

# Sickness Absence

<b>Version:</b>	<b>Owner:</b>	<b>Created:</b>
4.1	Mike Duncan (Head of People Team)	1 <sup>st</sup> August 2018
<b>Published:</b>	<b>Approving Director:</b>	<b>Next Review</b>
7 <sup>th</sup> June 2023	Dr Kathy Ryan (Medical Director)	1 <sup>st</sup> December 2022

# Contents

1. Introduction .....	3
2. Scope of Policy .....	4
3. Aims and Objectives f Policy .....	4
4. Definition of Sickness Absence.....	4
5. Responsibilities.....	6
6. Managing Sickness.....	9
Appendix 1 .....	19
Appendix 2 .....	20
Appendix 3 .....	22
Appendix 4 .....	24
Appendix 5 .....	26
Appendix 6 .....	28
Appendix 7 .....	30
Change Register .....	32

# Sickness Absence

## 1. Introduction

BrisDoc recognises its responsibilities in promoting the good health of its staff and that doing so is likely to lead to a workforce who will be more productive and committed to providing excellent patient care. BrisDoc also recognises that on occasions a member of staff may feel unwell or suffer from a serious health condition which may prevent them from being able to fulfil their duties or attend their work. BrisDoc therefore aims to offer support throughout these periods, treating people appropriately and with sensitivity in a fair and consistent manner.

### **BrisDoc is committed to:**

- The provision of high-quality service to patients by ensuring absence does not disrupt patient care.
- Ensuring that all parties work together to facilitate a return to work as soon as possible following a period of sickness absence.
- Ensuring in all cases of employee ill-health, there will be a progressive and thorough review of the employee's circumstances, taking into account the need to maintain a service to the public, support to individuals and to comply with all employment and equality legislation.
- Having a proactive, consistent and fair approach to managing sickness absence and managing absence with and without an underlying health condition in a sensitive and fair way, with no bias or discrimination.
- Recognising our responsibility to meet all our legal obligations for managing staff with underlying health issues in line with the Equality Act 2010.
- Facilitating full and proper consideration of any reasonable adjustments that will enable an employee to attend regularly and/or return to work.
- Maintaining the target of no more than 3% lost time due to sickness.
- 

Although we recognise that there will always be a level of sickness absence, high levels of absence have a detrimental effect on the level and quality of service provision, placing an additional burden on colleagues at work and often resulting in increased costs through the use of additional staff and overtime. We therefore aim to balance sickness absence with minimising disruption at the work place through adopting a fair monitoring and review system that will also contribute to creating a healthy workplace. We recognise that members of staff have a responsibility to ensure regular attendance at work and also will need to feel secure and supported when absent through sickness. Managers must deal with sickness absence in a clear, fair and consistent manner balancing the needs of staff and the service and taking into account the individual circumstances of each case. We recognise the importance of managing sickness in a supportive way, using all possible opportunities to retain staff with underlying health problems, so that staff with key skills and knowledge are retained in the service. We are focused on improving health for the patients we serve and our own members of staff. We recognise our responsibility to pro-actively manage sickness so that absenteeism is minimised and a healthy workforce is achieved. We believe this will be best for our staff, patient care and the cost of our service. Whilst the policy aims to ensure that every effort is made to support, wherever possible, the return to good health and the resumption of work, there will be occasions where this proves impossible, and when the termination of employment owing to ill health remains the only practicable course of action.

# Sickness Absence

## 2. Scope of Policy

This policy applies to all employees within the company, except for bank/casual workers for matters relating to their sickness absence (i.e. incapacity to attend work through physical and/or mental ill health). This policy is not intended for use when employees are unable to attend work through illness of dependants/family members. Such instances should be handled in line with the Family-friendly and Flexible Working Policy.

## 3. Aims and Objectives of Policy

- To provide a framework within which managers can apply the management of sickness absence fairly and consistently, recognising that all cases must be dealt with on an individual basis because of differing circumstances.
- To support staff appropriately.
- To reduce the levels of sickness absence (i.e. to keep absence below 3% of lost time) and support the health and welfare of staff at work.
- In accordance with the Equality & Diversity Policy, this policy will not discriminate, either directly or indirectly, on the grounds age, disability, gender reassignment, marriage / civil partnership, pregnancy / maternity, race, religion or belief, sex, or sexual orientation trade union membership.
- The policy will be reviewed periodically giving due consideration to any legislative changes.

## 4. Definition of Sickness Absence

This policy seeks to address the appropriate process relating to the management of sickness and sickness related absence. Sickness absence is a period of a day or days when an employee cannot attend work owing to incapacity through physical and/or mental illness or have been advised to remain away from work for health reasons. The policy identifies a number of patterns of sickness absence detailed below. The policy relates to all of these areas.

### Short Term Sickness Absence

Short term absence is regarded as any single period of sickness absence lasting less than 4 weeks.

Short-term absenteeism refers to a series of short-term sickness absences, that may be unconnected, which result in frequent periods of absence in a rolling year.

### Long Term Sickness Absence

Long term absence is regarded as any continuous period of sickness absence of 4 weeks or more. This type of absence can sometimes be planned e.g. knee surgery, or unplanned e.g. in circumstances of a serious medical condition diagnosis.

# Sickness Absence

However, an employee's sickness record may include both short- and long-term absences, and all should be accumulated for the purposes of this policy and the activation of "trigger points."

## Sickness Absence *without* an underlying health cause/condition

This is defined as a period or pattern of sickness where there seems to be no common underlying health cause or a condition. This type of absence will normally present itself as a one-off period of short-term sickness or as lots of short periods of sickness absence i.e. short term absenteeism.

## Sickness Absence *with* an underlying health cause/condition

This is defined as a period or pattern of sickness where there seems to be a common underlying health cause/condition and may fall within the definition of 'disability' as part of the Equality Act 2010. This type of sickness absence more usually presents itself as long-term sickness – a long period or periods of sickness absence normally with a high number of days of absence but over fewer periods. It is usually a period of sickness which lasts or is expected to last for 4 weeks or more. However, it can, in some cases, present itself in a different pattern (e.g. lots of short periods of sickness absence). Examples of causes would be significant medical conditions such as Multiple Sclerosis, Crohn's Disease, Rheumatoid Arthritis etc.

## Planned Sickness Absence

This includes health problems that require an operation or treatment programme which may have a recognised period of expected recovery or duration i.e. knee surgery etc.

## 'A Sickness Day'

An employee is considered as having taken a sickness day when, because of their illness, they have been unable to undertake their daily hours of work/shift.

- Where an employee has carried out more than half their daily hours of work/shift but is unable to complete the day/shift because of illness, this day will not count as a sickness day as far as sick pay is concerned. It should, however, be recorded and may be taken into account when considering any accumulated pattern of sickness.
- Where an employee has agreed to work an extra shift but is unable to complete the shift because of illness, they will be paid for the hours worked only. The hours not worked will not form part of their sickness record.

## Rolling Year

A "rolling year" means that when an episode of sickness occurs the manager should review the twelve-month period preceding the first day of that specific absence.

## Medical Suspension

When an employee is deemed unfit to work by their manager due to reasons of ill health, the manager has the right to explore and agree where possible a short period of absence for no

## Sickness Absence

longer than 7 days in which time the member of staff must seek advice from their GP regarding their fitness to work.

Managers should ensure that a risk assessment is completed before medical suspension is agreed, considering alternative options to the medical suspension. The manager should seek advice from the People Team and appropriate medical advice should be sought from Occupational Health.

This absence will be counted as suspension from duty with pay for medical reasons.

Where the employee's GP advice conflicts with that of Occupational Health, BrisDoc will rely on Occupational Health advice, following discussions between the GP and Occupational Health (with employee consent).

