

<b>Title</b>	Managing Sickness Absence and Ill Health Policy and Procedure – <b>HR20</b>
<b>Version</b>	01.0
<b>Effective</b>	21 December 2018
<b>Review Date</b>	30 January 2020

<b>General changes:</b>
A separate UPR. The provisions of this UPR previously formed part of UPR HR02. These provisions have been reviewed and updated.
<b>Detailed changes:</b>

## MANAGING SICKNESS ABSENCE AND ILL HEALTH POLICY AND PROCEDURE

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## 1. POLICY STATEMENT

- 1.1 The University has a legal responsibility for the health, safety and well-being of its staff. It enacts this in many ways including a range of initiatives which encourage staff to adopt a healthier and more balanced lifestyle. In return, the University expects an acceptable level of attendance from its employees. It recognises the need to manage staff absence sensitively and effectively to support the employee and meet its own operational needs.
- 1.2 The University operates beneficial sickness and leave conditions, determined by continuity of service. It is important to review compliance with sickness rules and conditions; to explore the reasons for sickness absence in order to support colleagues manage their sickness and reduce absence.

## 2. PURPOSE AND SCOPE

- 2.1 This policy details a framework for managing sickness absence and ill health matters related to Long and Short-Term Illness.
- 2.2 This policy outlines support available to colleagues and the possible consequences of their failure to adhere to the standards expected by the University.
- 2.3 This policy should not interfere with the responsibility of managers to raise informally any matter which gives cause for concern without recourse to the formal procedure under this policy and without a specific formal note being made.
- 2.4 All matters relating to the application of this procedure will remain confidential between the parties at all times.
- 2.5 Separate provisions apply in the case of probationary staff and also the Vice Chancellor, Deputy Vice Chancellors, Group Director of Finance and Secretary and Registrar.
- 2.6 This policy is in place to ensure, through effective management that:
- 2.6.1 staff absence is kept to a minimum;
  - 2.6.2 staff with health problems receive appropriate support through their manager, the Occupational Health Department and the Human Resources Department;
  - 2.6.3 all staff are treated fairly and consistently in line with good employment practice; and

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- 2.6.4 Wherever practicable and appropriate, staff can be assisted to return to work through agreed rehabilitation programmes.
- 2.7 This policy is concerned with an employee’s incapacity to meet required standards of performance because of ill health (both long term absences and frequent intermittent short-term absences from work) and about balancing the University’s needs against the circumstances of the employee concerned.
- 2.8 It is a fundamental feature of this policy that there be regular and effective communication and consultation with the employee throughout the period(s) of absence so that he or she is clear about the possible consequences of his/her continued absence. Equally there is an expectation that the employee will keep her/his manager informed about their particular circumstances, as far as it is practicable, and the possibility and timescale for return or of further absence.
- 2.9 Employees have the right under the Access to Medical Reports Act 1988 (as amended) not to disclose their medical report although this may inhibit the employer’s attempt to gain helpful information from a general practitioner. In such a case, the employer can advise the employee that there is a need to obtain information regarding his/her health, and that his/her further employment will be assessed on the information available, and, if appropriate, can refer the employee to the University’s Occupational Health Physician or an independent specialist.
- 2.10 It is essential that all matters relating to the application of these procedures remain confidential to the parties concerned and those who need to know.
- 2.11 Unnecessary disclosure could result in disciplinary action on the grounds of misconduct.
- 2.12 Return to work interviews should be carried out in accordance with APPENDIX C.
- 2.13 Salary payments in respect of sickness absence are outlined in APPENDIX D
- 2.14 Other absence considered under this policy is outlined in APPENDIX E

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### 3. **DISMISSAL**

- 3.1 The decision to dismiss on the grounds of incapacity is not a medical one but a managerial one - based, amongst other things, on medical opinion(s). However, the absence of a medical diagnosis, or prognosis, does not in itself prevent management action.
- 3.2 The Vice-Chancellor has the power to suspend or dismiss any employee and can delegate these powers. In the case of professional staff, both these powers are delegated to the Secretary and Registrar. In their absence, the power to suspend can be further delegated to a designated nominee - such action to be confirmed in writing subsequently by the Vice-Chancellor or Secretary and Registrar as appropriate.

### 4. **GENERAL PRINCIPLES**

- 4.1 The General Principles detailed makes provision for all aspects of the Managing Sickness Absence & Ill Health Policy - at all stages and levels - relating to issues of Long Term and Short-Term illnesses’.
- 4.2. The University will encourage a sensitive, constructive and timely approach to all informal and formal matters.
- 4.3. For Long and Short-term illness concerns, managers have a responsibility to bring any matters of concern to an employee’s attention without delay and offer help and support (which may include acting, where reasonable, on information from GPs and Occupational Health) before moving in to the formal procedures detailed in this policy.
- 4.4. At every formal stage of this policy the employee will be informed in writing of the stage at which the matter is being considered, advised of the nature and details of the issue and will be given the opportunity to explain, respond and/or defend their position.
- 4.5. At all formal stages the employee will have the right to be accompanied and represented by a “Friend”. Please see definitions in APPENDIX E.
- 4.6. An employee may choose to respond in writing in advance of any review meeting and will do this no later than 5 working days before the review meeting.
- 4.7. The person hearing a case at the review meeting (the Chair) will have had no involvement in its preparation and will conduct the proceedings according to the outline format in APPENDIX A.

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- 4.8. If, for good cause, an employee is unable to attend a review meeting, it will be adjourned to a suitable alternative date. If the employee is unable to attend the re-arranged date, the Chair will decide whether the review meeting will take place in his/her absence or exceptionally to re-arrange another suitable date. If the employee is unable to attend the further re-arranged date, the review meeting will proceed in his/her absence, but his/her 'Friend' will have to opportunity to present the employee's case on their behalf. Any submission by the employee in writing, or by his/her Friend will be considered at the review meeting.
- 4.9. Any action taken will be limited as follows:
- 4.9.1. An ORAL WARNING will normally last for 6 months
- 4.9.2. A WRITTEN WARNING will normally last for 12 months
- 4.9.3. A FINAL WRITTEN WARNING will normally last for 24 months.
- 4.9.4. DISMISSAL normally with notice.
- 4.10. Alternative action to dismissal, which may include demotion or re-deployment (with no automatic protection of previous salary) within the University, may be considered by the Chair at their absolute discretion following agreement with the employee.
- 4.11. Warnings given to an employee shall be placed on the employee' personal file kept in the Human Resources Department. The warning shall be removed from the file after the specified period of time has elapsed without further incident taking place. In exceptional circumstances, the times specified may be subject to variation – any such variation being notified to the individual at the time the warning is issued.

