must be documented; providing clarity, on or around 28 days absence unless there are exceptional circumstances such as hospitalisation. Such circumstances should not prevent a hospital welfare visit being made.

3.3 Human Resources Department
The Human Resources Department is responsible for keeping the provisions within this Policy in line with employment legislation, best practice people management principles and NHS guidelines.

3.4 Managers, HR and Trade Union Representatives

Managers, HR employees and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure.

This policy has been written in partnership by management and staff side through the Sickness Absence Working Group and the HR Policy Group.

4. Definitions

4.1 The following definitions will apply within this policy:

• **Regular patterns of absence** – periods of absence which formulate a pattern of regular absence, for example every Wednesday;
• **Short Term Absence** – any periods of absence lasting less than 28 calendar days;
• **Long Term Absence** – any continuous period of absence of 28 calendar days or more;
• **Episode of sickness absence** – any occasion during which an employee is absent from the workplace due to ill-health;
• **Self Certificate (Appendix A)** – a form completed by an employee on return to work giving dates and reasons for any absence of up to seven days;
• **Statement of Fitness for Work ‘Fit Notes’** – a form completed by a medically qualified practitioner or Occupational Health Physician to determine whether an employee is ‘unfit to return’ or ‘may be fit to return’ to the workplace which is required for any period of absence exceeding seven days.
• **Attendance** – is interpreted in the wider sense of being available for work and covers employees working on or off site.
• **Unauthorised Sickness Absence** – period of sickness absence for which an employee fails to provide an explanation for their absence, fails to inform their manager that they will not be attending work, or fails to make contact with their manager (except in exceptional circumstances) as required by Trust Procedures. Where an investigation shows that there is no satisfactory explanation for the absence/lateness, further action may be taken in accordance with the Trust’s Disciplinary Policy (Managing Conduct and Performance).

5. Sickness Benefits

5.1 These arrangements are intended to supplement Statutory Sick Pay (SSP) to provide additional payment during absence due to illness, injury or other disability.

5.2 Employees absent from work due to illness will be entitled, subject to the conditions of the NHS (Agenda for Change) Terms & Conditions of Service Handbook, to sick pay in accordance with the scale below. Note that the scales below are based on reckonable service (refer to 6.2):

- during the first year of service one months’ full pay and two months’ half pay
- during the second year of service two month’s full pay and two months’ half pay
- during the third year of service four month’s full pay and four months’ half pay
• during the fourth and fifth year of service five months’ full pay and five months’ half pay
• after completing five years of service six months' full pay and six months’ half pay

5.3 An employee’s continuous previous service with any NHS employer counts as reckonable service in respect of NHS agreements on sickness.

5.4 In the event of employment coming to an end, entitlement to sick pay ceases from the last day of employment.

5.5 Sick pay is calculated on the basis of what the individual would have received had they been at work. This is based on the previous three months at work (or any other reference period agreed locally). The definition of full pay will include regularly paid supplements including any recruitment and retention premia, payments for work outside normal working hours and high cost area supplements (as referred to in the NHS Terms & Conditions of Service Handbook).

5.6 Full pay will be inclusive of any statutory benefits (so as not to make sick pay greater than normal working pay). The combined addition of statutory sick pay to half pay must not exceed full pay. Sick pay paid to an employee when added to any statutory sickness, injuries or compensation benefits, including any allowances for adult or child dependants must not exceed full pay.

5.7 The period during which sick pay should be paid and the rate of sick pay for any period of absence is calculated by deducting from the employee’s entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day. For aggregating periods of absence due to illness only, personal circumstances will be considered, i.e. no account will be taken of:

• Unpaid sickness absence;
• Injuries or diseases sustained to employees in the actual discharge of their duties through no fault of their own;
• Injury resulting from a crime of violence not sustained on duty but connected with or arising from the employee’s employment where the injury has been the subject of payment by the Criminal Injuries Compensation Authority (CICA) and the Compensation Agency (Northern Ireland);
• As above, but an injury which has not been the subject of payment by the Board on grounds that it has not given rise to more than 3 weeks’ loss of earnings or was not one for which compensation above the minimum would arise.

6. Conditions for Contractual Sick Pay

6.1 Employees will not be entitled to an additional day off if sick on a statutory holiday.

6.2 Sick pay for those who have exhausted sick pay entitlements should be reinstated at half pay, after 12 months of continuous sickness absence, in the following circumstances:

• Employees with more than 5 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.
• Employees with less than 5 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.