### 5. Responsibilities

The successful management of sickness absence relies on all parties understanding and performing their roles and meeting their responsibilities. It also relies on all parties closely observing the rules of confidentiality as it relates to employee sickness. The following identifies the key responsibilities that are essential for supporting the process:

#### General Points

- It is the responsibility of every employee to report any absence in person and only in exceptional cases should this procedure be carried out by someone else on their behalf.
- If an employee knowingly gives any false information or makes false statements about their sickness it may be treated as misconduct and may result in disciplinary action being taken and a referral to the NHS Counter Fraud team.
- BrisDoc reserves the right to request a Doctor's Certificate for periods of absence of less than seven days in cases of short-term persistent absence. Where a cost is incurred, this will be reimbursed by BrisDoc.
- Any employee who unreasonably fails to comply with this policy and procedure may have their Occupational Sick Pay withheld.
- BrisDoc has the right to dismiss employees whilst they are receiving sick pay entitlement. Any decision to dismiss will be supported by medical advice.
- To maximise their attendance in line with their contract of employment and BrisDoc's policies.
- To follow BrisDoc's sickness absence policy and any local procedures in respect of notifying and certifying their sickness absence, including making personal contact and the timely submission of self-certificates and fit notes (see Appendix 2)
- To immediately inform their line manager if they think their sickness absence is work related e.g. as a result of an incident or accident at work or if they have come into contact with an infectious disease (see Appendix 3). Employees should also complete a significant incident form (on Radar).
- To have a Return-to-Work discussion with their Manager within 48 hours of returning to work and/or Sickness 'Review' Meeting (see Section 6.1.2) as requested.
- To maintain contact with their line manager regularly during their period of absence.
- To work with the manager, and where relevant Occupational Health, to facilitate a return to work as soon as possible following a period of sickness absence.
- To attend occupational health appointments and sickness absence meetings when requested to do so by their manager. It is essential that employees understand that they

## Sickness Absence

must attend these meetings if asked to do so. Wherever possible appointments will take account of the employee's normal working patterns. Failure to attend occupational health appointments without good reason will mean that decisions are made on the basis of the information available, which may or may not be the employee's preferred outcome.

- To be responsible for their own health and welfare and to acknowledge that this policy is not for use when employees are unable to attend work through illness of dependants/family members.
- To ensure that any medical advice and treatment is received and actioned as quickly as possible in order to facilitate a return to work.
- To facilitate their recovery and avoid participating in any activity that may delay or undermine their recuperation. If an employee is employed in any other capacity outside of BrisDoc, they must obtain the written permission of their manager before continuing with that employment whilst on sickness absence from BrisDoc. Any such employment must be therapeutically beneficial to the employee.
- Where an employee undertakes other work outside of BrisDoc without the prior written consent of the manager they may be considered in breach of contract and will be subject to disciplinary action which may result in the involvement of the counter fraud department and/or dismissal. Such action will only be taken following advice from the People Team.
- To raise concerns with their line manager, trade union representative, or a member of the People Team if they believe that their job or work environment may be having a detrimental effect or contributing to their illness in any way. If appropriate, advice should be sought from Occupational Health and the People Team.
- To report sickness absence ASAP to their line manager if they are unwell during annual leave – you may apply to defer your annual leave entitlement if a medical certificate supports the period for the total period of absence (see Appendix 5)
- If an employee is in receipt of any benefit payment from any external agencies, at the same time as the payment for annual leave is made, it is the employee's responsibility to notify the relevant benefit agency of the additional payment(s).

### Line Manager Responsibilities:

- To ensure that the sickness absence policy and procedure is applied fairly and consistently and in a way that promotes dignity and respect and to ensure employees reporting absence acknowledge and understand that this policy is not for use if they are unable to attend work through the illness of dependants/family members.
- To ensure that all employees understand their roles and responsibilities in line with this policy. Such knowledge will be imparted through initial induction and ongoing training / communication updates.
- To ensure any local sickness notification arrangements are agreed and communicated to all employees in their department as part of their local induction and via regular departmental communication.
- To work with the employee, and where appropriate the People Team, to facilitate a return to work as soon as possible following a period of sickness.
- To ensure that self-certificates (via Rotamaster self-service) and fit notes received cover appropriate periods of absences. To forward all fit notes received onto the People Team in a timely manner.

## Sickness Absence

- To hold a Return-to-Work discussion with all employees (regardless of the length of absence) within 48 hours of them returning to work and record this discussion on Rotamaster (see Section 6.1.2).
- Where appropriate (and in consultation with the People Team) to hold Sickness Discussion Meetings with employees, ensuring outcome and monitoring is clearly documented and communicated to employee and People Team.
- To ensure appropriate contact occurs with all employees on sick leave on a regular basis,
- including agreeing and maintaining appropriate contact with those who are absent on long term sickness in a sensitive manner and to an extent which is reasonable in the circumstances. (In the case of long-term absence (4 weeks or more) ensure a discussion is held with the member of staff in advance of their expected return date in order to ascertain any anticipated workplace adjustments, phased return etc, facilitating an occupational health referral (in consultation with a People Team representative) if appropriate.
- To ensure any medical advice is taken into account and fully consider and implement any reasonable adjustments to support employees in regularly attending for work and/or facilitating a return to work after a period of sickness absence.
- To keep accurate records and monitor attendance for all their employees, ensuring that all instances of non-attendance are recorded appropriately.
- To ensure that employees are made aware of the range of support and assistance that is available to them at times of ill health.
- To ensure that any Injuries, contact with Infectious Diseases and /or Dangerous Occurrences at work are reported to the Governance Team via an Incident Form (available on Radar).
- To maintain their levels of competence in the management of sickness absence and in the application of the Policy.

### **Role of the Workforce Department:**

- To provide training, advice and support on managing sickness absence, encouraging the consistent and fair management of all cases.
- To advise on cases involving sickness reviews, occupational health referrals, reasonable adjustments for disabled employees etc.
- To support line managers in adopting a range of options that can facilitate a healthy workplace and return to work.
- To inform line manager if an employee triggers a sickness discussion / review meeting.
- To attend the formal stages of the sickness absence procedure, as appropriate.
- To inform line manager and employee when full occupational sick pay has been exhausted and employee is moving to a half or nil occupational sick pay situation.
- To ensure that self-certificates (via Rotamaster self-service) and fit notes received cover appropriate periods of absences. Any fit notes received that are questionable e.g. appear to have been modified, may require checking with the individual, which could include obtaining consent to go back to the medical practitioner for further clarification.
- To advise line managers and employees of help and support available to them at times of ill health.
- To provide reports relating to sickness absence for individuals, line managers and Board of Directors as required.



# Sickness Absence

- To undertake periodic audits to monitor the implementation and effectiveness of the policy and procedure and to provide information to inform the policy's formal review.
- To report any suspected fraudulent activity to NHS Counter Fraud.

## 6. Managing Sickness

### Monitoring and Consultation

BrisDoc records and monitors all levels of absence via RotaMaster. If the amount of time being taken off for illness is giving cause for concern, managers will discuss this with employees at the return-to-work interview.

### Return to Work Interview

When an employee returns to work, their manager should contact them (telephone/meeting) as a matter of course within 48 hours of the employee's return to conduct a return-to-work interview.

A record of the interview should be recorded via RotaMaster, and will thereafter be kept on the employees RotaMaster absence record.

