

Livewell Southwest

Attendance Policy

Version No. 5.12

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Notice to employees using a paper copy of this guidance

The policies and procedures page of Intranet holds the most recent version of this guidance. Employees must ensure they are using the most recent guidance.

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Reader Information

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Document review history

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Attendance Policy

1. Equality Statement

- 1.1 Livewell Southwest is committed to creating an environment that supports and maximises the health and wellbeing of our colleagues, along with other initiatives being developed across the organisation. This Policy and Procedure sets out arrangements to support the management of attendance.
- 1.2 Attendance management requires efficient recording, constant support discussion and reviewing and should be dealt with fairly, consistently, promptly and supportively, recognising the need for reasonable adjustments in accordance with the Equality Act 2010. This policy will identify best practice when dealing with attendance and will ensure compliance with relevant legislation. Managers are advised to contact HR and Occupational Health & Wellbeing provider for specialist advice. Employees are advised to seek support from advice services through the Employee Assistance Programme.
- 1.3 Everyone responsible for the implementation and delivery of this policy should do so in a way which is equitable and culturally sensitive to the needs of our diverse workforce.

2. Purpose

- 2.1 The purpose of managing attendance is to support the individual to achieve good attendance at work. Both persistent short-term and long-term absence can eventually lead to the ending of the employment contract. In such situations the reason for this will be the employee's inability to fulfil the full duties of the role due to ill health.
- 2.2 Consideration must be given to individual circumstances and each situation should be looked at on its own merits although guidance will be given to 'attendance triggers' to achieve an equitable approach.
- 2.3 Sickness absence by one employee affects more than the individual concerned:
 - a) It affects colleagues, who may have to cover absences.
 - b) It has an impact on the effectiveness of the team or department and may make the difference between delivering the service and not.
 - c) The workload increases and reduces flexibility of remaining employees.
 - d) Morale of other employees can suffer and stress levels can increase which may result in additional sickness absence.
 - e) Costs including occupational sick pay, overtime and locum cover.

3 Definitions

- 3.1 **Short-Term Absence** – periods of absence lasting less than 28 calendar days;

- 3.2 **Long-Term Absence** – a continuous period of absence of 28 calendar days or more which may include a diagnosis regarding substantive medical, therapeutic intervention for example, cancer treatment, depression or as a result of an accident.

4 Duties

- 4.1 The **Board** is responsible for setting and agreeing targets in respect of attendance and ensures that it is monitored on a regular basis.

- 4.2 The **Human Resources Department** helps ensure the consistency of managing attendance arrangements, which includes:

4.2.1 The policy is regularly reviewed and amended as necessary;

4.2.2 Managers are aware of their duties in monitoring and taking action in all situations of sickness absence of their employees;

4.2.3 Accurate attendance data is collected and shared appropriately.

4.2.4 Appropriate training support to all managers will be provided through a series of seminars and toolkits.

4.3 **Managers should:**

4.3.1 Adopt a preventative approach with early intervention with managers knowing their teams, supporting health and wellbeing with health promotion and ill health prevention activities.

4.3.2 Ensure employees are made aware of the Employee Assistance Programme at an early stage in order to prevent or minimise sickness absence.

4.3.3 Make employees aware of the procedure to follow when reporting sickness or absence (See Section 8).

4.3.4 Record all sickness on E-Roster of which can be audited.

4.3.5 A stress risk assessment should be completed where there are indications of stress within one or more team members. The appropriate form can be found within the Stress Management Policy and then once completed should be discussed with the Head of Service/Deputy or equivalent and HR.

4.3.6 All managers should conduct return to work welcome back meetings with all employees using the return-to-work welcome back form which should be signed by both parties, following every period of sickness, regardless of the length of absence or reason [Appendix A Return to work welcome back form.docx](#)

4.3.7 Monitor and regularly review sickness absence records of all employees to identify whether further action needs to be taken.

4.3.8 Undertake training in attendance management.

4.3.9 Not refer employees to Occupational Health & Wellbeing provider for age-related reasons alone unless justified.

4.4 **Employees** – to support your own good health whilst working for Livewell Southwest, employees should:

4.4.1 Look after their own health and wellbeing with access to services including the Employee Assistance Programme which provides support on a range of issues for the employee and family members.

4.4.2 Attend work on a regular basis and be in a fit state to do so. If they are unable to attend work for any reason they should contact their manager (or equivalent) on the first day of absence together with the following information:

- a) Brief details of reason for absence.
- b) How long they expect to be absent.
- c) Whether a GP has been or will be consulted.

4.4.3 Employees should follow the reporting process (see Section 8) and should, unless there are exceptional circumstances, report to their Manager or equivalent. It is not expected that employees will text to report their absence unless the employee has a protected characteristic under the Equality Act 2010 and it has been agreed to communicate by this means.

