

## PROMOTING ATTENDANCE POLICY



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## Revision History:

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1.0	November 2010	Finalised Policy
1.1	May 2011	Reference to The Disability Act amended to reflect the Equality Act 2010. Trigger points amended to reflect PIN Guidelines
1.2	February 2012	Section 11.16 amended to give clearer guidance for managers and staff regarding annual leave during sickness absence

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## 1. Summary

- This policy aims to give all those working in National Services Scotland (NSS) guidance on the issues relating to promoting a healthy workplace and promoting staff health and attendance. It also aims to make sure that Line Managers throughout NSS adopt a fair, consistent and supportive approach to staff with genuine health problems and to make sure that sickness absence levels are maintained within acceptable levels.
- All staff have an entitlement to sick leave and pay in accordance with their terms and conditions of service.
- Failure to adhere to absence reporting procedures, poor attendance or abuse of the sick leave provisions may be dealt with under the NSS Disciplinary Policy and Procedure or NSS Management of Capability Policy. Failure to adhere to absence reporting procedures may also affect a staff member's pay.
- Should members of staff have any difficulties with understanding any aspect of this policy, or require further information in respect of accessibility, interpretation or application of the policy, they should contact HR, their Line Manager or Staff Side Representative.

## 2. Useful Information

Other NSS policies/guidance that you may find useful include: -

- NSS Management of Capability
- NSS Dependency Policy
- NSS Redeployment Policy
- NSS Special Leave Policy
- NSS Parental Leave Policy
- NSS Compassionate/Bereavement Leave Policy
- NSS Referrals to Occupational Health During Employment Policy
- NSS Document Storage, Retention and Disposal Policy
- NSS Confidentiality Guidelines
- NHS Managing Health at Work PIN Guideline
- Agenda for Change NHS Terms and Conditions of Service Handbook

The following websites may also be of interest: -

- Staff Governance - [www.staffgovernance.scot.nhs.uk](http://www.staffgovernance.scot.nhs.uk)
- Department of Business Innovation and Skills - [www.bis.gov.uk](http://www.bis.gov.uk)
- ACAS – [www.acas.org.uk](http://www.acas.org.uk)
- Directgov - [www.direct.gov.uk/en/index.htm](http://www.direct.gov.uk/en/index.htm)
- Equality Act 2010 - [www.equalities.gov.uk/equality\\_act\\_2010.aspx](http://www.equalities.gov.uk/equality_act_2010.aspx)

**3. Policy Review**

This policy will be reviewed two years from its effective date to ensure that arrangements put in place are appropriate to the operating requirements of National Services Scotland (NSS).

**Date policy is effective: February 2012**

**Reviewed by: January 2014**

Agreed by:

  
Chair, Staff Governance Committee

Date: 23/02/12

## PROMOTING ATTENDANCE GUIDELINES



#### **4. Introduction**

While NSS aims to secure the attendance of all staff, it is recognised that a certain level of absence due to sickness will occur and that the sensitive management of health problems and the promotion of good health contributes to the retention of staff. NSS also recognise that there will be occasions where, after reviewing options, staff who cannot attend work due to their health problems may not be able to continue working.

The aim of this policy is to make sure that Line Managers throughout NSS adopt a fair, consistent and supportive approach to staff with genuine health problems and to make sure that sickness absence levels are maintained within acceptable levels.

#### **5. Scope**

The policy and procedures apply to all staff within NSS.

#### **6. Policy**

All staff have an entitlement to sick leave and pay in accordance with their terms and conditions of service.

Staff whose health problems give cause for concern may be dealt with under these guidelines when attendance at work does not meet the required standards.

It is also recognised that chronic health conditions and disability may affect performance at work but not attendance. In such circumstances, this should be dealt with under the guidance of the NSS Management of Capability Policy.

Failure to adhere to absence reporting procedures, poor attendance or abuse of the sick leave provisions may be dealt with under the NSS Disciplinary Policy and Procedure or NSS Management of Capability Policy. Failure to adhere to absence reporting procedures may also affect a staff member's pay.

Any cases involving alcohol, drug or substance abuse should be referred to the NSS Dependency Policy, although this does not preclude the NSS Disciplinary Policy and Procedure from applying.

#### **7. Principles and Values**

NSS is seeking to create a working culture in which regular attendance at work is the norm. NSS will ensure: -

- effective monitoring and recording procedures to identify situations where a staff member's attendance is falling below agreed standards; and
- a way of dealing with the circumstances in a sympathetic and fair way, achieving the right balance between managing absence efficiently and providing support and help to a staff member who has health problems or is experiencing personal difficulties.