The discussion should allow for an exchange of information and be as frank and as open as possible as this will prevent any misunderstandings concerning the nature of the absence. The purpose of this discussion will be:

to understand the reason for the sickness absence

to check that the employee is able to cope with their return and to discuss any assistance that may be given to enable to employee to return to work or prevent further absence occurring;

to bring the employee up to date on what has happened while they have been away; and,

to ensure the employee has confirmed they are fit to return to work and not taking any medication that may affect their ability to perform their role and to document this on the RotaMaster record.

The discussion should also, if appropriate, identify any developing patterns in their sickness and whether a sickness review discussion / meeting has been/is likely to be triggered, providing an explanation of how the managing sickness absence policy works.

### Sickness Review Discussion / Meeting

On occasions managers may need to hold a 1:1 meeting with employees to discuss their sickness absence and or any other concerns they may have about an employee's health at work. This is a 'Sickness Review' and should not be confused with a brief return to work discussion which follows all periods of sickness absence.

Where an employee has met trigger points noted below, it may be an early indication of a problem and line managers should therefore informally discuss an employee's attendance record with the individual, including reminding them of the standards expected and of the support available to help their attendance improve, including early interventions.

## Sickness Absence

Before considering action, line managers should consider each case on its merits and take account of:

- The whole of the employee's absence record.
- Isolated illnesses/accidents which should not lead to formal action in an otherwise good attendance record.
- Staff who are classed as disabled under the Equality Act 2010, where special consideration may have to be given to a higher level of absence and reasonable adjustments.
- Whether the absence has resulted from a work-related injury or illness; in these circumstances further action may not be appropriate.
- Whether the absence is related to pregnancy, in which case no further action should be taken.

These discussions must be handled with sensitivity and in confidence and are an important opportunity for the employee to raise any matters which they feel may be causing or exacerbating their sickness absence, either work related or not.

The nature of the Sickness Review discussions should be supportive of the employee and is not disciplinary in nature, although it is important that the manager explains to the employee that the level of sickness is causing concern both in terms of the well-being of the employee and the effect their absence is having on the service.

BrisDoc have access to an **Occupational Health (OH)** facility. At any point during the sickness absence process a referral to OH or a referral to an employee's GP (with written consent) may be made. In these circumstances the manager must submit a management referral via the People Team, making it clear the reason for the referral and what advice is required.

An outline of the content of any Sickness Review discussions will be confirmed in writing by the manager to the employee. A copy will be placed on the employee's personal file and shared with the People Team.

### Trigger points for a sickness review discussion/meeting

A line manager will automatically call an employee to a sickness discussion if any of the trigger points below are met:

Trigger points:

- If there have been three episodes of sickness absence of any length in any rolling 6-month period
- If there have been five episodes of sickness of any length in a rolling 12-month period
- If there have been two or more periods of absence totalling two of your normal contracted working weeks in any rolling 12-month period
- If any recognisable pattern of absence has been identified (including any in previous years) which cause concern but may not meet other triggers, e.g. sickness falling regularly on specific days
- If there is concern about an employee's health/well-being
- If an employee on long term absence, has gone into or is close to exhausting all Occupational Sick Pay (OSP).

Employees can also request a meeting, particularly if they are worried about their own health.

# Sickness Absence

## Managing Frequent Absence

Frequent absence normally presents itself as short-term absence, i.e. a period of sickness absence lasting less than 4 weeks.

Frequent absence can be attributed to:

- having an underlying health condition (e.g. a flare up of rheumatoid arthritis); or,
- a series of sickness illnesses that are unconnected.

Therefore, the approach to managing these can be different. The key purpose of the process is to support the employee in maintaining an appropriate level of attendance at work. In order to achieve this outcome, an individualised approach to improvement will be taken. Managers are required to actively manage where an employee has demonstrated a pattern or frequency of absence which gives rise to concern, both for the employee's well-being and the effect on the provision of the service. *Exemptions to this are pregnancy related sickness absence – please refer to Maternity Policy*

## Process for Managing Frequent Absence

- LEVEL 1: Sickness Discussion and Review Period
- LEVEL 2: Formal Sickness Meeting and Review Period
- LEVEL 3: Referral for Formal Action

### LEVEL 1: Sickness Discussion and Review Period

The Level 1 Sickness Discussion itself must be face to face and is normally a one-to-one between the employee and their line manager. It is not necessary for a member of the People Team to be invited to a Level 1 Sickness Discussion unless the employee and/or line manager feel this would be helpful. During the meeting, the nature of the sickness absence(s) will be discussed, including whether there is an underlying health condition or not. These discussions are used to explore the reasons for absences and to explore ways of supporting the employee to help them achieve improved levels of attendance. It is seen as part of a supportive approach to health and sickness. At the end of the meeting the manager and employee should have agreed an action plan and a further review date. The discussion and any action agreed will depend upon the nature of the employee's sickness absence or health concern i.e. in cases where the frequent absences is attributed to an underlying health condition, consideration should be given to increasing trigger points appropriately. The manager will confirm in writing the outcome of the meeting, noting as appropriate the agreed actions i.e. increase to trigger points, occupational health referral, or the agreed review period and end date. A copy of this letter should be shared with the People Team for the employee's files. A referral to Occupational Health (OH) or to an employee's GP (with consent) could be considered where there is uncertainty about a possible underlying health condition and /or appropriate increase in trigger points. In this case a decision concerning next steps will be deferred until receipt of the OH/GP report, at which point the manager and employee should meet to review the outcome of the report, agree an action plan and further review date. If an underlying health condition is confirmed then, where appropriate, reasonable adjustments or other support will be introduced and reviewed over an agreed period of time and where appropriate, consideration given to increasing trigger points (see Section 6.3.3). If no underlying health condition or need for adjustments is identified, the employee will be placed on Level 1 review (see below) The manager will write to the employee confirming the outcome of the OH report, the content of the Review meeting discussion, and agreed next steps i.e. reasonable adjustments (including any

## Sickness Absence

temporary or permanent increase to trigger points), agreed review period and review date or Level 1 Review (see below).

### When an employee is placed on Level 1 review

A review period for improvement will be agreed; normally about 6 months from the last day of the last period of absence, in which the employee is required to have no more than one period of absence.

The employee will also be advised that any future absences during this 6-month review period will not be remunerated for the first 3 qualifying days of absence in line with Statutory Sick Pay (see Appendix 4).

The manager will confirm in writing the outcome of the meeting, the agreed review period and end date. A copy of this letter should be shared with the People Team for the employee's files.

### At the end of the agreed review period:

If the employee has made the required improvement, the manager will meet with the employee and confirm that the Level 1 review will stop and their attendance will be monitored in line with all other staff.

If the employee has not made the required improvement, or breached further triggers sooner than the end of the agreed review period, the Manager will inform them that a Level 2 Formal Sickness Meeting will be set up, usually with a member of the People Team present (see below).

*The Level 2 meeting could therefore be held before the end of the Level 1 review period.*

### LEVEL 2: Formal Sickness Meeting and Review Period

Not making the required improvement at Level 1 Sickness Discussion will lead to an employee commencing a Level 2 Formal Review period. Additionally, repeated triggers of a Level 1 Sickness Discussion will lead to an employee immediately commencing a Level 2 Formal review period.

The manager should seek advice from a member of the People Team and a member of the People Team should be in attendance at the initial meeting. The employee will be advised of their statutory right to be accompanied to the meeting as outlined in Section 6.4.

The manager should notify the employee that there has been a failure to meet the required level of improvement (despite a previous discussion), review what was agreed at the Level 1 meeting, and further discuss the causes and frequency of the absence.

The employee should be referred to Occupational Health (OH), if not already done so, to ascertain if there is any underlying health condition, or a referral to an employee's GP may be made, with written consent.

Upon receipt of the OH/Medical report a further meeting should be scheduled (at which a People Team representative should be present) to discuss the outcome of the OH/Medical report and next steps i.e. agree an action plan and further review date.