4.4.4 If an illness develops after the normal start time, reporting should be made as soon as possible. This should normally be no later than 30 minutes after the time an employee would be expected to start work. Where an employee is working a night shift, the employee should inform their manager asap during the normal working day shift so that the manager can arrange cover.

4.4.5 Submit required documentation ie. medical certificate, if required.

4.4.6 Employees should respect their entitlement to occupational sick pay. For example, an employee who reports unfit (with or without a medical certificate) for work whilst working for another employer will be regarded as being fraudulent and may, depending on the circumstances have their contract of employment ended.

5. Supporting and monitoring Sickness Absence

5.1 Employees who follow the sickness absence process may be entitled to two kinds of sick pay.

- a) Occupational Sick Pay
- b) Statutory Sick Pay

5.2 If you do not follow the sickness absence process your entitlement to Occupational Sick Pay may be withheld.

5.3 Furthermore, formal action may be taken against employees who repeatedly do not report their sickness absence in accordance with the reporting procedure.

6. Record Keeping

- 6.1 The line manager is responsible for updating sickness absences on E Roster. This information is used to provide up-to-date reporting on levels of absence. Every day of the week is counted as sickness, including weekends and public holidays.
- 6.2 It is important for employees to let managers know when they are fit to return so that they are not affected financially and/or to ensure that their attendance record is accurate. For the purposes of occupational sick pay, sickness absence is calculated in days rather than hours, therefore, part time and full-time employees would be entitled to the same level of benefits.
- 6.2.1 **Seven continuous days or less** - verbal self-certification.
- 6.2.2 **Eight continuous days and over** - the employee should obtain a GP's fit note on or near the eighth day of absence. It is the employee's responsibility to submit fit notes within a reasonable timescale and should be continuous without breaks. The line manager must ensure that a copy is placed on the employee's file and must be stored confidentially in the department and stored on an individual's electronic personal file.
- 6.3 If you do not provide a GP fit note this may result in non-payment of occupational sick pay or Statutory Sick Pay if not made available to your manager within reasonable timescales
- 6.4 On expiry of the first fit note, if you do not return to work, you must obtain and provide further fit notes to cover your absence and update your Manager on progress. To ensure that there are no gaps, make sure you contact your GP before the expiry of the earlier note.
- 6.5 All records must be kept correctly and up-to-date. Originals or an electronic copy should be placed on the employee's personal file and a record held by the manager.
- 6.6 Efficient record keeping ensures that absence is dealt with effectively.

7. General Principles of Attendance Management

- 7.1 Action to be taken when an Employee reports they are absent:
- The following information will be obtained from the employee:
- what is the reason for absence;
 - will a GP be consulted;
 - anticipated return to work date;
 - agree when contact will be made if the absence is anticipated to be longer than one day and to ensure that employee has provided correct contact details
- 7.2 If an employee identifies they are experiencing work related stress, they can access support via the Employee Assistance Programme as necessary.

- 7.3 It is advisable for the Manager to undertake a Stress Risk Assessment in line with the Stress Management Policy.
- 7.4 Monthly reports outlining sickness reasons, including stress related illness will be provided to the Board.

8. Reporting Procedure for Employees

8.1 Aims:

- a) To clarify the action you must take when you are absent due to sickness.
- b) Improve communication, ensure that you receive any payment to which you are entitled and enable Livewell Southwest to operate effectively and efficiently. This can only be achieved if your supervisor/manager is fully informed of your situation.

- 8.2 This procedure **should** be followed by all employees who are absent from work due to sickness.

8.3 When does your sickness absence begin?

- 8.3.1 Employees are expected not to attend work if they feel unwell.

If work less than 75% of your working day	Recorded as sick for whole day/shift
If work at least 75% of your working day	Not recorded as sick and will not be required to make up the shortfall in hours.

- 8.3.2 If a pattern emerges that is of concern, this will be dealt with under the attendance triggers as detailed in Section 10 along with exploring any additional support needs.

8.4 Employees with symptoms of gastroenteritis/D&V

- Employees with symptoms of gastroenteritis/D&V should not attend work or, if at work, inform their Line Manager immediately and then leave work.
- Clinical employees should already be issued with a specimen pot and yellow request form in order that they can submit a stool specimen.
- All other employees can obtain specimen pots and request forms from their Line Manager or General Practitioner, if this is not possible contact Microbiology at University Hospital Plymouth (Tel: 01752 792387 or Ext: 52387).
- The yellow request form should clearly indicate where they work and may be submitted to Microbiology at University Hospital Plymouth either directly or via their General Practitioner, requesting a copy of results be sent to Occupational Health and Wellbeing provider.
- Employees should not return to work until 48 hours free of symptoms.
- If NHS Professionals/Agency colleagues are used to cover the absence, they will need to be offered 2-3 days of work, as they will be unable to work

elsewhere in the Organisation for 48 hours following their contact with the ward during the outbreak.

- This is part of a shared Infection Control Policy with University Hospital Plymouth.