Attendance levels help provide a picture of staff wellbeing, levels of morale and health and safety management performance. Monitoring attendance levels is an important tool in assessing these factors and in deciding where action is needed.

The importance of communication in creating such a working culture cannot be underestimated. Ensuring staff awareness of the importance of attendance is an essential prerequisite to everything that follows in this policy.

The objectives of this policy will only be achieved if a proactive, consistent and effective approach is adopted throughout NSS. This approach relies on:

- Keeping to relevant legislation and best practice;
- Involving important groups such as the NSS Healthy Working Lives team (i.e. OHS, Health and Safety, Employee Counselling);
- Providing guidance and support to staff, Line Managers and staff side/professional organisations.

The main principles: -

- If there are health problems, NSS will use an approach which is consistent, fair, sympathetic and caring. However, where improvement in attendance is not achieved, this will be dealt with under the NSS Management of Capability Policy to ensure that the correct support is put in place for the member of staff.
- If there are other non-health related/disability problems affecting employees' performance, these will be dealt with under the NSS Management of Capability Policy.
- In order to make the procedures fair and consistent, Line Managers must make sure that they collect enough information on the nature and extent of the problem in order to make a reasonable decision in each case. This involves setting up an effective communication system with staff and getting professional advice from the Occupational Health Service as necessary.

At all stages in this process: -

- There will be confidentiality;
- Staff will have the opportunity to discuss the main issues and be able to contribute to possible solutions;
- Line Managers will get advice and support from the HR Department and OHS;
- Staff may also seek advice and support from the HR Department and OHS;
- At all stages of the formal procedure, an employee is entitled to be represented by a staff side/professional organisation representative or to be accompanied by a companion. The chosen companion should be a work colleague/work friend;
- It will always be made clear in advance to the employee (and representative/companion if appropriate) that the NSS Promoting Attendance Policy is being used. Notwithstanding this, an employee may involve a representative/companion, at any time that attendance issues are being discussed, including the informal process described in the policy.

## **8. Aim**

This policy aims to: -

- Provide and communicate clear procedures to ensure that everyone is dealt with fairly and consistently;
- Encourage the best possible levels of staff attendance at work;
- Keep to the law, such as the Equality Act 2010;
- Make sure that Line Managers communicate regularly and openly with staff, in an appropriate way, taking into account the particular circumstances of each case; wherever possible, offering appropriate support and temporary adjustments to help the individual return to work. This may include recommendations from the individual's Medical Practitioner on the medical sickness certificate and subsequent advice from OHS;
- Make resources and support available to staff with health problems through the OHS, Employee Counselling Service and other specialist agencies;

- Use other sources of support, as appropriate, in situations where retraining or redeployment is appropriate;
- Make sure that NSS employment policies are based on good practice;
- Improve staff retention and prevent discrimination;
- Encourage staff to adopt a healthy lifestyle;
- Help Line Managers to monitor attendance levels effectively by setting up systems which provide relevant and up-to-date information;
- Give all staff the opportunity to be represented or accompanied as detailed in Section 7.

## **9. Definitions Used Within the Policy**

### Sickness Absence

This occurs when ill health, including disability, makes a person unfit to attend work. It also occurs when a Medical Practitioner advises an individual to stay away from work due to illness, convalescence or the possibility of their condition being contagious. Where an individual is fit to attend work but their condition is contagious, medical suspension would apply. Further information on medical suspension can be found in section 11.9.

### Short-Term Absence

Short-term absence is a period of absence up to and including 28 days. An absence of up to and including 7 calendar days will be covered by a self-certificate and an absence of more than 7 calendar days will be covered by a medical certificate. This type of absence can vary, does not normally have a set pattern and is usually caused by minor, in most cases unconnected, ailments. At times it will also be the result of managing a chronic health problem.

### Frequent Short-Term Absence

This is where an employee has a number of short-term absences, which may or may not be related, and may be certified by a self-certificate or a medical certificate.

### Long-Term Absence

Long-term absence is a period of 29 days or more.

### Unauthorised Absence

This occurs when a staff member's absence:

- is not supported by medical evidence which is required on the eighth calendar day of absence; (usually a certificate)
- has not been previously reported;
- has not been authorised by the appropriate level of management in line with local absence reporting procedures; or
- has not been communicated to the employer using the correct procedure.

## **10. Responsibilities**

In putting the NSS Promoting Attendance Policy into practice it is vital that all those involved are fully aware of their roles and responsibilities, as defined below.