## Sickness Absence

If an underlying health condition is confirmed then, where appropriate, reasonable adjustments or other support will be introduced and reviewed over an agreed period of time and where appropriate, consideration given to increasing trigger points (see Section 6.3.3).

If no underlying health condition or need for adjustments is identified, the employee will be set a further 6 months review period in which to improve their attendance.

The employee will also be advised that any future absences during this 6-month review period will not be remunerated for the first 3 qualifying days of absence in line with Statutory Sick Pay (see Appendix 4).

The manager will write to the employee confirming the outcome of the OH report, the content of the Review meeting discussion, agreed review period and review date.

At the end of the Level 2 Formal Review period, another formal meeting will be set up, where a People Team Representative will be present. If the employee has made the required improvement during this period, the formal process will stop; the employee will be informed that if they hit the triggers again, in line with Section 6.1.4, they will re-start at Level 2 Formal Review. However, repeated Level 2 Formal Reviews/breaching of triggers point will lead to progression through the process and could therefore result in Level 3 – referral to formal action (see overleaf). If the employee has not made the required improvement during this period.

*Managers should recognise that these meetings need to be handled with great sensitivity and compassion as there may be non-health related reasons, which are causing the absence which the employee has not yet felt able to discuss e.g. harassment, bullying, childcare, relationship problems etc)*

### Continued Absence

If absence levels continue to cause concern, then if not already done so employees should be referred to the Occupational Health Service for an independent medical examination, or a referral to an employee's GP may be made, with their written consent. If the absence is the consequence of an underlying medical condition, then medical advice could be sought to identify any reasonable adjustments or assistance that BrisDoc can provide.

Continued absence with no underlying health condition will lead to referral to Formal Action (see Level 3 below).

### LEVEL 3: Referral to Formal Action

Continued non-attendance without an underlying health condition being identified will lead to a Formal Hearing.

For any Formal Hearing it is essential that a member of the People Team is in attendance and that the manager conducting the Formal Hearing is different to the investigatory manager, and has the appropriate level of authority to implement all possible outcomes - this may be in the form of either a verbal, first written or final written warning, and could ultimately lead to dismissal. The employee will also be notified of their statutory right to be accompanied. Please note that the line manager managing the employee's absence will be classed as the investigatory manager and records of Sickness Review discussions held at Level 1 and Level 2 will form the basis of the investigatory process.

The meeting will be set at the earliest possible convenient date and the employee will be informed in writing of the date of the Hearing, giving reasonable notice (normally at least 4 days)

## Sickness Absence

to give them enough notice to prepare. The employee will also be sent copies of all documented supporting evidence and witness statements. If the employee wishes to present additional evidence in support of their case they must submit this no less than 3 working days before the Hearing.

At the Hearing the investigatory manager will details the level of absence that has given cause for concern and refer to any documentation that has been circulated prior to the meeting, including any medical reports. The employee will have the opportunity to state their case and present evidence explaining why their level of absence is at a level of formal concern.

Within the Hearing, a decision about the appropriate outcome (which may be in the form of either a verbal, first written or final written warning, and could ultimately lead to dismissal) will be made taking the following into consideration:

- The attendance record of the employee
- The content and outcome of the Level 1 and Level 2 sickness review meetings
- What opportunity has been given to improve attendance
- All medical advice available
- Whether there is a diagnosis of an underlying medical condition
- Any reasonable adjustments that have been considered and/or introduced
- The likelihood of improvement in the foreseeable future
- The needs of the service and work difficulties created by the absence

The Hearing manager will normally confirm their decision in writing within 5 working days of the meeting. Where dismissal is the agreed decision, the letter must include reasons for dismissal, the date employment will terminate and the right of appeal.

### Managing Long Term Sickness

Long term absence is regarded as any continuous period of 4 weeks or more. See Section 4 for definitions. There is a significant distinction between long term and frequent absence, which consequently requires different approaches, albeit under the same broad principles. However, an employee's sickness record may include both short- and long-term absences, and all should be accumulated for the purposes of this policy and the activation of "trigger points."

Throughout this Sickness Absence policy consideration needs to be given to any reasonable adjustments that may facilitate the employee returning to work. Further information about the duty to consider reasonable adjustments as required by the Equality Act 2010 is set out in Appendix 6. Long-term sickness absence is generally related to a specific cause, and may or may not follow a predictable pattern. The priority is to ensure that the health problem is effectively managed, giving the employee the best opportunity of returning to work in their current role. If that is impracticable, then alternative strategies should be identified and put in place, within a reasonable timeframe. Consideration may be given to increasing trigger points to manage overall absence attributed to an underlying health condition and/or disability.

### Planned Long-Term Sickness Absence

Sickness absence can be planned where it is known that a member of staff will be undertaking a programme of clinical treatment that will be debilitating for a recognised period of time, for example, to undertake an operation or chemotherapy.



## Sickness Absence

The manager and employee will meet prior to the absence and discuss the following:

- The likely period of time the employee will be absent and any possible variations
- Agreed dates and times for maintaining regular contact, to update each other on work and progress of recovery
- Agreed date and time for a meeting to start to plan a return to work
- Any other issue of concern for either party
- A mutually agreed plan must be drawn up and a copy kept by both the manager and employee and shared with the People Team.
- Support in the drawing up this plan can be obtained from the People Team and /or via an Occupational Health referral.

### Consultation and Discussion/Care and Concern Meetings

In cases of long-term absence, the manager and employee must communicate regularly to discuss the employee's progress during the sickness absence and in order that any necessary additional support and /or expert advice can be sought that may aid rehabilitation and an early return to full health. The manager should therefore arrange to conduct regular 'care and concern' conversations, which can be over the telephone (including via text), email or face to face. The frequency of the contact should be mutually agreed at the beginning of the absence period and depend on the likely duration of the absence. Note: If the anticipated duration of the sickness absence changes at any point it may be necessary to re-discuss and agree frequency of contact. These 'care and concern' conversations should be documented and a record of the notes of the conversation shared with the employee and the appropriate People Team representative. In the case of face-to-face meetings, if employees are too ill to travel, managers may choose to conduct a home visit at a mutually convenient time or agree to a 'conference-call' style phone meeting. Employees may choose to be accompanied at any face to face or 'conference call' phone meetings by a friend/ work colleague or trade union representative (see Section 6.4). The line manager may also choose to be accompanied, normally by a Workforce Partner or another manager. Within this meeting, the manager and employee should agree appropriate trigger points to manage the overall absence attributed to an underlying health condition and/or disability e.g. consideration may be given to increasing the usual trigger points.

Consideration should be given to an Occupational Health referral or referral to the employee's GP (with consent), if not already done.

**Anticipated Return** - once an anticipated return date is known, managers should ensure they hold a meeting with the employee in advance of their expected return date in order to ascertain / agree any anticipated workplace adjustments, phased return arrangements etc., facilitating an Occupational Health referral (in consultation with the People Team) if appropriate.

### Support for Employees with Long-Term Absence and/or Underlying Health Conditions

Wherever possible BrisDoc will aid a return to work on a permanent basis. To establish the most effective way of doing this BrisDoc may seek further medical advice, including using an Occupational Health referral. Options may include making reasonable adjustments to the employee's job, allowing a phased return to work, or by allowing the employee to return to work on a reduced or alternative hour's basis.

#### Occupational Health Referral

## Sickness Absence

BrisDoc has access to an Occupational Health (OH) provider. At any point during the sickness absence process a referral to OH or a referral to an employee's GP may be made, with written consent.