6.3 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 be in accordance with local sickness absence procedures established in accordance with Annex Z of the Agenda for Change terms and conditions of service handbook and will only apply where the failure to undertake the final review meeting is due to delay by the Trust. This provision will not apply where a review is delayed due to reasons other than those caused by the Trust.

6.4 The Trust will also have discretion to extend the period of sick pay on full or half pay beyond the scale set out in Section 5.2. This will be on the authorisation of the Associate Director (or equivalent) of the employee’s directorate and the Associate Director of Human Resources:

• where there is the expectation of 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 employees without full sick pay entitlements;
• in any other circumstance that the employer deems reasonable (e.g. terminal or progressive illness with a poor prognosis).

6.5 Sick pay is not normally payable for an absence caused by an accident sustained due to active participation in sport as a profession or where contributable negligence is proved.

6.6 Employees are reminded that sick pay is not normally payable for an absence caused by injuries sustained whilst working for another employer and may affect their rights to other NHS benefits such as the Superannuation Scheme.

6.7 An employee who is absent as a result of an accident is not entitled to sick pay if damages are received from a third party. The Trust will advance to an employee a sum not exceeding the amount of sick pay payable under this scheme providing the employee repays the full amount of sickness allowance to the Trust when damages are received. Once received, the absence shall not be taken into account for the purposes of the scale set out in section 5.2 above.

6.8 After investigation, consultation and consideration of other alternative posts, and where there is no reasonable prospect of the employee returning to work, the Trust will have the option to terminate employment before the employee has reached the end of the contractual paid sickness absence period.

7. **Sickness Absence Monitoring**

7.1 All sickness absence must be recorded directly onto the Global Rostering System (GRS) and onto the external Occupational Health service provider database following the employee making the call to register the absence. For payroll purposes, an employee will be deemed to be on continuous sickness absence until records are updated to indicate a final date of sickness.
7.2 A summary report of absence, will be provided to the Board, the Executive Leadership Team and managers as appropriate by the Workforce Planning and Information Department and the Occupational Health Service, on a monthly basis. These reports will include the number of working days and working hours lost due to sickness absence, the cost of sickness absence together with absence reason, highlighting any trends. The absence reason is also recorded on the Electronic Staff Recording (ESR) system.

7.3 Managers will be responsible for taking appropriate action based on the monthly reports.

7.4 The models adopted by the Trust to monitor non attendance, and which will serve as a trigger for holding health review meetings, are:

- the number of episodes of sickness absence taken by an employee within a 12 month rolling period; and/or
- when a period of absence has exceeded 28 calendar days duration

Management action and review will not be entirely dependent on the above triggers where in certain circumstances it may be appropriate to intervene at an earlier stage.

7.5 When an employee becomes sick during the first half of a shift and needs to leave work, this will be treated as a complete day of absence. When an employee becomes sick during the second half of the shift and needs to leave work, this will not be counted as absence for the purpose of sick pay. It will however be recorded for the purpose of the number of episodes of sickness absence an employee has taken.

8. Time off for Medical Appointments

8.1 Requests for dental and/or medical appointments will be considered on an individual basis. These should be arranged, wherever possible, outside of working hours. Where this cannot be achieved, they should be booked at the extremities of the day, or shift to minimise time away from work. Employees could request the time to be considered annual leave or alternatively they will be expected to make up the time taken to attend these appointments. Reasonable notice will be expected in these circumstances but the Trust will endeavour to facilitate attendance at appointments.

8.2 Time off for antenatal and postnatal care appointments and classes will always be agreed in line with the Maternity Leave Policy. The Trust is mindful of the fact that there may be other circumstances which arise in an employees working life which may necessitate time away from work, but which do not ‘fit’ within one of the categories above, e.g. IVF treatment. Where there is no legal, or other, right to time off for the circumstance, but the employee wishes to make a request for special leave under the Special Leave Policy, the employee should speak to their line manager or the HR Department before completing and submitting the special leave request form.

8.3 Employees with on-going medical problems which may be defined as a disability under the Equality Act 2010 incorporating the Disability Discrimination Act should discuss their requirement for medical appointments with their line manager.