8.4.2 See Section 10 concerning recording of D&V sickness absence.

8.5 Sickness during a Holiday

If you fall sick during annual leave, your manager must be notified wherever possible on your first day of sickness and produce a GP's fit note for the period, which must be forwarded to your manager. Only then will your annual leave be recognised as sickness absence leave. Employees will not be entitled to additional holiday if sick on a statutory public holiday.

8.6 Sickness on a public holiday

In accordance with Agenda for Change terms and conditions, where an employee is due to work on a public holiday or it is part of their normal working, employees will not be entitled to an additional day off if sick on a public holiday. Also, they will not be entitled to equivalent time in lieu if due to work the public holiday. Hours (pro rata based on contracted hours) must be deducted from the overall entitlement of public holidays. There is also no effect on an employee's public holiday entitlement where it falls on a non-working day.

8.7 Holiday during a sickness absence

- 8.7.1 If you go on a pre-planned holiday whilst on sickness absence, you must notify your manager and this will be recorded as a period of annual leave. Upon return the sickness absence episode would recommence. There will be no break in the sickness episode in terms of recording and will be considered as one absence period. The manager will submit a change form to confirm this.
- 8.7.2 If the nature of the holiday indicates you would be fit to work, contradicting the reason for the absence, you may be referred to Counter Fraud for investigation.
- 8.7.3 The organisation recognises that during periods of sickness absence for mental health related conditions a period of holiday may be therapeutic for recovery and is part of the ongoing sickness absence episode.

8.8 Return to Work

- 8.8.1 When you know you will be returning to work, you should notify your manager immediately, giving as much notice as possible.
- 8.8.2 On returning to work you and your manager, at the very earliest opportunity (ideally on the first day of return), must arrange a return-to-work welcome back discussion. Managers cannot commence Support Stage 1 or Stage 2 if Return to Work welcome back discussions have not taken place.

8.9 Working during Sickness

- 8.9.1. You must not work for another employer when absent sick from Livewell Southwest or otherwise engage in any activity which is inconsistent with being on sick leave. Abuse of sick leave may be considered fraud and may result in investigation by the organisation's Counter Fraud Specialist and may, depending on the circumstances, result in criminal convictions and/or ending your contract of employment.
- 8.9.2 Where an employee has two roles with two employers the circumstances of the absence will need to be explored as this may relate to one or both positions and thus it may be reasonable for them to continue in one role while on sickness absence in the other.

8.9.3 Working outside the organisation during a period of Sickness Absence

- An employee on sick leave has a responsibility to facilitate his/her own recovery. An employee should not engage in any activity, which may delay or impede their return to work and to do so may be considered a disciplinary matter. Employees should check with their manager if in any doubt and occupational health advice may be sought.
- An employee absence because of sickness is regarded as unfit to work and must not undertake any employment outside their organisation unless it has first been agreed with their line manager, who may seek advice from the Occupational Health and Wellbeing provider as to whether such employment is likely to be therapeutically beneficial to their recovery.
- The manager will consider whether equivalent benefit may be gained from returning to work in an appropriately modified role/post for a temporary period.
- In any event, written consent must be given by the line manager in advance in all such situations.
- An employee who does undertake other work during sickness absence, without the prior written consent of the manager, may be considered in breach of contract and may be subject to disciplinary action which may result in the involvement of the counter fraud department and/or ending the contract of employment. Such action will only be taken following advice from the HR department.

8.10 Other Points to Note

- 8.10.1 **Occupational Health & Wellbeing Medical Examination** – Livewell Southwest may request you to attend a medical appointment with Occupational Health & Wellbeing provider. Livewell Southwest HR department and/or appropriate Manager can ask the employee to provide a GP's fit note to cover any period of absence due to sickness. If the GP's Fit Note involves a fee, this will be paid by Livewell Southwest.
- 8.10.2 If your entitlement to Statutory Sick Pay expires you will be sent an SSP1 form from SBS payroll provider. **Note:** Late submission of a claim may lose you benefit.

- 8.10.3 If you have any questions about sick pay please contact SBS in the first instance. Their Employee Service Desk on 0303 123 1144 between Monday – Friday 8am-5pm or submit your enquire online <https://nhssbs.microsoftcrmportals.com>

9. Keeping in Touch with Absent Employees

- 9.1 A manager has a duty to keep in touch with an employee whilst they are absent. Keeping in regular touch should be seen as a supportive measure whilst enabling the manager to effectively manage the absence.
- 9.2 The employee's reason for absence should be taken into consideration and managers should use discretion where appropriate.
- 9.3 With short-term absences the employee has a responsibility to keep their manager informed on a weekly basis and if they do not do so it is appropriate for the manager to make contact with the employee. Please refer to [Appendix E Informal Support Review Form .docx](#) for the Informal Support Review Form.
- 9.4 An employee has a responsibility to contact their manager on the first day of absence. In this initial conversation agreement should be made as to how contact will be made in the future. When an individual is not sure whether they will return the following day agreement should be made when they will contact their manager. If the absence is anticipated to be long-term, agreement should be made as to who will contact whom and when. Where long-term absences are concerned it is best practice to contact the employee every two weeks. Formal support review meetings should then take place at months 2, 4 and 6 months. Many employees who are on long-term absences feel isolated and often feel guilty about their absence regardless of how genuine it may be. Maintaining contact will reduce their anxiety and help them in their return to work. Please refer to [Appendix F Formal support review form .docx](#) for the Formal Support Review Form
- 9.5 If the employee is experiencing work related stress it may be appropriate to offer them an opportunity of speaking to another manager, access to the Employee Assistance programme or a representative from the HR team. A stress risk assessment should also be completed ready for when the employee returns to work.