The purpose of a referral being made by a manager for an employee to occupational health is to gain appropriate advice on how best to support and manage the sickness absence of the employee. Employees must therefore make every effort to attend pre-arranged appointments.

If Occupational Health advice is necessary to ascertain workplace adjustments, managers should note this needs to be facilitated ASAP, in consultation with a People Team representative.

Note: an Occupational Health referral can take up to two weeks so may cause a delay to an anticipated return.

Where there is doubt regarding an employee's ability to return to work on a permanent basis advice must be sought from an Occupational Health Service provider.

Employees must make themselves available to attend any Occupational Health referrals. Where an employee is reluctant to attend an occupational health referral it will be important to understand the reasons why. However, if an employee does not attend an appointment at occupational health or refuses to attend an appointment, their manager will have no alternative but to manage the employee's sickness absence from work in line with the procedure for "no underlying health problems" and with no occupational health advice.

### **Possible Reasonable Adjustments**

Following an Occupational Health Referral and / or Medical Advice the following reasonable adjustments may be considered to help aid return to work on a permanent basis:

#### **Phased Return (*usually after a return from a period of long term absence*)**

This is where an employee's hours are increased week by week until they reach the level of their contract. In these situations, employees will be paid at their substantive hours for a period of up to four weeks. After this time, if a graduated return is still required a payment will normally be for the hours worked.

Any reduction in pay could be offset against any remaining sick pay or by using annual leave accrued during sickness absence.

#### **Reduced Hours**

This is where an employee is fit to continue with their normal duties but at reduced or different hours. This could be either for a temporary fixed term period or on a permanent basis.

If a temporary reduction in hours has been agreed it is expected the employee will be able to return to their normal contracted hours within an agreed set period of time, usually following medical advice. If the temporary reduction in hours is longer than 4 weeks, the employee may be paid only for the hours they work for the remaining period.

If there is a need for the reduced hours to become permanent, the manager would need to consider if this could be accommodated in line with business and service requirements. If it can be, the employee will be paid in line with their new reduced hours.

#### **Redeployment**



## Sickness Absence

If medical opinion is that an employee is unfit to return to their former employment, the possibility of alternative employment will be considered. However, depending on the availability of alternative posts, this may not be possible.

Where redeployment is an option, it will usually be on a 4 week trial period during which an employee's existing Terms and Conditions are protected. If the employee is subsequently redeployed on a permanent basis, their pay will be reviewed to ensure it is appropriate to the new duties.

If redeployment is not possible, or the trial period demonstrates that the role is not suitable by either party, then see below.

### **Ill-Health Retirement**

Should the medical opinion indicate that an employee is permanently unfit, employees may have the option for applying for early retirement on the grounds of ill health, in line with the provisions of their pension scheme. This option should be discussed with individuals in full at the appropriate time, and with the advice of a People Team representative.

Note: The responsibility for approving an ill-health retirement application lies wholly with the Pension Scheme, not with BrisDoc. See Appendix 7 for more information.

### **Resignation**

At any time during this process an employee may choose to resign from their employment. They are required to give their contractual notice and any outstanding accrued holiday entitlement will be paid in lieu.

### **Dismissal due to ill health (medical capability)**

Consideration for dismissal due to ill health (medical capability) will be explored, normally as a last resort, if none of the above possible options are applicable i.e.

A return to work in any capacity is unlikely in light of the medical evidence;

A return to work is not forth-coming despite medical advice that a return is possible;

There are no reasonable adjustments that would facilitate a return to work;

There is no prospect of suitable alternative work becoming available

Normally BrisDoc will consider termination of a contract at the point where the employee is in or approaching a 'nil pay' situation and there is no prospect of them being able to return to work imminently or in the reasonably near future. There may also be circumstances however where it is clear from medical advice that they will be unable to return to work whilst they are still receiving sick pay and, in these circumstances, consideration will be given to terminating their contract earlier provided agreement for this has been reached. Where a contract of employment is terminated, please refer to Appendix 7 for more detail on notice pay. An individual's right to appeal will apply. In cases where an individual is terminally sick, advice from the NHS Pensions will be sought to understand pension rights for next of kin in the event of 'Death in Service'.

### **Rights to be Accompanied**

In line with employment law, all employees have the statutory right to be accompanied at meetings where a decision made could result in a sanction or warning (usually referred to as a 'Hearing'). Where this applies, the staff member will be informed of their statutory right to bring a

## Sickness Absence

companion who is either a work colleague or a member of an official trade union. However, we recognise that in cases of sickness absence, employees may express the wish to be supported at sickness review meetings (i.e. at any point in the process) by a friend or family member, particularly as part of a reasonable access requirement for a disabled employee under the Equality Act 2010. If this is the case, the employee should speak to their line manager and a member of the People Team in advance of a meeting.

### Annual Leave before, during and after sickness

Please refer to Appendix 5 for full details.

Where you are absent from work immediately prior to or immediately after a period of booked annual leave, you may be required to provide your manager with a medical certificate from the first day of absence. If you fall sick during a period of annual leave and you wish to apply to reclaim the leave from your entitlement, you are required to notify your line manager by telephone (or email if you do not get through by telephone). If you are outside the UK, you should do so as soon as is practicably possible and no later than 3 calendar days after the commencement of the sickness. The period of annual leave may only be reimbursed at BrisDoc's discretion. Where you fail to return to work following annual leave on the agreed date and fail to communicate with your line manager, the circumstances shall be regarded as unauthorised absence and will be managed under BrisDoc's Disciplinary Procedure. In addition, if as part of your recuperation from illness you intend to take a holiday, you must advise your manager of this prior to travel, giving details and dates. Annual leave is accrued throughout periods of sickness absence, whether short-term or long-term.

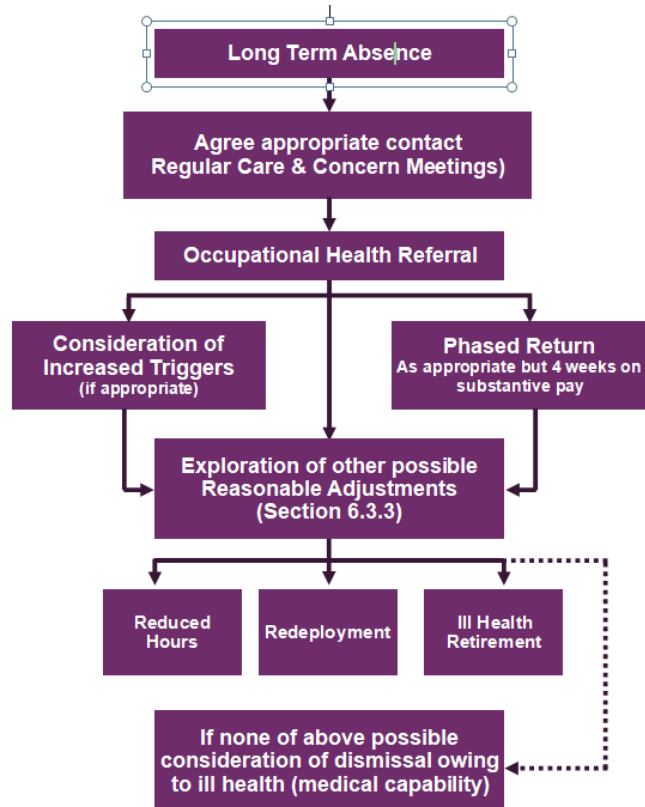
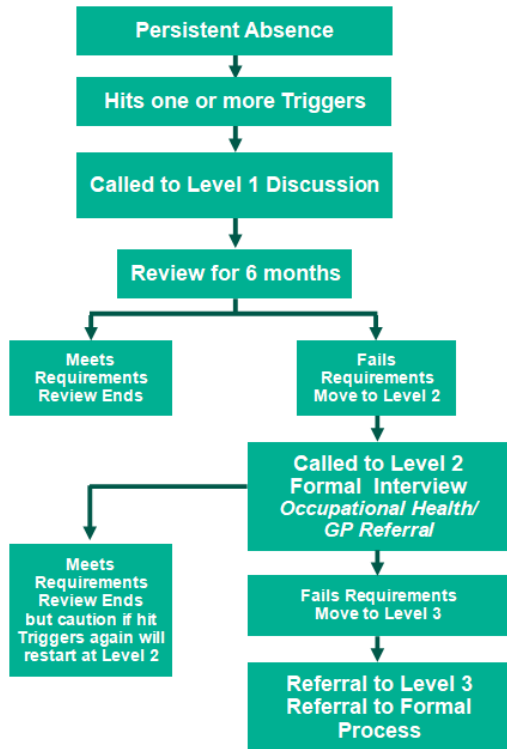
### APPENDICES