## 10.1 Staff Responsibilities

### Staff must:

- Keep to the agreed local reporting procedures. This includes frequently keeping their Line Manager advised of progress including likely return to work date and covering their absences by appropriate certificates submitted in time. This communication would normally take place on a weekly basis or at intervals as agreed between the member of staff and the Line Manager.
- Attend OHS when requested in order to enable informed decision making concerning fitness for work and provision of appropriate support. Should they choose not to do so they should be informed that this will not preclude decisions being made by management on the way forward.
- Make themselves available to attend a meeting with their Line Manager on return from sick leave and complete the NSS return to work form within 2 days of returning to work.
- Be aware that they can self-refer to the OHS for any health-related matter, particularly if it relates to, or is affecting their work. No communication to any third party will result from a self-referral unless the member of staff concerned requests it.

## 10.2 Line Manager's Responsibilities

### Working in Partnership:

- Take responsibility for management of attendance within his or her own area.
- Be aware of the importance of NSS's commitment to deliver a high quality service and understand how unacceptably high absence levels can hinder this by disrupting the department's work progress.
- Use the NSS Promoting Attendance Policy and its procedures fairly and consistently taking account of individual circumstances and the staff member's right to confidentiality in relation to their absence.
- Make sure that all staff know about the policy and local procedures for reporting absences.
- Be available to staff who have problems, whether health, emotional or personal and be receptive, sympathetic and flexible in dealing with these problems, always letting staff know about the availability of the staff support services. Further guidance and support can be accessed via the HR Department.
- Manage Health and Safety in the workplace, ensure risk assessments of work activities are carried out to prevent and reduce health problems as far as possible.
- Take part in training related to promoting attendance and make sure that staff involved in managing promoting attendance also receive training.
- Records and documents in relation to active/current promoting attendance cases should be retained by the Line Manager in line with Data Protection Act 1998, NSS Confidentiality Guidelines and the NSS Documents Storage, Retention and Disposal Policy. Records and documents for non-active cases must be passed to the HR Department to be retained in the member of staff's personal file.
- Consider recommendations on the Medical Practitioner correspondence, for example Fit Note in consultation with OHS.
- Request advice and assistance from the HR Department, OHS, Health and

Safety, the Employment Service and the NSS Equality and Diversity Professional Lead where appropriate.

- Keep in regular contact with staff members particularly during long-term absence, to make sure that the Line Manager is fully aware of progress and likely duration of absence.
- Meet with the staff member to discuss any changes to sick pay.
- Complete sickness notification forms/return to work forms and return to the HR Department within 2 days of the member of staff returning to work.
- Aim to carry out return to work meetings on the first or second day of return from sickness absence.
- Take appropriate action from the trigger reports provided by the HR Department or from appropriate systems e.g. SSTS.
- Where frequent absences, continuous absence or inability to perform duties due to ill health are causing problems in the workplace, the Line Manager will discuss this with the staff member, either at a return to work meeting or at another arranged meeting before any proposed action takes place.
- Discuss ill-health issues with the HR Department so that consistent standards are applied.
- Discuss with the member of staff their OHS report and agree a plan of action.

#### 10.3 The Staff Side/Professional Organisations' Responsibilities

Working in Partnership:

- Act, at all times, in line with the role and responsibilities set out in the organisation's Partnership Agreement.
- Take part in training connected to promoting attendance

#### 10.4 HR Responsibilities

Working in Partnership:

- Provide assistance, advice and support to Line Managers and staff at all stages of managing ill-health problems, including analysing absence records and investigating particular cases to ensure fairness and consistency throughout NSS.
- Provide trigger reports to Divisional Directors.
- Provide support and guidance to Line Managers, staff members and staff side/professional organisations when interpreting the NSS Promoting Attendance Policy.
- Train and develop the skills of Line Managers and staff side/professional organisations to allow the policy and procedures to be put into practice effectively.
- Provide support and advice at absence management case conferences and at panels to consider extension to sick pay requests (see section 11.6).
- Make sure that the NSS Promoting Attendance Policy is consistently followed throughout the organisation.
- Maintain absence information and highlight prospective changes in sick pay to the Line Manager in order that they can inform the member of staff.