10 Monitoring Attendance Triggers

- 10.1 In order for the manager to effectively manage sickness absence, absence data should be regularly reviewed and appropriate action taken when the following 'triggers' occur, irrespective of whether the periods of absence are covered by medical certificates. Please refer to [Appendix D Flowchart for support stages.docx](#) for a flowchart of the monitoring stages.
- 10.2 **Persistent Sickness Absence**
- a) three occasions of un-certificated, self-certificated or certified absence in a rolling 12-month period*
 - b) 15 days continuous and/or cumulative absence in a rolling 12-month period**
 - c) where a combination of odd days, longer periods and patterns of absences exist, including previous years, which cause concern, but may not meet other triggers, advice should be taken from HR in such situations.

*Employees who are absent due to D&V need to be aware that this absence will be counted in terms of calculating sick pay due and will be taken into consideration when looking at overall spells of sickness but may not result in action being taken on that occasion. For further advice contact the HR team.

**Pro Rata – example:

- Employee A works 37.5 hours per week – they are absent for two weeks, so their sickness will be 14 days (as every day of the week is counted)
- Employee B works 15 hours per week (eg. Monday and Tuesday) – they are absent for two weeks, so their sickness will be 14 days (as every day of the week is counted)
- It is important for all employees to immediately inform their Manager they are fit for duty even if it is a non-working day.

10.3 **Long Term Sickness Absence** – Long-term sickness absence can be defined as a continuous absence which exceeds or is expected to exceed 28 days or recurrent periods of absence due to serious health problems. It is not necessary to wait 28 days before taking action,

11. Managing Short-Term Sickness Absence

11.1 Return to Work Welcome Back Meetings

11.1.1 Return to Work Welcome Back Meetings should be conducted in a supportive manner on the first day back following **every** occasion of sickness absence. Discussion should take place around the circumstances of the absence and this should be recorded on the Return to Work Welcome Back Record Form [Appendix A Return to work welcome back form.docx](#) Delays in holding the welcome back meeting reduce the value of the process, so should always be conducted promptly.

11.1.2 The benefit of Return-to-Work Welcome Back meetings is that they are the single most effective way of making the employee aware that their absence has been noted and offering support where appropriate.

11.1.3 A Return-to-Work Welcome Back meeting should be conducted by the employee's line manager. If the line manager is unavailable it must be delegated to another manager within the same area.

11.2 Support Stage 1 – Attendance Review Meeting

11.2.1 Where an employee's absence record matches any of the triggers shown at 10.2 above, the Manager will hold a Support Stage 1 Attendance Review meeting with the employee to discuss the level of absence and its impact.

11.2.3 The manager should explore with the employee the reasons for absence, whether there are any patterns/trends, ie. Fridays, Mondays, similar reasons and listen to the employee's explanations. It may be that there are personal issues or matters outside of work, which may be contributory.

11.2.4 The employee should be made aware of their absence record over the past 12 months (or less if appropriate). It must be remembered that the Manager is not questioning the genuineness of the absence but is identifying that the level is high and in line with Livewell policy they need to discuss this with the individual.

11.2.5 This is an opportunity for the individual to discuss and make their manager aware of any problems they are experiencing whether work related or not. The manager should endeavour to establish whether there are any work-related issues i.e. hours, work related stress or the employee is not able to cope with the full remit of their role.

The manager will make the employee aware of the Employee Assistance Programme which can provide advice on a number of issues and also provide a counselling service

11.2.6 If there is frequent absence, is there an underlying medical cause? If the reasons are medically related, referral to Occupational Health & Wellbeing should be considered at this stage to determine whether there are underlying medical reasons. A referral **must** be discussed with the employee **before** any referral to Occupational Health & Wellbeing is progressed.

11.2.7 The manager should make the employee aware that their absence level is of concern and is being monitored and should there be further sickness (two further absences or a single absence of seven days) this would trigger moving to Support Stage 2 (see below). Advice can be sought from HR. A flowchart of the monitoring stages is available in [Appendix D Flowchart for support stages.docx](#)

11.2.8 Issues to Consider:

- a) Reason(s) for absence.
- b) Length of absences and the periods of good health between them.
- c) Medical information and whether this affects the individual's ability to perform in their role.
- d) The individual's work performance.
- e) The possibility of redeployment.
- f) The impact of the individual's absence on workload – how is it covered and the urgency of the work.
- g) Absence rates within the department as a whole.