- ✓ **Appendix 1 – Managing Sickness Absence Flow Chart**
- ✓ **Appendix 2 - Notification of Sickness/Sickness Certification**
- ✓ **Appendix 3 - Contact with Infectious Disease**
- ✓ **Appendix 4 - Sick Pay**
- ✓ **Appendix 5 – Sickness before, during & after Annual leave**
- ✓ **Appendix 6 - Definition of Disability under Equality Act / Reasonable Adjustments**
- ✓ **Appendix 7 - Notice Pay and Dismissal Due to Ill Health**

# Sickness Absence

## Appendix 1

### Managing Sickness Absence Flowchart



# Sickness Absence

## Appendix 2

### Notification of Sickness/Sickness Certification

#### NOTIFICATION

In the event that an employee is unable to attend work because of illness, it is a condition of employment that employees must ensure they follow this policy **and** any local procedures for notifying sickness. (Any local procedures will have been communicated via line manager).

- Employees must contact their line manager in person as early as possible on the first day of absence and *not leave messages with anybody else*. If the line manager/supervisor is unavailable the employee must speak with their manager's immediate manager, giving the reasons for their sickness absence and likely duration.
- In the case of continued absence employees must maintain regular contact with their line manager regularly during their period of absence, ensuring they provide up to date information on the expected length of absence/planned return to work.
- Employees are required to report to their manager when they expect to be returning from a period of absence
- Employees must complete a sickness self-certificate (via Rotmaster self-service) or provide a GP Fit note no later than 5 working days after returning to work. Failure to complete a sickness self-certificate/provide a GP Fit Note will lead to a deduction in pay and constitute 'Absence without Leave' (AWOL) which is a disciplinary offence.

#### CERTIFICATION

- All periods of sickness absence **between one and seven days** must be covered by a **self-certificate, completed via Rotamaster self-service**.
- For absences **exceeding 7 calendar days** (inclusive of weekends and rest days), employees must provide a **medical certificate - "Fitness to Work" note - from their GP**, which should be forwarded to their line manager as soon as it is issued. (Where BrisDoc is not their main employer, a photocopy of their GP certificate should be submitted to their BrisDoc line manager as soon as it is issued).
  - These certificates must be signed by the employee and the medical practitioner contemporaneously (i.e. signed at the time of sickness, the time required for the certificate and when seen by the GP) unless there are exceptional reasons for this not being possible.
  - All dates must be covered by continuous certificates, and where possible, received prior to the expiry of the previous certificate. Failure to do so may result in an employee being absent without leave (AWOL), which may result in unpaid leave.
- All certificates will be treated as confidential and kept in employee's personnel files.
- Failure to supply either a self-certificate and/or a medical certificate covering the entire period of absence will result in the withholding of pay and an investigation.

## Sickness Absence

- **BrisDoc will not accept backdated certificates from GPs unless there are substantial and acceptable reasons why contemporaneous certificates could not have been obtained. (Employees are reminded that it is a serious disciplinary offence to provide false information on a self-certification form.)**

**Any fit notes received that are questionable e.g. appear to have been modified may require checking with the individual, which could include obtaining consent to go back to the medical practitioner for further clarification.**

# Sickness Absence

## Appendix 3

### Contact with a Notifiable Infectious Disease

#### What happens if an employee has been in contact with an infectious disease?

- If an employee comes into contact with an infectious disease (for example measles), they must notify their Line manager immediately or as soon as feasible.
- An employee may be asked by their line manager to attend a GP for assessment and advice, depending on symptoms and potential implications.
- No action must be taken either by the employee or their line manager(s) under this Sickness Absence Policy which might conflict with the need to protect patients and staff from cross-infection.
- 
- Should an employee need to remain absent from the workplace (i.e. during an incubation period) their absence will be recorded as Special Medical Leave. Normal sick pay allowances will apply in line with their Terms and Conditions, but discretion can be applied.

List of Notifiable Diseases to local authority under the Health Protection (Notification) Regulations 2010:

- Acute encephalitis
- Acute infectious hepatitis
- Acute meningitis
- Acute poliomyelitis
- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Enteric fever (typhoid or paratyphoid fever)
- Food poisoning
- Haemolytic uraemic syndrome (HUS)
- Infectious bloody diarrhoea
- Invasive group A streptococcal disease
- Legionnaires' disease
- Leprosy
- Malaria
- Measles
- Meningococcal septicaemia
- Mumps
- Plague
- Rabies
- Rubella
- Severe Acute Respiratory Syndrome (SARS)

## Sickness Absence

- Scarlet fever
- Smallpox
- Tetanus
- Tuberculosis
- Typhus
- Viral haemorrhagic fever (VHF)
- Whooping cough
- Yellow fever

# Sickness Absence

## Appendix 4

### Sick Pay

If you are absent from work owing to illness you will be entitled to receive occupational sick pay in accordance with the scale below: -

FOR THOSE EMPLOYED ON BRISDOC TERMS AND CONDITIONS SINCE 1 <sup>ST</sup> JANUARY 2009		FOR THOSE EMPLOYED ON BRISDOC TERMS AND CONDITIONS BEFORE 1 <sup>ST</sup> JANUARY 2009	
During first six months of service	1 weeks full pay only	During first year of service	1 month's full pay and after completing four months service, 2 months half pay.
During second six months up to one year service	2 weeks full pay and 2 weeks half pay	During second year of service	2 months full pay and 2 months half pay
During second year of service	4 weeks full pay and 4 weeks half pay	During third year of service	4 months full pay and 4 months half pay
During third year of service	8 weeks full pay and 8 weeks half pay	During fourth and fifth year of service	5 months full pay and 5 months half pay
During fourth year of service	13 weeks full pay & 13 weeks half pay	After completion of 5 years' service	6 months full pay and 6 months half pay
During fifth year of service and beyond	17 weeks full pay & 17 weeks half pay		

Staff on non-BrisDoc Terms & Conditions should contact their Line Manager and/or a People Team Representative to clarify the occupational sick pay allowance.

These entitlements are calculated by aggregating periods of sickness absence in the immediately preceding 12-month period.

The definition of full pay will be based on your contractual hours - neither shift bonuses nor overtime (unless overtime is contracted) is included in this.

Full pay is inclusive of statutory benefits – the combined addition of statutory sick pay to half pay does not exceed full pay.