#### 10.5 Occupational Health Service Responsibilities

The OHS provides confidential advice and counselling to all staff. Although not a replacement for the family doctor, any staff member can arrange an

appointment if they feel their work is affecting their health or vice versa. Referrals can be made directly by the staff member to OHS (a self referral), and can also be made at the request of the Line Manager in consultation with the HR Department. OHS will: -

- Provide clear and independent advice to Line Managers and staff on the effect health problems have on the working environment and the effects of work on health;
- Help manage the absence process by working with GPs and other agencies to make sure that all relevant and appropriate information is available concerning a staff member's health;
- Become involved in the earliest stages of staff absence to reduce the length of absence as far as possible and support the staff member's return to work, acknowledging that this may depend on how soon a management or self-referral is made; and
- Encourage and take part in discussions about health problems and their causes, and work with Line Managers to identify and put appropriate solutions into place by:
  - Advising Line Managers about how a staff member's medical condition might limit their ability to perform their normal duties;
  - Making recommendations as to how a staff member may be supported to return to their substantive post. This may include some adjustments to their current work or may require other support activities;
  - Advising Line Managers on the employment implications of any continuing disability, including recommendations on adjustments to their work, redeployment and legislative obligations; and
  - Keeping the HR Department informed of the situation and involving as appropriate;
  - Advising on when and how the Employment Service, and in certain circumstances disability employment advisors, should be involved.

## 11. Procedures

### 11.1 Promoting The Policy

All existing and new staff members should be made aware of the policy, and all staff must have access to the policy in their place of work. This will be achieved through the NSS induction programme for new staff and through internal training and communications to raise awareness and promote attendance positively amongst existing staff members.

Line Managers must make sure that their staff know about any local absence reporting procedures.

### 11.2 Recording And Monitoring

NSS has a responsibility to set up effective systems for recording and monitoring attendance. Reasons for recording and monitoring attendance include:

- meeting the requirements of the Statutory Sick Pay provisions and Occupational Sick Pay Allowances – details of these are contained in the Agenda for Change NHS Terms & Conditions of Service Handbook or other relevant terms and conditions. Should there be any changes to the Statutory and Occupational sick pay provisions in the future, NSS will ensure that all staff are notified accordingly;

- identifying attendance patterns, frequency and length of absences;
- helping to detect problems early, so leading to effective management; and
- helping to decide whether the situation is a “capability” or “disciplinary” matter.

Following a period of sickness absence a Line Manager should meet with the staff member. This should be arranged within a timescale which takes into account the notification of the staff member regarding the reason for the meeting. Line Managers must make sure that a record is made of any meetings that they have with staff members to make clear the conversation that took place and the support that was offered. This should be recorded on the NSS Self Certification and Return to Work Discussion Form. The meeting record should be passed to the HR Department for retention in the employee’s personal file.

These meetings are most effective if they are carried out on the first or second day of return from sickness absence.

### 11.3 'Trigger Points'

As defined by the NHS Managing Health PIN Guideline, it is important that Line Managers review individuals’ sickness absence where there is: -

- Frequent incidents of sickness absence;
- Absence that is not satisfactorily explained;
- Absence linked to certain shift patterns; and
- Absence linked to certain days or times;
- Absence of 29 days or more.

Within NSS, the review period is as follows:

- Four episodes of absence or
- More than eight days’ short-term sickness absence

within a rolling 12-month period.

The Line Manager will identify absence rates and patterns through local absence monitoring and recording. Reaching the review point should ensure that the Line Manager examines an employee’s sickness absence and consider if any further support/action is needed, for example advice/support from OHS. Any action ensuing will depend on the individual’s circumstances. It is important however that Line Managers apply a sensitive, consistent approach when reviewing individual circumstances in order to prevent anyone from feeling that particular members of staff are being singled out for special treatment.

Absence patterns linked to the working environment may highlight a range of problems resulting in high or regular patterns of absence.

#### 11.4 Reporting Absence

<b>On day one</b>	Staff members must tell the appropriate Line Manager or supervisor about their absence as early as possible on first day of absence. This should normally be either before or as soon as possible after the normal start time. The procedure may be varied within departments dependant on local agreements.
<b>Up to and including seven calendar days</b>	The staff member must fill in the NSS Self Certification and Return to Work Discussion Form as part of the return to work discussion. This should ideally be done on the first or second day of return from sickness absence.
<b>More than seven calendar days</b>	A medical certificate from a Medical Practitioner is required. If a staff member does not return to work when the certificate ends, then further consecutive certificates must be provided to cover all dates of absence.

On the first day that a member of staff feels unwell and is unable to attend work, he/she should inform the appropriate Line Manager or supervisor about their absence. This would normally be by a telephone call to work either before or as soon as possible after their normal start time as per local procedures. Communication by email or text would not normally be deemed as an appropriate method of communicating absence unless agreed with the Line Manager in advance that this was an acceptable means of communication. The Line Manager would normally expect the staff member to give an indication of the general nature of the illness and of how long he/she thinks the absence will last. This will help the Line Manager to ensure that adequate cover arrangements are in place. The length of the absence will be dependant upon such factors as the nature of the illness and whether the staff member is arranging to see a GP or other Medical Practitioner and expects to be signed off work. In all instances, the staff member and Line Manager should agree an arrangement for maintaining some contact during the absence.