11.3 **Support Stage 2 – Formal Attendance Review Meeting**

11.3.1 Where the sickness in Support Stage 1 has triggered referral to Support Stage 2 it will be appropriate to meet with the individual. The individual will have the right to representation by either a recognised Trade Union Representative or a workplace colleague. The Manager should contact HR in advance of the meeting to confirm that this is the appropriate action. HR would not usually attend meetings at this stage. A manager can only move an employee to Support Stage 2 if Support Stage 1 paperwork has been completed.

11.3.2 The purpose of the meeting is to draw together previous attendance review meeting actions and to discuss the employee's absence record and formally establish:

- a) The reason for the employee's absence.
- b) The employee's current state of health and whether there is an underlying medical reason relating to the absence.
- c) The employee's perception of their situation.
- d) Whether there are any work-related issues relating to their absence.
- e) Whether there is anything preventing them from improving their absence record.
- f) Whether any reasonable adjustments should be considered.

11.3.3 To help the employee to sustain an improvement in their absence record the manager will explore with the employee how and/or what can the organisation and/or management team do to help support the employee to remain well in the workplace.

If there are two further absences or one absence of seven days, this may result in a referral to an ill health capability meeting. If thresholds for the triggers are met, then a further formal meeting may be arranged to review the situation and discuss how the organisation can further support the employee. A clear plan should be discussed during this meeting. However, the way forward may still be a referral to an ill health capability meeting.

The manager will make the employee aware of the Employee Assistance Programme which can provide advice on a number of issues and also provide a counselling service. The manager may also consider whether further advice is required via an Occupational Health referral.

11.3.4 During Support Stage 2 monitoring employees are not permitted to apply for any internal job vacancies/secondments unless approved by the HR Department. An example of approval may include a recorded work-related injury and/or whether a move to a different role would improve an employee's health and wellbeing.

11.3.5 During Support Stage 2 monitoring employees are not permitted to work additional hours or overtime, this measure relates to work both in substantive posts and other areas within Livewell Southwest. In addition, employees are not permitted to undertake work in this organisation via NHSP or other agencies. This should be seen as a supportive measure to enable the employee to sustain attendance at work. This measure can only be removed by a Head of Service or Deputy Head of Service and is only expected to be removed in exceptional circumstances.

11.4 Support Stage 3 – Ill Health Capability Meeting

The ill health capability meetings will follow a 3-step process as outlined in legislation. This is as follows:

Step 1 – Written Notification

- 11.4.1 Livewell Southwest will set out in writing the employee's circumstances and invite them to attend a meeting (described in Step 2). In the letter the employee will be advised of their right to be accompanied by either a Trade Union representative or a work colleague. The letter will also provide an indication of the potential outcome of the meeting, which may include ending the contract of employment.
- 11.4.2 The employee must be aware of the basis of the circumstances in advance of the meeting (Step 2) and the employee will be given all relevant documentation relating to their situation at least 5 working days (Monday – Friday) in advance of the meeting.
- 11.4.3 If the employee wishes to submit relevant information/documentation relating to their situation to the meeting, the employee must provide sufficient copies of this information/documentation for all panel and management representatives at least 5 working days in advance of the meeting.

Step 2 – The meeting

- 11.4.4 The employee will be responsible for arranging for their Trade Union representative/work colleague to attend the meeting. In the event that they or their representative are unable to attend the planned meeting they should contact the meeting organiser to request for the meeting to be rescheduled.
- 11.4.5 The meeting will be held at a venue decided upon by Livewell Southwest and where consideration has been given to the privacy and dignity of the employee.
- 11.4.6 The organisation will be represented at the meeting by at least the following:

Chair	This will normally be a Senior manager in the area where the employee works.
HR Representative	With no prior direct involvement in the situation

- 11.4.8 The Chair, following introductions, will ask the presenting manager to explain the reason for bringing the situation to the meeting and go through the information that has been gathered. The employee or their representative followed by the Chair and HR representative will be given the opportunity to ask questions of the presenting manager.
- 11.4.9 Witnesses to support the management position may then be called and information explored by:
- i) the presenting manager;
 - ii) the employee or their representative;
 - iii) the Chair or HR representative;
 - iv) by the presenting manager again on any point that has been raised.

11.4.10 The employee will then outline their situation including any mitigation. The presenting manager followed by the Chair and HR representative will be given the opportunity to ask questions of the employee.

11.4.11 Witnesses to support the employee's position may then be called and information explored by:

- i) the employee or their representative;
- ii) the presenting manager;
- iii) the Chair or HR representative;
- iv) the employee or their representative again on any point that has been raised.

11.4.12 The presenting manager followed by the employee or their representative will then have the opportunity to summarise their situation, during which no additional information that has not already been considered should be introduced.