8.4 Employees having suffered an injury and needing time off for rehabilitative therapy should discuss the time required with their line manager. The Trust recognises that such time off will bring the employee back to full fitness sooner, however, the timing of appointments needs to be managed against the requirement to provide a service.
8.5 Employees attending counselling through Trust approved providers should discuss the time required with their line manager. The Trust recognises that such time off will contribute positively to employee wellbeing, however, the timing of appointments needs to be managed against the requirement to provide a service.

8.6 Occupational Health appointments which have been made at the request of the Trust will be made based on the earliest available appointment and not on the employee’s rota. Where this falls on a rest day employees will be paid for the time taken to attend (this should be claimed via the normal Trust process for claiming additional hours or overtime). The employee must inform their manager and occupational health if they are unable to attend any appointment at the earliest opportunity. Failure to attend a pre-arranged Occupational Health appointment, without prior notice will require an explanation from the employee, (minimum 24 hours’ notice) or reasonable justification may result in disciplinary action being taken against them.

9. Annual Leave

9.1 Employees who wish to either take previously agreed annual leave or book annual leave whilst absent are required to agree this with their line manager. An HR2 must be completed and submitted to payroll and the leave recorded on ESR.

9.2 Where annual leave has been authorised during a period of sickness absence, whilst there will be no break for the purposes of calculating episodes of absence, pay will revert from sick pay to contractual pay for the period of the annual leave. This is because employees cannot be on annual leave and sickness absence at the same time.

9.3 Periods of agreed annual leave which are taken during a period of sickness absence will not be counted towards aggregate sick pay entitlement as outlined in Section 5.2.

9.4 The amount of annual leave allowed to be carried over will be in line with the Trust’s Annual Leave Policy and/or relevant case law at the time of consideration. Guidance will be available from the HR department.

10. Occupational Health (online process only)

10.1 The Trust may at any time require an employee absent from work due to sickness to attend an Occupational Health appointment, speak to an Occupational Health Clinician or to attend a meeting with their manager and/or a representative from the HR Department. In exceptional circumstances, home visits may be arranged at the discretion of the Trust where this facilitates a timely appointment or where the condition dictates. The Trust will meet the cost of any medical examination as recommended by Occupational Health. Furthermore, employees do not need to be off sick to be referred by their manager for an occupational health assessment.

10.2 Employees are required to attend Occupational Health appointments which have been arranged for them. These appointments are arranged as a supportive measure for employees.

10.3 The Trust has a responsibility to ensure its duties under the Equality Act 2010 are met. In this respect this will require consideration of reasonable adjustments, where these are feasible, appropriate and any other control measures which would support an employee in their substantive post.
11. **Equality Act 2010**

11.1 A disabled person in terms of the Equality Act 2010 is someone who 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.

11.2 For the purposes of the Act:

- long term means that the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions)
- normal day-to-day activities include everyday things like eating, washing, walking and going shopping
- a normal day-to-day activity must affect one of the 'capacities' listed in the Act which include mobility, manual dexterity, speech, hearing, seeing and memory

11.3 The Equality Act 2010 amended the definition of disability. It ensured that people with HIV, cancer and multiple sclerosis are deemed to be covered by the Equality Act 2010 effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities.

11.4 Equality Act 2010 and the Equality and Human Rights Commission’s Code of Practice gives examples of reasonable adjustments for those who are disabled under the definition outlined in the Act. Adjustments must be reasonable and must not constrain or affect the delivery of the service. As an example, where it has been identified as reasonable these could include the following:

- Making adjustment to the premises (i.e., entrance)
- Allocating some of the disabled persons duties to another role/person
- Transferring the person to fill an existing vacancy
- Altering the individuals hours of work or training
- Assigning the person to a different place of work or training
- Allowing the person to be absent during working or training hours for rehabilitation, assessment or treatment associated with disability:
- The review of any assessment for such conditions as dyslexia which has been obtained by the employee
- hearing aid tests outcomes where these have been obtained by the employee
- counselling/therapeutic treatment
- recovery time after blood transfusion or dialysis treatment
- physiotherapy (sessional )
- Arranging training or mentoring
- Acquiring or modifying equipment
- Providing all instructions, training or manuals in an accessible form
- Providing a reader, interpreter or support worker.

12. **Terminal Illness**

12.1 Each case is considered on its own individual circumstances and in accordance with the Trust’s relevant policies, the latest guidance provided by The NHS Staff Council Partnership review of ill health retirement, injury benefit and sickness absence in the
NHS. However the Director of HR and OD and the Health and Wellbeing Manager must be advised of the circumstances prior to any individual case management.