Where the member of staff is unwell during a period of annual leave the member of staff can choose to take his/her statutory annual leave at the same time as sick leave, or he/she can choose to take the missed annual leave at a later date. If the latter option is chosen, he/she must inform the appropriate Line Manager either before or as soon as possible after their normal start time as per local procedures. The period covered will then be treated as sick leave, allowing the employee to take the annual leave another time. In accordance with Agenda for Change Terms and Conditions, employees will not be entitled to an additional day off if sick on a public holiday that they would otherwise have been required to work as part of their basic week.

Where the member of staff wishes to take a period of annual leave during their sickness absence, they must inform their Line Manager who will advise the HR Department. See Section 11.16.

Other than in extreme circumstances i.e. the staff member is in hospital, it should be the staff member who makes contact with the appropriate Line Manager. This allows a discussion regarding expected length of absence, or brief discussion regarding outstanding work which may need to be progressed

in the staff member's absence.

If a staff member becomes unwell during the working day they must speak to the appropriate Line Manager or supervisor in line with local absence reporting procedures before leaving work. In this situation, the part day should be recorded. However, if the person suffers an injury (e.g. needle stick injury) or illness which requires urgent medical treatment i.e. Accident and Emergency the staff member should be accompanied to the hospital.

Where a member of staff is absent for more than seven calendar days they will require to provide a medical certificate to cover their subsequent dates of absence. The current GP certificate (The Statement of Fitness for work or the 'fit note') advises the employer whether the individual is either 'fit for work' or whether the individual 'may be fit for work'. Where the doctor has advised that the individual 'may be fit for work', the fit note will advise what adjustments/restrictions should be considered: a phased return; altered hours; amended duties; workplace adaptations. The fit note may also provide further comments with regard to how the individual's condition is likely to impact on their day-to-day activities. In both cases, further advice should be sought from OHS.

#### 11.5 The Importance of Maintaining Contact

During any periods of extended sickness absence, contact between the Line Manager and the staff member is particularly important. The purpose of the contact is to: -

- reflect the genuine concern of a caring employer;
- find out the nature and progress of the illness and recovery;
- make sure the staff member knows they must supply medical certificates; and
- explain and try to provide any support that may improve the staff member's health;
- give notice of changes to sick pay/salary (i.e. move to half/nil pay);
- keep the individual up to date with any workplace changes;

It is important that Line Managers apply a sensitive, consistent approach when reviewing individual circumstances in order to prevent anyone from feeling that particular members of staff are being singled out for special treatment.

The method and frequency of contact and the location of any meetings needs to be agreed between the staff member and the Line Manager and will depend on the circumstances surrounding the absence. Contact can be by phone, letter, and (especially important in cases of medical certified sickness absence) meetings at the workplace or, if requested, at the staff member's home.

During any periods of extended sickness absence, reviews should be carried out regularly to assess and monitor the circumstances relating to the absence, and to determine what further support or action may be required at each stage. Any changes to sick pay entitlement should be included and communicated as part of the review process, i.e. From full pay to half pay, and from half pay to nil pay.

Where regular reviews have taken place, but there is no clear indication of a return to work, or where there is a change of working hours, or change to content of the job outwith a return to work plan, a final case review should take place in order to reach a decision on the most appropriate way forward taking

into account all the circumstances. A case review meeting should involve all relevant parties in discussing the specific issues relating to the sickness absence and return to work - for example, where the nature of the staff member's health condition is such that they may not be able to return to their present post and alternative options such as redeployment or ill health retirement may need to be explored. The staff member should be asked if they wish to be represented by a staff side/professional organisation representative or accompanied by a companion.

A representative from the HR Department may also attend to give advice to the Line Manager and the staff member. It is important that such meetings are handled sensitively.

During the final case review, all possible options should be considered including whether reasonable adjustments can be made to facilitate a supported return to work for the individual. Medical evidence should be made available to support the review process and OHS advice should be sought on the likelihood of:

- the prospects of a likely return to the previous employment with or without the need for adjustments;
- a phased return to work with or without the need for adjustments;
- redeployment – refer to Stage 2 of the NSS Management of Capability policy, this should be considered at the earliest opportunity if applicable;
- a successful ill health retirement application – refer to Stage 3 of the NSS Management of Capability policy;
- whether a temporary or permanent alteration to hours of work, content or speed of job requires to be considered.