## **5. RIGHT OF APPEAL**

- 5.1 An employee will have the right of appeal against any penalty imposed under this policy and procedure. The person(s) hearing the appeal will not have been involved in the original decision to issue a penalty and will follow the procedures detailed in APPENDIX B.
- 5.2 All Appeal hearings will review the earlier decision based on the submissions made by the employee and management. It will not be conducted as a total re-hearing of the evidence made when the initial decision was taken but be concerned with:
- 5.2.1 reviewing the application of the procedures (evidence of procedural or administrative irregularity);
- 5.2.2 whether or not the sanction is proportionate; and

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5.2.3 considering any new material evidence not available or produced at the original review meeting.

5.3 No action under these procedures will be taken against any employee who is a Recognised Trade Union representative until the circumstances have been discussed with a full-time official of the Recognised Trade Union concerned.

5.4 The Director of Human Resources (or nominee) will be consulted by management at all stages of any case being considered under these procedures and will be present at all formal review meetings.

5.5 As far as practicable there will be a programme of appropriate training for all staff likely to be involved in using these procedures.

## **6. PROCEDURES WITH RESPECT TO EMPLOYEE'S INCAPACITY DUE TO ILL HEALTH**

### **6.1 Long term absence from work**

6.1.1 Long term absence is normally defined as being a specific period or several periods of absence in a rolling 12- month period (normally amounting to more than 4 weeks) and is distinguishable from frequent intermittent absence in that it tends to be continuous or connected and is usually traced to an underlying medical condition. Alternatively, it may be known that the employee is likely to be absent for such a period because of illness.

6.1.2 Following discussion with the employee, should it appear that there may be a long-term effect on the employee's ability to comply with his/her contract of employment, the line manager, following consultation with the Human Resources Business Partner (HRBP), will write to the Occupational Health Department to seek advice. The Occupational Health Department will, with the employee's permission, obtain medical reports. Management will not be given any details of these reports but will be advised by the Occupational Health Physician as to:

- (i) the nature of the illness;
- (ii) the likelihood of the current level of absence recurring or some other illness arising;
- (iii) the employee's expected date of return;
- (iv) whether or not the employee will be fit to resume full duties within a reasonable timescale
- (v) if not, then what duties the employee may reasonably be expected to be able to undertake; and
- (vi) fitness for duties, with reasonable adjustments.

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- 6.1.3 The employee may provide an additional medical assessment if he/she so wishes.
- 6.1.4 Once advice has been received from the Occupational Health Department, the line manager and the appropriate HRBP will discuss the employee's long-term prospects of a return to full duties. Full consideration will be taken of the requirements of the Equality Act 2010, in particular the requirement to make any reasonable adjustments.
- 6.1.5 Where the line manager and HRBP believe that continuation of the present contract is doubtful, the following possibilities will be explored:
- (i) Temporary or permanent change of work pattern or methods within the same department.
  - (ii) Temporary or permanent change of post within the same department.
  - (iii) A suitable post elsewhere within the University.
  - (iv) Reasonable re-training and/or rehabilitation.
  - (v) Downgrading, providing the employee formally agrees to the change, with an examination as to the impact on the individual's occupational pension.
  - (vi) Early retirement on the grounds of incapacity because of ill-health, subject to the pension scheme regulations and rules. (Note: In cases of chronic ill health and where the employee is a member of one of the University's occupational pension schemes an "ill health retirement" is an option that can be considered. However, this is a decision based on medical opinion and relates to 'permanent incapacity'). If approved by the appropriate pension authority (Teachers' Pensions or the Local Government Pension Scheme) then it allows the employee to be released with an immediate (often enhanced) pension.
  - (vii) Termination of contract with notice (or pay in lieu of notice).
- 6.1.6 The line manager and the HRBP will formally meet with the employee and his/her Friend (if requested) to explore the options and, wherever possible, agree a plan of action.
- 6.1.7 If the options outlined in 6.1.6 are not possible or practical and/or fail, or where it is not possible to reach an agreement that termination should be by mutual agreement, a report will be made to the Vice Chancellor or Secretary and Registrar (or delegated member of the Chief Executive Group {CEG}) as appropriate. (See Formal Stage 3 below).

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## 6.2 Frequent intermittent (short term) absence from work

6.2.1 Frequent intermittent absence can be defined as persistent short- term absences. These are absences that are normally sporadic and frequently attributable to minor ailments, in many cases unconnected.

6.2.2 The following sections, i.e.: Informal Stage through to Formal Stage 2 inclusive, relate only to managing frequent intermittent (short- term) absence from work.

## 6.3 Informal Stage (frequent intermittent (short- term) absence from work)

6.3.1 In cases of frequent intermittent short-term absences from work, whether or not covered by a medical or self-certificate, the line manager will meet with the employee to discuss:

- (i) The reasons for the absences.
- (ii) To advise of the need for the individual to consider consulting a doctor to establish whether medical treatment is necessary.
- (iii) To identify whether there are any other underlying reasons for absences (i.e. work related or domestic).
- (iv) To decide what action can or should be taken.
- (v) The Line Manager will make the employee aware of the consequences if there is no improvement in the absence/attendance pattern.

## 6.4 Formal Stage 1 – Formal Absence Review Meeting

6.4.1 If the absence/attendance pattern does not improve, the line manager, following consultation with the HRBP, will seek the advice of the Occupational Health department (if not previously requested). The Occupational Health department will, with the employee's permission, obtain medical reports.