Entitlements are set as at the first day of a period of sickness

Type of sick pay	Conditions of sick pay
Occupational Sick Pay (OSP) OSP is calculated according to your length of service (see above for details). These arrangements are intended to supplement statutory sick pay to provide additional payment during absence due to illness, injury or other disability, not exceeding your normal pay.	<p>BrisDoc reserves the right to withhold sick pay in circumstances where the certification procedure described in Appendix 4 has not been followed or where there is sufficient reason to doubt the validity of your sickness absence claim. In the latter, BrisDoc may refer you to Occupational Health or request you to undergo a medical examination by a doctor of our choice. Any cost for this examination will be the responsibility of BrisDoc.</p> <p>There are certain conditions attached to the payment of OSP and these are outlined below:</p> <p>You will not be entitled to an additional day off if you are sick on a statutory holiday.</p> <p>Sick pay will not normally be payable for an absence caused by an accident due to active participation in sport as a profession, or where contributable negligence is proved.</p> <p>If you are absent as a result of an accident you will not be entitled to sick pay where damages maybe recoverable from a third party. However, BrisDoc is able to advance you a sum not exceeding the amount of sick pay payable providing you repay the full amount of sickness allowance when damages are received.</p> <p>Entitlements are set as at the first day of a period of sickness. That is, if you are off sick and your current absence crosses over your anniversary date to receive more sick pay entitlement, the number of days will not increase until you have returned and started a new period of sickness absence.</p> <p>Occupational Sick Pay (OSP) entitlements are calculated by aggregating periods of sickness absence in the immediate preceding 12 month period.</p> <p>In exceptional circumstance only you may be entitled to substitute sick leave with annual leave if you have exhausted your maximum allowance of OSP. Any cases should be referred to a People Team Representative. You will not be able to substitute sick leave with annual leave if your absence is being formally managed as per Section 6.1.3/6.2.1</p>
Statutory Sick Pay (SSP)	<p>SSP is not paid for the first three qualifying days in any period of sickness unless it falls within a linking period.</p> <p>A linking period is the following: If a person has been sick for two spells or more of at least 4 days in a row with 8 weeks or less between them, they will be counted as one Period of Incapacity for Work. This means that "waiting days" will not be served for the second period of sickness.</p> <p>To get SSP, you must be:</p> <p>Sick for at least 4 or more days in a row (including weekends and bank holidays). This is known as a Period of Incapacity for Work.</p> <p>Earn, before tax and NI the Lower Earnings Limit for National Insurance Contributions (NIC).</p> <p>Earnings are averaged over an 8 week period before the sickness began.</p> <p>SSP is paid for up to a maximum of 28 weeks.</p>



# Sickness Absence

<b>NHS Pension during sick pay</b>	<ul style="list-style-type: none"><li>• During full sick pay, you will continue to pay your usual pension contributions, and BrisDoc will pay the usual employer's contributions.</li><li>• Should you enter a half sick pay situation, your (employee) pension contributions will be based on your actual earnings<sup>1</sup>. BrisDoc's employer's contribution will be based on your normal full-pay salary had you not entered a half sick pay situation.</li><li>• Should you enter a nil sick pay situation, no pension contributions from either yourself or BrisDoc will be made.</li></ul>
<b>NEST Pension during sick pay</b>	<ul style="list-style-type: none"><li>• During full sick pay, you will continue to pay your usual pension contributions, and BrisDoc will pay the usual employer's contributions.</li><li>• Should you enter a half sick pay situation, both your (employee) and BrisDoc's (employer's) pension contributions will be based on your actual earnings.</li><li>• Should you enter a nil sick pay situation, no pension contributions from either yourself or BrisDoc will be made.</li></ul>

# Sickness Absence

## Appendix 5

### Sickness before, during and after Annual Leave

- **If you fall sick during a period of annual leave** and you wish to apply to reclaim the leave from your entitlement, you are required to notify your line manager by telephone (or email if you do not get through by telephone). If you are outside the UK, you should do so as soon as is practicably possible and no later than 3 calendar days after the commencement of the sickness. The period of annual leave may only be reimbursed at BrisDoc's discretion. **Reimbursement will only be considered where you fell seriously ill or you sustained a serious injury.** In these cases, you must submit, at the latest of your first day back at work, a certificate signed by a registered medical practitioner confirming your illness from the first calendar day of sickness. The cost, if any, of the certificate shall be reimbursed by BrisDoc on the production of a receipt. Failure to produce this documentation will result in no further leave being added to your entitlement to cover the period of ill-health.
- Where a period of pre-agreed annual leave falls during a sickness absence that lasts beyond 7 days, you will need to inform your line manager in writing within 48 hours of the last day of annual leave should you wish your period of annual leave to be reimbursed.
- Where you are absent from work immediately prior to or immediately after a period of booked annual leave, you may be required to provide your manager with a medical certificate from the first day of absence. The cost, if any, of the certificate shall be reimbursed by BrisDoc on the production of a receipt. Failure to supply a medical certificate covering the entire period of absence in this situation may result in the withholding of pay. BrisDoc will not accept backdated certificates from GPs unless there are substantial and acceptable reasons why contemporaneous certificates could not have been obtained.
- Where you fail to return to work following annual leave on the agreed date and fail to communicate with your line manager, the circumstances shall be regarded as unauthorised absence and will be managed under BrisDoc's Disciplinary Procedure. In addition, if as part of your recuperation from illness you intend to take a holiday, you must advise your manager of this prior to travel, giving details and dates.
- Annual leave is accrued throughout periods of sickness absence, whether short-term or long-term.
- All employees are expected to take their annual leave entitlement during the leave year and should not normally carry over annual leave, although BrisDoc allows up to a maximum of one week's worth of annual leave to be carried forward in exceptional circumstances. Where staff are returning from long term sickness absence they may be expected to take any outstanding leave within the current leave year. This should be managed carefully taking account of the needs of the service and the practicalities of them being able to use up all of their entitlement in that leave year.

Employees on long term sick leave can also be given the opportunity to take annual leave during their sick leave period. The employee must have the agreement of their manager prior to the commencement of such annual leave which should be a reasonable proportion of their

## Sickness Absence

annual entitlement. It is the manager's responsibility to inform the People Team and adjust the rota accordingly to ensure both the payment of the annual leave and to ensure it

- does not get recorded as sick leave, although the period of absence will be classed as one period, rather than being broken into two periods due to annual leave.
- Where the employee on long term sick leave has not been able to take their annual leave entitlement during the period of sickness absence i.e. where an employee's sickness absence spans two leave years, they will be able to carry forward annual leave accrued during the period of their sick leave, and will be asked to take all of their accrued but untaken annual leave no longer than 12 months following their return from long term sick leave. Consideration will also be given to holiday buy-back.

# Sickness Absence

## Appendix 6

### Definition of Disability Under Equality Act/Possible Reasonable Adjustments

From 1<sup>st</sup> October 2010, the Equality Act replaced most of the Disability Discrimination Act (DDA).

Definition of “disability” under the Equality Act 2010:

In the Act, a person has a disability if:

- they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial, but may fluctuate or change and may not be present all the time
- 'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking, using the telephone, using public transport and going shopping. In the workplace they could include interacting with colleagues, using a computer, writing, following instructions, keeping to a timetable, sitting down, standing up, driving, lifting and carrying everyday objects.

People who have had a disability in the past that meets this definition are also protected by the Act.

#### **Progressive conditions considered to be a disability**

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled.

#### **Conditions that are specifically excluded**

Some conditions are specifically excluded from being covered by the disability definition, such as a tendency to set fires or addictions to non-prescribed substances.

#### **Reasonable Adjustments**

Reasonable adjustments do not just relate to physical arrangements in the building, they can be arrangements such as altering working hours. Other examples include:

- Making adjustments to the premises
- Allocating some of the disabled person's duties to another person
- Redeployment
- Altering the person's working hours
- Allowing the person to be absent during working hours for rehabilitation
- Giving/arranging training
- Acquiring or modifying equipment
- Providing a reader or interpreter
- Providing supervision or support
- Assistance from various bodies such as Job Centre Plus can be obtained to provide advice and help with the above and some financial costs.