The final case review meeting should take place, wherever possible, before an individual's entitlement to sick pay is exhausted. This discussion and notes should indicate whether an individual's absence should continue to be managed via the NSS Promoting Attendance Policy or whether a move to either the NSS Management of Capability Policy or NSS Disciplinary Policy and Procedure is more appropriate.

In circumstances where the final review meeting has not taken place within 12 months of the start of the continuous sickness absence, and the failure is due to a delay by NSS, sick pay may be reinstated at half pay until the final review meeting has taken place, as follows:

- a. staff with more than 5 years' reckonable service – sick pay will be reinstated if sick pay entitlement is exhausted before a final review meeting has taken place.
- b. staff with less than 5 years reckonable service – sick pay will be reinstated at half pay if sick pay entitlement is exhausted and a final review does not take place within 12 months of the start of their sickness absence.

Reinstatement of sick pay should continue until the final review meeting has taken place, but is not retrospective for any period of zero pay in the preceding 12 months of continuous absence.

This provision will not apply where a review is delayed due to reasons other than those caused by NSS.

## 11.6 Extension to Sick Pay

In exceptional circumstances, NSS may extend the period of sick pay on a full or half pay basis beyond an individual's contractual entitlement. Any requests for extension of sick pay will be considered by a panel consisting of the Head of Healthy Working Lives and the Head of Employee Relations and Reward. Such a request will only be considered in the following circumstances:

- Where there is the expectation of return to work in the short term and an extension would materially support a return and/or assist recovery. Particular consideration should be given to those staff without full sick pay entitlements; or
- In any other circumstance that NSS may deem reasonable.

The appropriate Line Manager, HR Manager/Advisor, staff side/professional organisation representative would attend to present the case and evidence for extension of sick pay. Any requests of this nature should be raised with the HR Department in the first instance, who will arrange a panel.

## 11.7 Return to Work

After any period of absence, a return to work meeting should take place between the Line Manager and member of staff. The purpose of the meeting is to:

- Discuss the reasons for absence;
- Confirm the individual's fitness for work;
- Decide if the cause of the absence may recur and discuss support mechanisms required; and
- Consider a return to work plan in conjunction with the member of staff, medical recommendations and OHS if appropriate.

Where the staff member has provided a Statement of Fitness for Work (fit note/Med 3) from their Medical Practitioner which advises that they 'may be fit for work' with specific adjustments or restrictions, advice should be sought from OHS prior to the staff member resuming duties.

At this meeting discussions should be in confidence, offering the staff member the opportunity to raise any issues they have about their absence or health and to receive any appropriate help and support.

This discussion is most effective if carried out on the first or second day of return from sickness absence and may cover some or all of the following, depending on the circumstances of each case: -

- Welcome the staff member back to work and provide a work update.
- Ask after their health.
- Make sure that the staff member fills in a self-certificate and provides a medical certificate if absence longer than 7 calendar days.
- If attendance levels suggest that there may be an underlying health problem, discuss benefits of referring them to OHS.
- If the pattern or frequency of absence is causing concern, let the staff member know, explaining what NSS considers to be a reasonable standard of attendance and what may happen if this is not met.

- Offer support, guidance and advice to help the staff member to attend more regularly, for example, a temporary change in hours or duties, training, etc.
- Set up a regular review process, set attendance standards and offer phased return, special or unpaid leave if this is appropriate.
- Any cases involving alcohol, drug or substance misuse should be addressed under the procedure set out in NSS Dependency Policy.
- Encourage involvement and commitment to solutions.
- Benefits of the Employee Counselling Service and other services provided by the OHS (e.g. Physio and Cognitive Behaviour Therapy).

If a further discussion is necessary, this should be supportive and not confrontational. It should be an investigation into any underlying problems such as medical, work-based or domestic responsibilities which may be affecting attendance. The staff member has the opportunity to be accompanied or represented. If the reasons for absence are personal or sensitive, the staff member may prefer to talk to someone outside the immediate situation, such as OHS or the Employee Counselling Service.

#### 11.8 Assessing Risk

NSS must fully meet its responsibilities as laid down in health and safety law and clinical governance. Line Managers should, where appropriate, carry out a risk assessment before a staff member returns to work. This includes returns to work following absence due to work related stress. Any restrictions need to take account of the Health and Safety for staff, donors and patients.

#### 11.9 Suspension on Medical Grounds

In certain circumstances the process of suspension on medical grounds as an alternative to sickness absence may need to be considered. It may be appropriate particularly where the organisation considers an employee to be at risk to themselves, other staff or to patients as a result of a health issue. This should be recorded as medical suspension and not as sick leave. Medical suspension should only be used exceptionally and only after taking advice from occupational health and the HR Department.