6.4.2 Management will be advised by the Occupational Health Physician:

- (i) as to the likelihood of the current levels of absence recurring or some other illness arising;
- (ii) whether or not there is some underlying medical cause for these absences; and
- (iii) whether or not the employee is fit to undertake full duties and, if not, what duties the employee may reasonably be expected to be able to undertake.

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- 6.4.3 The employee will be given the details of his/her attendance record in writing in advance and informed that the formal procedure is being invoked. The manager should provide the employee with advance written notice and their right to representation, confirm that Stage 1 of this procedure is being invoked and provide timings for the review meeting (normally within 10 working days).
- 6.4.4 The line manager, accompanied by the appropriate HRBP, will conduct the meeting with the employee to:
- (i) discuss the report from the Occupational Health department;
  - (ii) explain the impact that the frequent intermittent short-term absence is having on the employee's department; and
  - (iii) outline in what respect the employee's attendance fails to meet an acceptable standard and discuss with the employee any other relevant matters.
- 6.4.5 The employee will be given the opportunity to respond.
- 6.4.6 The Line Manager will then decide whether or not:
- (i) to take NO FURTHER ACTION, in which case he/she will confirm this outcome in writing to the employee; or
  - (ii) To issue an ORAL WARNING which will be confirmed to employee in writing; or
  - (iii) the absence/attendance pattern is unacceptable and therefore a WRITTEN WARNING is appropriate.
- 6.4.7 The Warning will be confirmed in writing.
- 6.4.8 The employee will be advised of his/her rights of appeal to the next level of management, outlined in APPENDIX B.
- 6.4.9 The required level of attendance and the timescale within which improvement is expected (normally no more than 8 working weeks) will be outlined and a support plan put in place.
- 6.4.10 A review date will be set when progress will be assessed.
- 6.4.11 The employee will be warned of the possible consequences of a failure to improve or in the event that further shortcomings are identified.
- 6.4.12 At the end of the agreed period for improvement, the manager will hold a meeting with the employee to discuss progress and the support plan.

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6.4.13 If the employee's attendance has improved sufficiently that he/she now meets the required standard, this will be confirmed in writing, and possibly a further review meeting will be arranged to check that this is sustained. If, however, the employee's attendance remains below the required standard, the employee will be informed that further action will be taken under Formal Stage 2 of this procedure.

## 6.5 **Formal Stage 2 - Formal Absence Review Meeting**

6.5.1 Where the level of attendance does not improve, and investigations indicate that the employee's attendance is unlikely to improve, a Formal Stage 2 meeting will be arranged. The line manager will prepare a report and submit this to the Senior Manager.

6.5.2 The Senior Manager will determine whether to proceed to a formal review meeting under Stage 2 of this policy.

6.5.3 If a decision to proceed to a formal review meeting is made the employee should be provided with details of the concern about his/her alleged frequent intermittent absences.

6.5.4 The employee will be made aware of their right to representation, confirmation that Stage 2 of this procedure is being invoked and provided with timings for the review meeting (normally within 10 working days).

6.5.5 The Senior Manager will chair the meeting (with HR in attendance) and discuss the alleged poor attendance/frequent absences and the consequences should this not improve with the employee.

6.5.6 The employee will be made aware that unless a level of attendance that is satisfactory to the University is achieved, further action could be taken which could lead to dismissal.

6.5.7 At the meeting, the employee will be given the opportunity to respond to the evidence presented.

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6.5.8 The Chair will then decide whether or not to:

- (i) TAKE NO FURTHER ACTION, in which case s/he will confirm this to that effect in writing to the employee; or
- (ii) ISSUE A WRITTEN WARNING (if not issued at Stage 1); or
- (iii) ISSUE A FINAL WRITTEN WARNING.

## 6.6 Final Written Warning

6.6.1 The Written Warning and Final Written Warning will set out the required level of attendance and the timescale within which improvement is expected.

6.6.2 The employee may be required to improve attendance immediately or over a period of time (normally no more than 8 working weeks). The employee will be issued a further support plan.

6.6.3 A review date will be set when progress can be assessed.

6.6.4 The employee will be warned of the possible consequences of a failure to improve or in the event that further shortcomings are identified.

6.6.5 At the end of the agreed period for improvement, the manager will hold a meeting with the employee to discuss progress.

6.6.6 If the employee's attendance has improved sufficiently that he/she now meets the required standard, this will be confirmed in writing, and possibly a further review meeting will be arranged to check that this can be sustained.

6.6.7 If, however, the employee's absence/attendance pattern remains below the required standard, then the employee will be informed that further action will be taken under Formal Stage 3 of this procedure which may result in the employee's dismissal.

6.6.8 The employee will be advised of his/her rights of appeal to the next level of management, outlined in APPENDIX B.

## 6.7 Formal Stage 3 – Formal Absence Review Meeting

6.7.1 In the case of Frequent Intermittent Absence, having completed Formal Stage 2 of this procedure, the employee's absence/attendance pattern remains below the standard required, or falls below the standard required during the following 12 months after a warning, the Line Manager will prepare a statement of case outlining such matters as:

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- (i) performance;
  - (ii) health record;
  - (iii) likelihood of change in attendance;
  - (iv) availability of alternative work; and
  - (v) The impact of past and future absence on the service and comparative data, as appropriate.
- 6.7.2 If a decision is made by the Line Manager to proceed to a formal review meeting under Stage 3 of the policy, the employee will be provided with details of the concern and right to representation. They will be notified that Stage 3 of this procedure is being invoked and that dismissal is a possible outcome and provide timings for the review meeting (normally within 10 working days).
- 6.7.3 Where, in the case of Long-Term Absence, the alternative possibilities outlined previously (Long term absence from work 6.1) are not possible or practical and/or fail, or where it is not possible to reach an agreement that termination should be by mutual agreement, a report will be made to the Member of CEG.
- 6.7.4 The employee shall be provided in advance with any documents which are to be produced at the review meeting.
- 6.7.5 Any written evidence to be submitted by the employee in response to the concern must be received at least 5 working days in advance of the review meeting.
- 6.7.6 The Vice Chancellor or Secretary and Registrar may delegate their authority to chair the review meeting to a panel of three members of the Chief Executive Group (CEG) in accordance with the format outlined in accordance with the format outlined in APPENDIX A.
- 6.7.7 The Chair of the panel will decide whether or not to:
- (i) TAKE NO FURTHER ACTION, in which case s/he will confirm this to that effect in writing to the employee; or
  - (ii) EXTEND THE PERIOD OF REVIEW and require further monitoring; or
  - (iii) TO TAKE FURTHER ACTION (which may include in the case of Long Term Absence demotion or re-deployment within the University following agreement with the employee as an alternative to dismissal); or
  - (iv) DISMISS - this will normally be with notice.