13. **Early Retirement on the Grounds of Ill Health**

13.1 Employees with a minimum of 2 years superannuable service, who have contributed to the scheme, and who are considered to be permanently unfit to undertake their duties are eligible for pension benefits.

13.2 When a recommendation is made that an employee is permanently incapable of carrying out their substantive role, the employee should be given the opportunity to discuss the implications of their ill health. A meeting should be arranged with the employee and an appropriate member of the HR Department. The employee has the right to be accompanied at the meeting.

13.3 Where agreement has been reached to pursue ill health retirement, the HR Department will apply to the Pensions Department for an estimate of Ill Health Retirement Benefits and application form.

13.4 When all information regarding Pension Benefits has been received by the HR Department, a further meeting should be arranged to discuss and advise on these benefits.

13.5 Where an employee wishes to pursue the ill health retirement application, the HR Department will advise the employee of the procedure from thereon.

13.6 Should ill health retirement be turned down the employee will continue be managed in accordance with the policy.

14. **NHS Permanent/Temporary Injury Allowance**

14.1 To qualify for NHS Temporary Injury Allowance an employee must be on certificated sickness absence with reduced or nil pay due to an injury or disease that is wholly or mainly attributable to their actual NHS duties and not due to their culpable negligence or misconduct. Decisions on payment of this allowance will be taken in accordance with the NHS Injury Benefits Scheme Regulations, in conjunction with the employee’s line manager, the HR Department and Occupational Health, as necessary.

14.2 Employees who have been in receipt of NHS Temporary Injury Allowance may be entitled to apply for NHS Permanent Injury Allowance. This will be done in conjunction with the employee’s line manager, the HR Department and Occupational Health, as necessary.

15. **Sickness Absence and the Undertaking of Overtime**

15.1 Following any period of sickness absence, the Trust requires employees to work one full shift within their contractual hours prior to being able to undertake overtime.

15.2 Employees will remain at all times entitled to book overtime, however their ability to undertake it will be subject to whether they have completed one full shift within their contractual hours.

15.3 It will be the responsibility of the employee to notify management in advance if they are unable to fulfil an overtime shift which has already been booked.
16. **Sickness Absence and Secondary Employment**

16.1 Where employees are absent from their Trust duties due to sickness absence reasons, but nevertheless feel that they are able to carry on working in their authorised secondary or other employment, the line manager and Occupational Health Service must be informed of the reasons for this disparity in working arrangements by the employee together with a clear diagnosis of the cause of sickness absence. Should an employee fail to comply with this requirement and then undertake secondary or other employment without prior agreement this may lead in a referral to the Counter Fraud Service for investigation which in turn could lead to prosecution, a disciplinary sanction (including dismissal) and recovery of sick pay.

16.2 Where it is felt that a conflict of interest between the two employments is arising, advice will be sought from the HR Department with a view to either temporarily or permanently withdraw permission to carry out the secondary or other employment. This course of action would only be taken after consultation with the employee who, again, would have a right of appeal against any decision. (As per the Trust's Standards of Business Conduct, Conflicts of Interest and Secondary Employment Policy).

17. **Sickness Records, Data Protection and Confidentiality**

17.1 Communication between manager and employee regarding the cause of sickness absence and sickness records are classified as “sensitive data” under the Data Protection Act 1998 and will be maintained in accordance with the relevant requirements.

17.2 All information at any stage of this policy, whether it is written or verbal information must be treated as confidential information by all parties. Failure to do so may result in disciplinary action being taken.

17.3 All records should be kept by all parties in accordance with the Data Protection Act 1998. The Data Protection Act gives individuals the right to request and have access to certain personal data.

18. **Associated Documents**

- The NHS Health and Wellbeing Report (Boorman Report)
- The Health and Safety at Work Act 1974
- The Disability Discrimination Act 1995
- The Employment Act 2002 (Dispute Resolution) Regulations 2004
- The Fraud Act 2006
- The Data Protection Act 1998
- Equality Act 2010
- Health and Safety Executive’s (HSE) Management Standards for Work Related Stress 2005
- The NHS Staff Council Agenda for Change Terms and Conditions of Service Handbook
- NHS Staff Council partnership review