#### 11.10 Management Referral

Line Managers can refer staff to OHS in order to provide assistance to a staff member on a health-related matter, or to enable the OHS to provide the Line Manager with advice about the staff member's health in relation to their work. Line Managers may need to use a template Management Referral Form if this is provided by their local OHS.

Such referrals must be done with the informed consent of the staff member, and this must be sought on each occasion a referral is initiated. It is the Line Manager's responsibility to inform the staff member as to why the referral is necessary. It is essential that such a referral is not portrayed as a punishment, and that the reasons for it are fully explained to the staff member. The reason for referral should be clearly set out in the referral document along with any specific issues on which the Line Manager wishes to receive advice. In general, the types of issues about which questions might be asked include:

- whether there is an underlying medical problem which could affect performance;
- the prognosis and likely effect on fitness for work;
- restrictions to, or adaptations needed for, work;
- the need for, and nature of, a programme of support;
- recommendations for rehabilitation into work; and
- ill-health retirement issues, if relevant.

There may be occasions where an individual does not consent to a referral to Occupational Health. In such circumstances, the Line Manager should take advice from the HR Department, in the first instance. Normally a meeting would be arranged with the staff member and their staff side/professional organisation representative or companion to discuss and seek to address any concerns that the staff member may have and to reassure them about the reasons for the referral. If, following this, the individual still refuses to attend the referral, they should be informed that any future decisions regarding their absence and fitness for work may have to be made by the Line Manager without relevant advice/recommendations from OHS.

Further information on management referrals or self referrals can be obtained from the NSS Referrals to Occupational Health During Employment Policy.

#### 11.11 The Return to Work Plan

When a staff member is fit to return to work but cannot carry out their full range of duties (either in the short or longer term), every effort should be made to give them the opportunity for an earlier return to work. This might include reducing or amending their range of duties.

To comply with the Equality Act 2010, the Equality & Human Rights Commission recommends that organisations:

"take any steps which it is reasonable for it to have to take, to reduce or remove any substantial disadvantage which the premises or the organisation's employment arrangements causes a disabled member of staff compared to a non-disabled person".

In short, reasonable adjustments to a staff member's job can include: -

- changes to duties, shifts or hours;
- changing the place of work; and
- making adjustments to the features to a place of work or access to it, including its fixtures, fittings, furnishings, equipment and design,

Although this list is not definitive, adjustments should only be made after:-

- considering the recommendation on the medical certificate;
- receiving the advice and recommendations of OHS;
- discussing the matter with the member of staff; and
- carrying out a review of their skills and abilities and the likely needs of the service.

OHS must be consulted prior to an employee returning to work following a period of sickness absence lasting over 28 days or where the reason given for a certified absence merits OHS input e.g. stress. All phased return to work arrangements or proposed adjustments must reflect any medical

recommendations from the individual's medical practitioner and be agreed by OHS.

A clear written programme, including timescales and review period, must be agreed between OHS, the Line Manager, the staff member and the HR Department before any return to work can take place.

The staff member will suffer no loss of pay as a result of working reduced hours as part of an agreed return to work plan, nor will they be required to use accrued annual leave or previously accrued flexi-time to support the agreed return to work plan.

Should the member of staff be unable to achieve the agreed weekly working hours then the individual and Line Manager should fully discuss this and agree a way forward including seeking further advice from OHS.

An individual may wish to utilise some/all of their accrued annual leave to extend the period of reduced working hours beyond the period of the agreed return to work plan, but any such arrangement would need to be mutually agreed by the staff member and their Line Manager, and would not form part of the agreed return to work plan.

HR advice should also be sought on any agreed variation to contract and pay policy, to make sure that local policy is applied consistently. The use of flexible working arrangements and family friendly policies is encouraged, as is reference to NSS Occupational Health policies.

Assistance is available from the NSS Equality and Diversity Lead, from Disability Employment Advisers who can be sourced through local Jobcentres and from other experts and agencies. These experts can support the staff member and the workplace with respect to carrying out needs assessments, and they can advise on any equipment and modifications that might be required for the working environment.

#### 11.12 Redeployment

If a staff member has been identified as unfit to return to their current post, NSS must, within reason, offer other suitable alternative employment (particularly where it is established that a staff member has a disability under the Equality Act 2010), although a job does not have to be created. The Line Manager should fully discuss the options for redeployment with the staff member and the HR Department.