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6.7.8 The employee will be informed in writing of the decision and the reasons for it and of his/her right of appeal to the Director of Human Resources. (Please see APPENDIX B).

## **7 GUIDANCE - ABSENCE MANAGEMENT**

7.1. The University recognises the need to manage staff absence sensitively and effectively so as to support the individual and meet its own operational requirements.

7.2. Line managers should ensure that they are aware if their direct reports are absent and the reason for that absence.

7.3. In many cases their knowledge of the employee and the reason for the absence will lead them to conclude that no action other than a welcome back conversation is required.

7.4. In some cases, however, both the number and pattern of the absences may be of concern and so a meeting would be appropriate. In this event, the meeting would be convened in line with the procedure as outlined in this policy.

7.5. In deciding whether an informal or a formal meeting is required line managers must consider the following:

- 7.5.1. Reason(s) for absence.
- 7.5.2. Any underlying health problem or disability.
- 7.5.3. Length of service and overall attendance pattern.
- 7.5.4. Any mitigating circumstances (e.g. family situation).
- 7.5.5. Any formal warnings issued to date and the level of warning issued.
- 7.5.6. Advice received from Occupational Health, the Equality Unit or Human Resources if the absence is due to a disability.

7.6. The aim is that at every stage the line manager will consider any factors that an individual puts forward about their absence and take these into account. So, for example, if an employee informs their line manager they have to take time off because of an injury, a formal meeting and warning are unlikely to be appropriate, while an informal meeting to discuss how they are and any support required would be far more appropriate.

7.7. When considering their course of action, the line manager must also consider the following:

7.7.1. A referral to Occupational Health.

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- 7.7.2. Short- or long-term reasonable adjustments.
  - 7.7.3. Contacting the Equality Unit for advice on disability-related adjustments, mental health issues and other equality matters.
  - 7.7.4. Making the employee aware of the confidential 24-hour Helpline (Employee Assistance Programme – EAP).
  - 7.7.5. Making the employee aware that the University has a Counselling Service which they can access.
  - 7.7.6. Discussing the situation with their HRBP.
- 7.8. It must be remembered that any support provided is always based on the needs of the individual and that “one size” does not fit all.

## 7.9 **Consistency across UH**

- 7.9.1 In order that line managers act fairly and consistently some broad monitoring mechanisms are outlined in this policy, and these should be used by managers as a starting point in considering whether any action or any further investigation is required. They enable managers to identify issues early, thus providing the appropriate support as soon as possible and enabling employees, through advice and guidance, to improve their pattern of attendance.
- 7.9.2 Monitoring mechanisms include a trigger for informal action when the employee has been away from work due to sickness for 6 or more days over a rolling 12-month period; or more formal action where the employee has been absent for 12 or more days and/or 4 or more occurrences over a rolling 12-month period.
- 7.9.3 Where an informal meeting takes place, there should be a discussion in relation to the absences, any underlying health issues or other problems and whatever support can be provided. If formal action is required, this should follow the process as outlined in this policy document.

## 7.10 **Phased return to work**

A phased return to work may be agreed where an employee has been absent from work due to sickness for an extended period of time. Normally this phased return would last a maximum of 8 weeks during which time the employee would remain on full pay. Normally the Occupational Health Unit (OH) will advise on such a plan and it is important that it is agreed by the line manager and employee in advance of their return. Should a longer period be required this would normally indicate a long term contractual change and a reduction/amendment to pay.