11.4.13 The Chair will call an adjournment before reaching a decision and come to a clear view about the facts of the situation. If they are disputed, the Chair must decide on the balance of probability which version is true.

11.4.14 Following an adjournment the Chair will give the employee notice of their decision at the end of the meeting. All outcome decisions will be confirmed in writing within 5 working days of the meeting along with the right of the appeal. Possible outcomes could include no further action but continuation of attendance monitoring, extension to Support Stage 1 or 2 attendance monitoring, ending the employee's contract of employment with notice.

11.4.15 **Step 3 – The Appeal** – Employees will be advised of their right to be accompanied by either a Trade Union representative or a work colleague

11.4.16 Employees will be given the opportunity to appeal the outcome of the meeting described in Step 2.

11.4.17 Where a decision is taken to end the contract of employment, the appeal meeting need not take place before the dismissal has taken effect (for instance, during a period of notice).

An employee who wishes to lodge an appeal against the ending of their contract of employment should inform the HR Team inbox (Livewell.HR-Livewell@nhs.net) within five working days of receiving written notification of the dismissal. Any appeal must be in writing and should include the grounds for the appeal.

11.4.18 In order to hear the appeal, a further meeting will take place. The organisation will be represented at the meeting by at least the following:

Chair	This will normally be a more senior manager than the one on the original meeting. The Chair will not have had any prior involvement in the situation
HR Representative	Normally a senior HR representative with no prior involvement in the situation

NB: If an Executive Director is subject to the ending of their contract, the Appeal will be to Livewell Southwest Board Members.

11.4.19 The Chair, following introductions, will ask the employee or their representative to make a statement which sets out their grounds of appeal. The Chair of the original meeting followed by the Appeal Chair and HR representative will be given the opportunity to ask questions of the employee.

11.4.20 Witnesses to support the employee position may then be called and information explored by:

- i) the employee or their representative;
- ii) the Chair of the original meeting;
- iii) the Appeal Chair or HR representative;
- v) the employee or their representative again on any point that has been raised.

11.4.21 The Chair of the original meetings will make a statement which outlines how they came to their decision at the original meeting. The employee or their representative followed by the Appeal Chair and HR representative will be given the opportunity to ask questions of the employee.

11.4.22 Witnesses to support the Chair of the original meeting's position may then be called and information explored by:

- i) the Chair of the original meeting;
- ii) the employee or their representative;
- iii) the Appeal Chair or HR representative;
- vi) the Chair of the original meeting again on any point that has been raised.

11.4.23 The presenting manager followed by the employee or their representative will then have the opportunity to summarise the situation, during which no additional information that has not already been considered will be introduced.

11.4.24 The Appeal Chair will call an adjournment before reaching a decision and come to a clear view about the facts of the situation. If they are disputed, the Appeal Chair must decide on the balance of probability which version of the facts is true.

11.4.25 Following an adjournment the Appeal Chair will give the employee notice of their decision at the end of the meeting. All outcome decisions will be

confirmed in writing within 5 working days of the meeting. There is no further right of appeal and is the end of the internal process.

12 Managing Long-Term Sickness Absence

- 12.1 Absence is considered to be long-term when it reaches 28 consecutive days. If an individual is likely to be absent for this length of time managers are usually aware of this at the onset or it can be anticipated due to the nature of the absence. This enables managers to implement contingency plans to cover the absence at an early stage. The Manager's role is to focus on support, advice and guidance for the employee.
- 12.2 Where long-term absences are concerned, it may be that a medical issue has resulted in the individual being unable to fulfil the full remit of their role and it is therefore an ill health capability issue. Advice from Occupational Health & Wellbeing provider may need to be sought and may indicate whether redeployment or ill health retirement is an option and the likelihood of the individual being able to return to their role.
- 12.3 Where it is identified that an individual's health condition is covered under the Equality Act 2010 'reasonable adjustments' will be explored.
- 12.4 Agreement should be reached between the Manager and employee on the frequency of contact (either face to face or virtual), initially every two weeks. Formal support review meetings should take place at months 2, 4 and 6 months or other appropriate time frame to update the employee on changes in the workplace and keep the manager updated on the individual's situation.

The manager will make the employee aware of the Employee Assistance Programme which can provide advice on a number of issues and also provide a counselling service

- 12.5 Advice may be sought from Occupational Health & Wellbeing provider as appropriate during the period of long-term sickness absence, where medical advice is required on the management of sickness absence. For stress related absence early access to the Employee Assistance Programme may be appropriate.
- 12.6 When an employee is anticipating returning to work and if the manager requires advice of Occupational Health, the manager may make an appropriate referral, ideally 3-4 weeks before the anticipated return to work. This is to ensure that the return can be supported taking into account medical advice. The employee **must** be advised by their manager before the referral is made.
- 12.7 The Manager should ensure payslips are accessible to the employee each month.
- 12.8 Following receipt of the medical report (which will be copied to the employee), management need to consider:
 - a) Whether the employee will be able to return to work in the foreseeable future?
 - b) Whether Occupational Health & Wellbeing have advised follow up meetings?