## Sickness Absence

In determining whether a step which an employer may have to take is reasonable, the following will be considered:

- the extent to which taking the step would prevent the effect in question
- the extent to which it is practicable for the employer to take the step
- the financial and other costs which would be incurred by the employer in taking the step
- the extent to which taking the step would disrupt any of the employer's activities
- the extent of the employer's financial and other resources
- the availability to the employer of financial or other assistance with respect to taking the step
- the size and type of business

### **Can a disabled employee be dismissed on the grounds of ill health?**

If an employee can no longer fulfil their duties because of their disability, an employer is entitled to dismiss that employee subject to the proper procedures (as outlined in this policy) being followed.

Some key steps that should be taken involve:

- Referral to occupational health and or request for a medical report from employee's own GP (with their consent).
- In requesting a medical report, specific questions should be asked about the employee's capabilities and difficulties, with an explanation about the tasks they are expected to perform for their job.
- The possible reasonable adjustments which could be made to facilitate the employee's return to work must be considered, including reduction of working hours, reallocation of duties, more time off.
- If the report indicates that the employee is not fit to do the job, and reasonable adjustments would not improve their ability to perform their duties, the employer should discuss the implications of the report with the employee.
- The employer should look for alternative work for the employee within the organisation.
- Full statutory disciplinary, dismissal and grievance procedures should be followed with due consultation at the appropriate stages
- Dismissal of the employee on notice will be appropriate only if there is no alternative available.
- If work is available which the employee would be capable of doing, then this should be offered to them in priority to other job applicants.

**It may also be appropriate to involve a Disability Employment Adviser in assessing ways of supporting an employee on their return to work.**

# Sickness Absence

## Appendix 7

### Notice pay and dismissal due to ill health

An employee who is to be dismissed on the grounds of ill health is always entitled to receive notice pay. In accordance with the Employment Rights Act 1996, the following will apply:

Section 86 of the Employment Rights Act 1996 provides for statutory minimum notice periods. Where the period of employment is less than two years, the statutory minimum notice period is not less than one week. Where the period of employment is two years or more, the statutory minimum notice period is one week's notice for every full year of continuous employment, up to a maximum of 12 weeks.

In addition to this, Section 88(1)(b) then provides that the employee should be paid full pay for the statutory minimum notice period in cases where he or she is incapable of work because of being absent on ill health grounds. However, under Section 87(4) this right does not apply where the contractual period of notice exceeds what the statutory minimum notice is, by at least one week.

For example:

- 1) Employee A has been employed for 5 ½ years when he is dismissed on long-term incapacity grounds. Under his contract of employment, he is entitled to receive 1 months' notice. In this case, the statutory minimum notice period of 5 weeks exceeds the contractual notice period of one month, so employee A must be given five weeks' notice of termination of employment and, in accordance with Section 88(1)(b), he must receive this at his full pay rate.
- 2) Employee B has been employed for two years when she is dismissed due to long-term ill health. Under her contract of employment, she is entitled to receive four weeks' notice. In this case, the contractual notice period of four weeks exceeds the statutory minimum notice period of two weeks, so four weeks' notice of termination of employment must be given. However, as the contractual notice period exceeds the statutory notice period by at least one week, this means that Section 87(4) is triggered and there will be no obligation for it to be paid at full pay rate. If the employee's entitlement to sick pay has already been exhausted, she will receive two weeks' full pay for the two-week statutory minimum notice period and nil pay for the remaining two weeks of the four-week contractual notice period.
- 3) Employee C has been employed for less than two years when he is dismissed due to long-term ill health. Under his contract of employment, he is entitled to receive twelve weeks' notice. In this case, the contractual notice period of twelve weeks exceeds the statutory minimum notice period of one week, by at least one week which means that Section 87(4) is triggered. Therefore, there will be no obligation for the remaining eleven weeks to be paid at full rate. If the employee has not exhausted all their SSP, then the remaining eleven weeks of the notice period would qualify for SSP (or up to the number of weeks remaining of SSP if it is exhausted before the eleven weeks has ended). If the employee has exhausted all their SSP, then the remaining eleven weeks would be at nil pay.

## Sickness Absence

The following amendments have been made from the February 2012 (v3) Sickness Absence policy:

Date of Amendment – March 2019

Section of current policy	Summary of change
Throughout	Reference to HR changed to Workforce
Whole Policy	Overall process for managing absence has been differentiated between managing frequent absence and long-term absence, instead of absence with and without an underlying health condition.
Section 1	Updated '4 Values' diagram to new version
Section 3	Added paragraph to include that the policy operates in accordance with Equality & Diversity policy.
Section 4	Added in further definitions of absence to include sickness with and without underlying health cause/condition, short and long term sickness, planned sickness, sickness day, rolling year and medical suspension.
Section 5	<p>Changed layout and information updated.</p> <p>Employee responsibilities – added attending sickness absence meetings and occupational health appointments if required</p> <p>Line Managers responsibilities - added ensure policy is applied fairly and consistently, holding sickness review meetings, maintaining appropriate level of contact during sickness, keeping accurate records, maintaining level of competence</p> <p>People Team – added provide training to managers, advice and support; advising when sickness review triggered.</p>
Section 6	<p>Overall process for managing absence has been differentiated between managing frequent absence and long-term absence, instead of absence with and without an underlying health condition.</p> <p>Updated to include reference to General Management; Sickness Review Meetings; Triggers Points; Managing Frequent &amp; Long Term Absence.</p> <ul style="list-style-type: none"> <li>• Introduced additional trigger points</li> <li>• Sickness Review period increased from 3 months to 6 months</li> <li>• Review Stages changed to                             <ul style="list-style-type: none"> <li>○ Level 1 Discussion &amp; Review</li> <li>○ Level 2 Formal Discussion and Review</li> <li>○ Level 3 Referral for Formal Action</li> </ul> </li> <li>• Option given to increasing trigger points in case of underlying health conditions, as well as exploring reasonable adjustments.</li> <li>• Option at Level 1 to refer to Occupational Health or ask for GP Report.</li> <li>• Formal Hearing – no longer linked to Disciplinary Policy, now referral for Formal action (Hearing) under Sickness Policy.</li> <li>• Added in new Section 'Care and Concern' Meetings (6.3.2.) for staff on Long term absence.</li> </ul>
Appendix 1	Updated to show NHS pension contribution during sick pay and to include NEST Pension
Appendix 2	Removed Chicken Pox, added in list of notifiable diseases from DHE
Appendix 7	New Appendix added following legal advice

## Sickness Absence

Sections from February 2012 policy that are no longer in March 2019 policy:

Section (from 2012 policy)	Summary of change
Appendix 5	Sickness Self Certificate - removed as no longer relevant
Appendix 6	Guidance for Managers on referral to OH - to be covered separately
Appendix 8	RTW Form – removed no longer relevant
Appendix 9	Letter to Employee Requesting consent for Medical Report
Appendix 10	Medical Report Consent Form
Section 13	Sickness and Pregnancy – removed now covered in Maternity policy

### Change Register

Date	Reviewed and amended by	Revision details	Issue number
Appendix 5		Sickness Self Certificate - removed as no longer relevant	
Appendix 6		Guidance for Managers on referral to OH - to be covered separately	
Appendix 8		RTW Form – removed no longer relevant	
Appendix 9		Letter to Employee Requesting consent for Medical Report	
Appendix 10		Medical Report Consent Form	
Section 13		Sickness and Pregnancy – removed now covered in Maternity policy	