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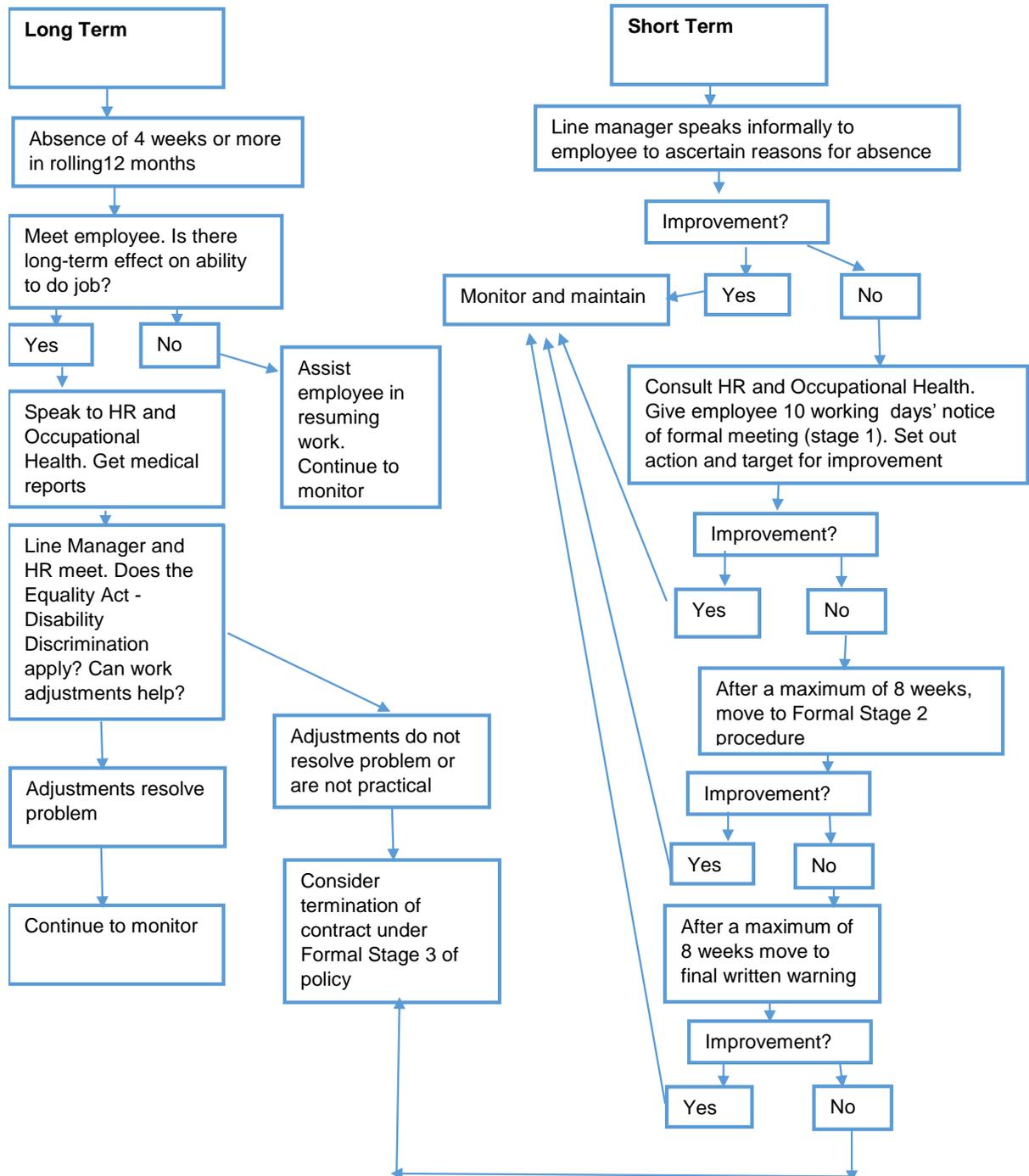
## 7.11 Disability and Reasonable adjustments

7.11.1 A disability is defined as ‘a mental or physical impairment that has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities’. Long term normally means 12 months or more. Special conditions apply to progressive illnesses such as cancer and HIV, and Multiple Sclerosis, as well as conditions that fluctuate such as ME and epilepsy. These illnesses would normally be defined as disabilities.

7.11.2 When an employee has a disability, we have a duty to put reasonable adjustments in place to enable that employee to do their job. Occupational Health will normally advise as to what these might be and they could include a reduction in working hours or an adjustment to working hours (with appropriate reduction to salary), a temporary or permanent move to an alternative post, or the reallocation of some duties to another employee. We are not obliged to implement adjustments, only those we consider reasonable; however, should we refuse them we must be able to justify this. Additionally, when making such changes it is important to consider the impact of the changes on the job required, as well as the impact upon the rest of the team.

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**Flowchart for Managing Sickness Absence and Ill Health**



Mrs S G Grant  
 Secretary and Registrar  
 Signed: **21 December 2018**

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## APPENDIX A

### Formal Sickness review meetings

1. The Chair will outline the status of the review meeting; his/her role; the role of the HRBP present; explain what will happen; introduce all parties present and check that all parties have had the documents to which reference will be made by either side.
2. Management will present its case - the nature of the concern and the findings. The employee and/or his/her 'Friend' will have the opportunity to ask questions in relation to the management case. The Chair (and HRBP for clarification, if appropriate) will have the opportunity to ask questions.
3. The employee or his/her 'Friend' will put his/her case - in the presence of management with management having the opportunity to question, followed by the Chair (and HRBP for the purposes of clarification). The employee should answer questions directly put to them.
4. Management will sum up its case.
5. The employee or his/her Friend will sum up his/her case.
6. All parties, other than the Chair and the HRBP, will withdraw. The Chair will deliberate, only recalling management or the employee where there remain points of uncertainty on evidence already given. If recall is necessary, both parties will return.
7. The Chair will make his/her decision or may decide that an adjournment is necessary for him/her to reflect further upon the evidence, and in either event recalls management and the employee, plus his/her 'Friend', to receive his/her decision and the reasons for this. If appropriate, he/she will communicate his/her decision in writing.
8. The decision will be confirmed in writing with details of the appeals process, as appropriate and usually within 5 working days.

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NB:

Exceptionally and by mutual agreement the format of the review meeting can be amended provided that the General Principles are adhered to.

- a) No tape recording of proceedings is permitted.
- b) Adjournment requests will not be unreasonably withheld.
- c) Nominated notetakers will take notes of the proceedings and these will be kept for record purposes and only circulated in the event of a subsequent appeal. It is therefore the responsibility of the employee and/or “Friend” to retain their own notes of the review meeting.

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## APPENDIX B

### Appeals

An employee, against whom a sanction has been issued, shall have the right of appeal. The next level of Line Manager/Senior Manager will conduct the appeal hearing. Any appeal should be submitted to the Director of Human Resources or nominee. All appeals must be lodged in writing within 10 working days of receipt of written confirmation of the sanction. Appeals will be heard as soon as is reasonably practicable (see below):

1. State the reasons for appeal.
2. The Director of Human Resources (or nominee) will give the employee a minimum of 10 working days' notice of the appeal hearing stating place, date and time.
3. The Director of Human Resources (or nominee) will inform the original deciding manager that an appeal has been lodged.
4. The appeal hearing will review the earlier decision based on the submissions made at the appeal.
5. The appeal will not be a re-hearing of the review meeting but concerned with the application of procedures, looking at any new evidence, not reasonably available at the time of the original review meeting, that may be brought forward and determining the proportionality of the penalty to the issue of concern.
6. Both the employee who is appealing and the manager who made the original decision must submit all evidence or documents to which reference shall be made at the hearing, including where the case for appeal relates to new evidence not reasonably available at the time of the original review meeting, the names of any witnesses it is proposed to call (or witness statements where a witness is not to be called). This should be no later than 5 working days before the date set for the hearing to the Director of Human Resources (or nominee) for simultaneous distribution to all parties. Papers not submitted by this date will not normally be eligible for consideration.