- c) Whether a change in working conditions would enable a return to work – can reasonable adjustments be made?
- d) Whether retirement or redeployment on the grounds of ill health is an option?

12.9 Inactive NHS Mail Accounts

From December 2022 NHS Mail are changing the account settings for inactive accounts. This means that if an employee is absent from work for 60 days and their NHS Mail account has been inactive during this period, the employee's account will be deleted. Managers can request an account to be marked as 'disabled' by raising this with their local administrator/IT Department and this will enable the account to remain active for 18 months.

12.10 Long Term Attendance Support Review Meetings

12.10.1 Where an employee has been absent for 28 days it is best practice to contact the employee every two weeks. Formal support review meetings should then take place at months 2, 4 and 6 months which may coincide with the recommended fortnightly contact meetings. Depending on the circumstances they may wish to request a representative from HR to be present. An employee can be accompanied by a trade union representative or a workplace colleague. The meeting should be held in a supportive context in an attempt to discover whether Livewell Southwest could offer any support, guidance to the individual that may facilitate their return to work. Support mechanisms may include a management referral to the Occupational Health & Wellbeing provider, access to the Employee Assistance Programme and the disability advice service

12.10.2 A way forward should be decided at the meeting with a specified timescale. The individual may be offered options at this meeting or at a follow up meeting, which may include the possibility of redeployment, adjustments to their existing role (either within the role or the environment), change of hours, staged return to work or ill health retirement. Ultimately the employee's continued absence will make their employment vulnerable, and a discussion will need to cover this possibility

12.11 Where the long-term sickness absence period is on-going or exceeds 6 months, and during the regular reviews there is no indicated timescale of return to work the matter will be referred to an Ill Health Capability Meeting to discuss any additional support and consider appropriate actions.

13. Phased Return to Work / Annual Leave

13.1 A phased return to work may be appropriate where an employee needs a period of readjustment to work usually after a long period of absence. This may be as a result of sickness or connected to incidents which are related to work. During the Phased Return to work it is expected that the Manager will meet weekly with the employee to complete the Return-to-Work Welcome Back form for the first meeting and then an appropriate Management Supervision note for the subsequent meetings.

- 13.2 An employee or representative may request a phased return or in some circumstances the line manager may decide that it is in the best interests of the employee and/or colleagues.
- 13.3 A phased return will normally be based on advice from the GP or from our Occupational Health & Wellbeing provider and other relevant advice. The aim of the phased return is to bring the employee back to their contract hours within a reasonable timescale. The actual phasing will be decided on the situation-by-situation basis but will normally be completed within six weeks.
- 13.4 Where the absence has been caused by a condition which appears to meet the definition of disability set out in the Equality Act 2010 a phased return may form part of the reasonable adjustment that Livewell Southwest makes to support the employee.
- 13.5 A phased return may also include adjustments to the actual work carried out by the employee, in some situations this may involve a change in the type of work and work base.
- 13.6 During the period of the phased return the employee will normally have no change to their terms and conditions of employment or contracted hours. The employee may request a temporary reduction in contract hours to extend the time period of the phased return.
- 13.7 If the phased return does not succeed as planned for any reason, then a review can be requested either by the employee or line manager.
- 13.8 Where the need for a phased return is primarily attributable to factors related to work, Livewell Southwest will continue to pay the basic salary for contracted hours and other enhanced payments earned during the period of the phased return.
- 13.9 Where the need for a phased return is primarily attributable to factors outside of work, the employee will contribute to annual leave as follows
- a) First two weeks – no contribution).
 - b) Thereafter 50% of the contract hours not worked will be assigned to annual leave. The overall amount of annual leave used will be to a maximum of the leave accrued during the period of sickness absence immediately preceding the return, ie. if a full-time employee with 10 years' service has been absent for three months prior to the phased return, the maximum annual leave contribution will be $3/12 \times 247.5 \text{ hours} = 61.9 \text{ hours}$

14. Occupational Health & Wellbeing – TP Health

- 14.1 Where an employee's health is affecting their ability to undertake their role sufficiently or causing them to have recurrent absences, advice from Occupational Health & Wellbeing provider (TP Health) may be sought. The referral will be made by the Manager but may be at the request of the individual employee. Prior to any referral consideration needs to be given to what specific medical advice is required from Occupational Health rather than as a routine action for an absent employee.

Our Occupational Health & Wellbeing provider (TP Health) is independent in terms of supporting both the employee and the manager. Occupational Health & Wellbeing provider (TP Health) can undertake a medical assessment and provide an up-to-date medical opinion on Occupational Health & Wellbeing matters relating to the employee. This information will enable management, with the support of HR, to determine what action needs to be taken. This decision will be made after considering the needs of the employee in line with the operational needs of the department.

Medical reports or feedback from Occupational Health & Wellbeing provider (TP Health) will offer recommendations to Managers and this should be regarded as guidance. If either the Manager or the employee needs to question the contents of the report, they should in the first instance contact our Occupational Health & Wellbeing provider (TP Health). Managers or employees are able to obtain second opinions from other medical sources. Advice should be sought from HR.

If for any reason an employee refuses an Occupational Health & Wellbeing appointment or declines to share their assessment report, they should be made aware that any decisions regarding their employment would be based on the information available to management at the time, which might not be in an employee's best interest. It is a reasonable management request for an employee to attend an appointment with Occupational Health & Wellbeing provider (TP Health).

15 III Health Retirement

- 15.1 Where an employee has been absent from duty and the situation suggests that the employee may not be able to return to work the manager should review the circumstances surrounding the situation. In such instances, managers will need to keep situations under regular review to explore the possibility of ill health retirement where appropriate. An early referral to Occupational Health & Wellbeing provider should be considered in these situations.
- 15.2 Where after receipt of medical opinion/advice, it is not possible for the employee to continue in their post and options for alternative employment have been given due consideration, the subject of ill health retirement should be discussed if appropriate.
- 15.3 It is important that the Manager contacts HR at an early stage to avoid delays in processing any applications for ill health retirement. This is particularly important in situations of terminal ill health.
- 15.4 Where ill health retirement is to be pursued, HR will support the manager with the process and obtaining ill health retirement forecasts from the relevant pension provider or SBS.
- 15.5 The decision on whether the member qualifies for the ill health retirement pension rests with the relevant Pensions Agency **not** the individual or Livewell Southwest. The relevant Pension Agency's Medical Advisor will consider entitlement to ill health pension on a situation-by-situation basis. If an application for ill health retirement is refused by the Pensions Agency, the employee will have the right to appeal.
- 15.6 Where the relevant Pension Agency approves ill health retirement, a meeting involving the manager and HR will then take place with the employee to agree a

leaving date. The employee is entitled to notice ie. one week for each year of service up to a maximum of twelve weeks and payment of any untaken annual leave that has been accrued whilst on sick leave. At this meeting, the employee can be accompanied by either a Trade Union representative or a work colleague.

16 Occupational Sick Pay (OSP)

- 16.1 An employee is entitled to occupational sick pay dependent on their length of service and Agenda for Change Terms and Conditions.

Period of Continuous Service	Period of full pay	Period of half pay
Up to 12 months	1 month	2 months
Over 1 year and up to 2 years	2 months	2 months
Over 2 years and up to 3 years	4 months	4 months
Over 3 years and up to 5 years	5 months	5 months
Over 5 years	6 months	6 months

- 16.2 Entitlement to occupational sick pay is calculated over a rolling 12-month period.
- 16.3 **Notifiable Diseases** – if LSW requires an employee to refrain from attending duty due to the classification of a notifiable disease, the absence will be treated as paid sick leave and will not count towards an individual's entitlement to occupational sick pay. Managers should liaise closely with Infection Control and as appropriate, Occupational Health & Wellbeing provider ([Appendix H List of notifiable disease.docx](#) for a list of notifiable diseases)

17. Equality Act 2010

- 17.1 In line with the Equality Act 2010, the employer is obliged to consider making 'reasonable adjustments' to a role to enable the individual to complete it successfully. This may include alterations to the workplace and/or the job description. The manager will need to consider what changes could be made and where such changes are unfeasible, they need to be able to justify this decision. It may be that there is a specific part of the role which is causing a risk which could be removed. Guidance on work-based adjustments should be sought from Occupational Health & Wellbeing provider. Advice on legal aspects of the Equality Act 2010 should be sought from HR (see Sources of Help list at [Appendix G Sources of help .docx](#))
- 17.2 Disability leave is planned or unplanned time off from work for a reason related to someone's disability. It is a type of 'reasonable adjustment' which disabled workers may be entitled to under the Equality Act 2010.
- 17.3 Disability leave is different to disability related sickness. Disability leave is a period of time off work which has been pre-agreed by a line manager and HR, for a reason related to an employee's disability or long-term health condition. For example; to attend a hospital appointment, receive treatment, counselling/physiotherapy, or waiting for the employer to make reasonable adjustments in a workplace.
- 17.4 Disability related sickness will continue to be recorded as sickness however disability leave will be recorded separately to minimise the employee being

adversely penalised under the sickness absence management policy.

18. Training and Information

Training will be provided to Managers on their duties in relation to this Policy.

19 Monitoring

19.1 Managers are responsible for up-dating e-roster and the sickness will be automatically uploaded to SBS payroll from e-roster.

19.2 Standard Reports are provided as follows:

- a) Board – monthly report on overall absence rates.
- b) Heads of Service/or equivalent – monthly sickness absence reports.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Head of Service.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Director of People and Professionalism

Date: 8th February 2023