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7. The employee will present his/her case and introduce any new witnesses.
8. Both parties will be provided with the opportunity to ask questions.
9. Both parties shall have the opportunity to summarise their case if they so wish. The employee being first.
10. Nominated notetakers will take notes of the proceedings and these will be kept for record purposes. It is therefore the responsibility of the employee and/or “Friend” to retain their own notes of the hearing.
11. The Chair of the meeting will review the appeal with support from Human Resources before determining a final decision. This may be given on the day and advised to both parties or where further consideration is required will be confirmed later in writing normally within 5 working days.
12. The decision will be final.

NB:

- a) Exceptionally and by mutual agreement the format of the hearing can be amended provided that the General Principles are still followed.
- b) Witness statements and questioning will be limited to half an hour per witness.
- c) No tape recording of proceedings is permitted.
- d) Requests for adjournments by either party will be at the discretion of the chair and not unreasonably withheld.
- e) A notetaker will be in attendance of the proceedings and notes will be kept for record purposes and only circulated in the event of a subsequent appeal.
- f) It is therefore the responsibility of the employee and/or ‘Friend’ to retain their own notes of the hearing.

### **Appeal Against Dismissal**

1. Appeals against Dismissal should be submitted, in writing, to the Director of Human Resources within 10 working days of receipt of the review meeting outcome.
2. The Vice Chancellor or nominee will chair an appeal hearing as soon as possible and normally within 15 working days.

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3. A hearing panel will consist of the Chair (Vice Chancellor or nominee) and 3 members of CEG. The panel members will have had no former involvement in the case.
4. The Chair will be supported by the Director of Human Resources (or nominee).
5. The hearing will review the previous decision, based on submissions made by staff and the Chair of the original review meeting.
6. It will not be a re-hearing of the review meeting and evidence but concerned with procedural integrity and whether the outcome was fair and reasonable. The decision will normally be confirmed in writing within 5 working days of the appeal hearing.
7. The decision will be final.

**NB:**

- a) It must be made clear at the outset who will be presenting the employee's case to the Appeal Hearing – either the employee or the Friend, but not both.
- b) If the employee has been dismissed without notice and re-instated on appeal, the re-instatement shall take effect from the date of the original dismissal and no loss of earnings shall be incurred.
- c) No tape recording of proceedings is permitted.
- d) Requests for adjournments by either party will be at the discretion of the chair and not unreasonably withheld.
- e) A notetaker will be in attendance of the proceedings and notes will be kept for record purposes only and may be used in response to any subsequent employment tribunal or legal action.
- f) It is therefore the responsibility of the employee and/or 'Friend' to retain their own notes of the hearing.
- g) If the Branch Secretary/President of a recognised trade union objects to a specific member of an Appeal Against Dismissal Panel being on that panel, the Trade Union should, in the first instance, raise this (via the Director of Human Resources) with the Vice Chancellor and if agreement is not reached, they may raise this (again via the Director of Human Resources) with the Chair of the board of Governors.

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## APPENDIX C

### Return to work interviews

1. This guidance designed to help line managers conduct a return to work interview with employees who have been absent from work due to ill health.
2. Wherever appropriate, the line manager should informally meet with the employee on the day they return to work, or as soon after as possible. The interview must be held in private and be handled in a sensitive and professional manner.
3. Whilst it may not be appropriate to hold an interview after every absence it is important for managers to be consistent in their approach to conducting return to work interviews across their team/department. Consistency provides fair and transparent treatment of staff as well as generating greater employee engagement in the process.

### Purpose

The purpose of a return to work interview is to:

- a) Welcome the employee back to work;
- b) Ensure they are able to return to full duties. If not to identify any actions needed to support a full return to work;
- c) Identify and confirm the reason and length of the absence;
- d) Listen to any issues (work-related or otherwise) identified by the employee that may be causing or contributing to the absence and take appropriate action;
- e) To discuss and/or identify any adjustments to the workplace/hours/duties that may reduce/eliminate absences and support their return to work;
- f) Update them on what they may have missed whilst they have been absent from work.

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## Preparation

The line manager should:

- a) Ensure a private meeting space is available and that there will be no interruptions;
- b) Check the employees records for both current and previous absences and if appropriate take an up to date record with you to the meeting;
- c) Be prepared to discuss any trends or patterns of absence;
- d) Work out in advance what questions to ask and points to cover (see below);
- e) If appropriate seek initial advice from e.g. Occupational Health, HR or the Equality Office. In cases of long-term sickness absence, it will normally be appropriate to ensure that the employee is referred to Occupational Health before their return to work so that any recommendations and support can be discussed and put in place immediately upon their return;
- f) Remember this is not a formal meeting – it is about trying to establish facts and ensure the necessary support is in place;
- g) Approach the meeting with an open mind and no prejudgments;
- h) Be prepared to make notes of what is discussed and agreed, and to share these with the employee.

## Content

The length and content of the return to work interview will depend upon the nature of the absence. However, as guidance the manager will normally:

- a) Confirm the length of the absence; if the absence is longer than 7 days ask them to produce a doctor's certificate, if not already provided;
- b) Let them know they were missed and acknowledge employees return to work;
- c) Ask about the employee's illness to determine the cause of the absence;
- d) Ask whether the employee's health problems are work related. If so discuss both the employees and managers concerns and agree on how these can be addressed;
- e) Provide an opportunity to discuss any concerns (work-related or otherwise);
- f) Be sensitive to employee's feelings where personal problems and illnesses are involved;
- g) Where there are conflicting evidence/statements, ask for an explanation in order to establish the facts;
- h) Place current absence in the context of previous absences and consider whether there are any patterns or trends that need to be addressed;
- i) Determine whether any help or support, including reasonable adjustments, is needed that may help reduce/eliminate future absences (see below for further information on support available);

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- j) Discuss the effect of the absence on the operational efficiency of the department;
- k) If appropriate refer to this policy and make the employee aware that high levels of sickness absence may lead to formal action being taken;
- l) Provide an update on any developments in the department;
- m) Make and keep on file an accurate written note of the meeting.

### **Formal Action**

1. Having reviewed the employees' sickness absence record and discussed all the facts with them, if the line manager feels that more formal action should be taken then the relevant sections as outlined in this policy document should be followed. This should not be dealt with as part of the return to work interview, but at a separate meeting.
2. Do not use the return to work interview to deal with other issues such as misconduct or performance issues. If the line manager feels this is part of a general pattern of unacceptable behaviour this should be dealt with after the return to work interview and in line with the relevant policy.
3. If the line manager considers that formal action is appropriate they should contact the relevant HRBP for advice and support.

### **Support**

1. It may be appropriate to take action to support an employee to help reduce/eliminate absences, and these options may be discussed in the return to work interview. They include:
  - a) A referral to Occupational Health;
  - b) Short or long term reasonable adjustments;
  - c) Contacting the Equality and/or Disability Unit for advice on disability related adjustments, mental health issues and other equality matters;
  - d) Making the employee aware of the confidential 24-hour Helpline;
  - e) Making the employee aware that the University has a Counselling Service which they can access.
2. Even when staff are certain that they need no support, it is advisable that managers still involve Occupational Health as their professional expertise can often anticipate issues that neither the individual or manager are aware of. They may also be able to suggest particular support that would be appropriate. It must be remembered that any support needed is always based on the needs of the individual and that "one size" does not fit all. The Return to Work discussion form can be found on HertsHub.

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## APPENDIX D

### Notification of and payment for sickness absence

1. If you are absent from work the following procedure must be complied with or a loss of salary/wages/SSP may result:
  - a) On the first day of any absence you must notify your immediate supervisor/manager of the nature and likely duration of absence. You must specify if the absence is because of Industrial Injury (i.e. an injury sustained at work or on University business away from the workplace) and, where appropriate, if you were sick on Saturday and/or Sunday. Unless there are exceptional circumstances this contact should be made in person by telephone.
  - b) If you are absent for more than three working days, on the fourth day you must again notify your immediate supervisor/manager that the absence is continuing, giving further details of the nature and probable duration of the illness.
  - c) If the absence continues for more than seven calendar days, a <sup>1</sup>fitnote must be obtained, completed and sent to your manager by the end of the eighth calendar day and thereafter at regular intervals until the final certificate is issued.
  - d) On return to work after a sickness absence of more than three working days, you must complete a 'Self Certification' form, to cover the 1-7 calendar days unless a fitnote<sup>2</sup> certificate was provided for the whole period. This can be found on StaffNet.
  - e) The University will not as a general rule require you to obtain private medical certificates for absence of up to 7 calendar days, but it reserves the right to do so.
  - f) The University records all absences on the HR system. The responsibility for this recording sits with a named individual within each SBU.

### Payment for sickness absence

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<sup>1</sup> Fitnotes are issued by your GP when he/she considers that you are ill or injured. They replace GP certificates of ill health. They indicate whether you are a) unfit for work or whether b) you may be fit for work. They give an indication of when you will be able to return to work, and any temporary support that you may need to help you return to work, as well as providing information about the nature of your illness.

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1. Payment for absences due to sickness or accident is subject to you complying with the above absence procedure and:
  - a) Whether you are eligible for Statutory Sick Pay (SSP). (However even if you are not eligible for SSP then you may still be eligible for sickness benefit from the Job Centre Plus, which is part of the Department for Work and Pensions).
  - b) Whether you are eligible for University of Hertfordshire/Company occupational sick pay.
2. As each of the above elements of pay has its own rules on eligibility it is possible for you to receive both/only one/neither of the above during a period of absence due to sickness.

### **Statutory Sick Pay**

If you are sick for 4 or more consecutive days you may be entitled to Statutory Sick Pay. If you are not eligible you will receive written notification from the Payroll team explaining why you are excluded. Statutory Sick Pay is payable for 28 weeks after which time you will be issued with an exclusion form by the Payroll team, which will enable you to claim any further benefit due direct from the Department of Work and Pensions. Statutory Sick Pay will appear on your payslip under the heading "SSP" and is subject to all normal deductions.

### **Industrial Injury and Industrial Injury Benefit**

If you have an accident at work you must **complete** an Accident Report Form (available from the Human Resources Department and on StaffNet) and return this signed to the Director of Health and Safety via HR, in order to receive sick pay and/or Industrial Injury Benefit.

### **Other Accidents**

If you are absent as a result of an accident outside of work, you will not be entitled to UH sick pay if damages are receivable from a third party in respect of the accident. In this event the University may, having regard to the circumstances of the case, advance you a sum not exceeding the sickness allowance provided under the UH sick pay scheme, subject to you undertaking to refund the University the total amount of your sick pay, or the proportion thereof represented by the amount of damages received. Any period of absence where a refund is made in full shall not be recorded for the purposes of this scheme but will be recorded as sickness absence. Where, however, the refund is made in part only, the University may at its discretion decide to what extent, if any, the period of absence may be so recorded.

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### **Paid sickness absence entitlement**

Staff are entitled to receive sick pay as follows:

During the first year of service	Full pay for 1 month and after completing four calendar months' service, half pay for 2 months
During the second year of service	Full pay for 3 months and half pay for 3 months
During the third year of service	Full pay for 4 months and half pay for 4 months
During the fourth and successive years	Full pay for 6 months and half pay for 6 months

### **Salary Payments During Phased Return to Work Following Long Term Sick Leave**

#### **Definitions:**

- ‘Long term sick’** - for this guidance note Long Term Sick leave is defined as a continuous period of sick leave of four or more weeks in a rolling 12-month period.
  
- ‘Disability’** - This covers both mental and physical impairments that have a substantial and long- term adverse effect on a person’s ability to carry out normal day-to-day activities. Long term in this context means a condition that has lasted or is expected to last for at least 12 months. Special rules apply to progressive conditions such as cancer, HIV and Multiple Sclerosis. Although it is recognised that these conditions that may initially have only a slight impact on day-to-day activities, they are likely to get worse over time and are therefore recognised as a disability from the point of diagnosis. Fluctuating conditions such as ME or epilepsy that have a substantial adverse effect for short periods but are likely to reoccur are also recognised as disabilities.

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## Context

Evidence shows that if staff have had a period of long term sickness then a successful return to work is more likely to happen if an appropriate return to work plan is put in place. Even when staff are certain that they need no support, it is advisable that managers still involve Occupational Health as their professional expertise can often anticipate issues that neither the individual or manager are aware of or they can suggest particular support that would be appropriate. It must be remembered that any support needed is always based on the needs of the individual and that “one size” does not fit all.

## Putting a Phased Return Plan in Place:

1. The recommendations from Occupational Health will be put into a Return to Work Plan that is shared with the manager and may include recommendations such as reduced hours initially, building up to the full contracted hours over a period of weeks, changes to work stations, home working, changed hours to avoid rush hour traffic, etc. Managers should discuss the recommendations with the returning member of staff and work out how these should be implemented in the workplace.
2. In most cases it should be possible for staff to have succeeded in a return to their full contractual hours and duties within 6 to 8 weeks. In exceptional cases, for instance where staff have a disability (see above for definitions) or have been suffering from a condition that shows symptoms of severe fatigue (which may be considered to be a disability anyway) then a longer period, may be needed. This will be identified by the Occupational Health service and managers should take this into account when forward planning the work of the department. However, pay will normally only be made a full rate for a period of up to 8 weeks (see below), after which ongoing reasonable adjustments (including, if appropriate, part- time working with concomitant pro rata payment being made) should be introduced.
3. Managers should consult their HRBP after 6 weeks of a phased return, if a full return to work has not yet been achieved.

## Payments:

1. When staff return from a period of long term sickness they will receive full pay, even if they are returning to reduced hours as part of a phased return to full contractual working. Payment of the full contractual salary should continue for the period of the phased return but will normally be limited to a maximum of 8 weeks.

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2. If for any reason the returnee cannot/does not want to resume the full contractual duties and hours after this period then they will not normally continue to receive full salary and managers must notify payroll of the fraction that they are actually working, unless other arrangements are made. You may want to discuss various options with your HRBP
3. Consideration may be given to payments in excess of that stated above depending upon the precise facts of each case but any such additional payments must be discussed with your HRBP and authorised by the Director of Human Resources to ensure the consistent application of the guidance.

### **Reasonable Adjustments:**

1. If the returnee has a disability, then consideration must be given to reasonable adjustments as required under the terms of the Equality Act in relation to their disability. Managers must consider the situation in the round and take into account all the circumstances of the department and their other staff, as well as that of the disabled employee. For a short period (as above for a phased return) it will usually be possible to allocate duties to other team members. For longer periods this might put unreasonable stress on the remaining team members. Where a member of staff moves, either permanently or for a fixed period, to a part-time or fractional contract, the salary saved can be re-allocated to bring in additional support for the department.
2. When considering what a reasonable adjustment is, managers should remember that the purpose of the adjustment is to allow the employee to do “the job”. This might mean changing or adapting physical premises or providing specific types of equipment. It might also mean providing practical changes e.g. allowing for flexible working patterns, providing rest breaks during the day or adapting policies and practices. However, it is not reasonable to continue paying a full salary to someone who is unable to complete the full contractual duties and /or hours of their job. In this case, if the employee is unable to carry out their job for reasons related to their disability and where no reasonable workplace adjustments can be found to overcome these difficulties, the manager must refer to the University’s Managing Poor Performance Policy or to relevant sections within this policy document.
3. If this is the case then the options would include:
  - a) A temporary or permanent change of post within the same department – this could be a change to a part-time or fractional post if this is appropriate

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- b) Identifying a suitable post elsewhere within the University reasonable training or rehabilitation
- c) Downgrading the post (providing the member of staff formally agrees to the change)
- d) Taking early retirement if this is available under the terms of the employee’s pension scheme
- e) Termination of the contract with notice or a payment in lieu if appropriate. either on the same or on reduced hours

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## APPENDIX E

### Definitions of Terms Used

<b>‘Incapability’</b>	situations where the employee’s inability to meet required standards of work is attributable to his/her ill-health (both long term absences and frequent short-term absences from work).
<b>‘Short term sickness’</b>	for this guidance short term sickness is defined as 6 or more days over a rolling 12-month period; or more formal action where the employee has been absent for 12 or more days in a rolling 12-month period.
<b>‘Long term sick’</b>	for this guidance note Long Term Sick leave is defined as a continuous period of sick leave of four or more weeks in a rolling 12-month period.
<b>‘Disability’</b>	this covers both mental and physical impairments that have a substantial and long- term adverse effect on a person’s ability to carry out normal day-to-day activities. Long term in this context means a condition that has lasted or is expected to last for at least 12 months. Special rules apply to progressive conditions such as cancer, HIV and Multiple Sclerosis. Although it is recognised that these conditions that may initially have only a slight impact on day-to-day activities, they are likely to get worse over time and are therefore recognised as a disability from the point of diagnosis. Fluctuating conditions such as ME or epilepsy that have a substantial adverse effect for short periods but are likely to reoccur are also recognised as disabilities.
<b>‘Friend’</b>	is a person chosen by the employee to accompany him/her to a review meeting and who is either a colleague employed by the University or an employee or official of a Trade Union. The Friend may present the employee's case and confer with the employee but will not be permitted to answer direct questions for the employee.

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- ‘Line Manager’** is the person to whom a member of staff reports or is directly responsible.
- ‘Recognised Trade Union’** is a trade union formally recognised by the University for the purposes of collective bargaining (i.e.: The University and College Unions (UCU) and UNISON).
- ‘Senior Manager’** is the next level of Line Manager, or a CEG member
- ‘CEG’** Chief Executive Group.