For alternative employment to be 'deemed suitable' there must be, as a minimum, a 'basic skills match' between the person specification requirements of the vacancy and the current skill level of the individual. If an 80%+ essential skills match does not exist, the vacancy would be 'deemed suitable' if it is agreed at the outset that after reasonable adjustment under the Equality Act 2010 or after a reasonable period of training it is estimated that this would exist. This should ensure that no excessive delays will occur in the candidate being able to undertake the core duties of the post

Redeployment may mean changing career direction and must include the assessment and identification of the staff member's training needs. This may include providing training opportunities from: -

- within NSS;
- within NHSScotland;
- Jobcentre Plus Work Choice Scheme;
- Disability Employment Advisers; and
- other appropriate agencies.

### 11.13 Ending Employment And Premature Retirement on Health Grounds

- 11.13.1 The option to terminate employment on the grounds of capability due to ill health should only be considered when all options for reasonable adjustment or redeployment have been fully investigated and exhausted and documented.
- 11.13.2 In considering termination of employment on the grounds of ill health, NSS must demonstrate that it has: -
- considered offering the staff member other employment; and
  - fully explored other employment options and found these to be unavailable or not practical.
  - taken account of written advice from OHS recommending this;
  - consulted with the staff member and discussed the position with them;
  - made a thorough investigation of the medical and other facts;
  - balanced the staff member's likely future health against the organisation's needs.
- 11.13.3 The decision to terminate employment on the grounds of capability due to ill health must always be based on medical factors, and is not directly linked to the staff member's pay situation. It should be noted that if a staff member's employment is terminated on health grounds he/she will be entitled to their contractual notice period at full pay.
- 11.13.4 If a member of staff is superannuated and on long-term sickness absence with no apparent prospect of a return to work in the foreseeable future, premature retirement on the grounds of permanent ill health may also be an option. Such a course of action would, in the first instance, require the support of the OHS and/or the staff member's GP. There are two tiers of Ill Health Retirement benefits and the benefits that the staff member would receive would depend on whether or not they were capable of undertaking employment elsewhere. Further information about premature retirement on health grounds can be obtained from the Scottish Public Pensions Agency (SPPA). There are qualifying criteria and appropriate forms to complete, and assistance from the HR Department should be offered to help staff fill in such application forms. It should be noted that NSS cannot guarantee that an employee seeking to retire through ill health will receive an incapacity pension and lump sum payment. This is at the discretion of SPPA who take advice from their own Medical Adviser.
- 11.13.5 Information should also be given to employees on 'Injury Benefits' payable where sickness absence has been caused by an accident (or disease) during the course of work. Advice can be obtained from SPPA. These benefits apply even if an individual is not superannuated.
- 11.13.6 If termination of employment is the only available option, the staff member should be invited in writing to attend a meeting to discuss the termination of their employment on grounds of capability due to ill health. The HR Department should support this process at the earliest possible opportunity. The staff

member must be offered the opportunity to be represented or accompanied at this meeting.

11.13.7 The meeting should be handled in a sympathetic and understanding way, making sure that the staff member is given time to discuss their point of view and that they have a clear understanding of the outcome. They should also be offered the opportunity to meet again if they would find it helpful to have some days thinking time to weigh up the options. The Employee Counselling Service will offer confidential support to individuals if required.

11.13.8 In accordance with local arrangements for delegated responsibility for dismissal and related procedures, the HR Department will support the Divisional Director or the member of staff with delegated authority to dismiss to write to the staff member confirming the termination date, taking into account the relevant period of notice. The letter should also set out the staff member's right to appeal against the decision.

#### 11.14 Where The Absence Is Caused By A Work-Related Or Personal Problem

All staff have a responsibility to tell their Line Manager if their absence is attributable to their work, to allow the organisation to comply with RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) requirements. In these circumstances assistance should be offered to the staff member to help them return to work as soon as possible. Similarly if staff are experiencing particular domestic or personal problems that may be affecting their attendance, the Line Manager should seek to provide appropriate support.

Help could include temporarily altering their shift pattern or granting special leave if this is felt necessary. In these circumstances, the staff member must continually update their Line Manager, who will monitor and re-assess the support mechanisms as necessary. Throughout such situations, the Line Manager should make the staff member aware of OHS and the Employee Counselling Service, and explain how these services can be accessed.

Where there is no improvement in attendance in the job any further action taken to promote improved attendance should be in accordance with the NSS Promoting Attendance Policy in the first instance.

#### 11.15 Where There is No Underlying Health Problem

Where a member of staff has a high level of sickness absence, which may or may not be related, and the Line Manager is concerned about their fitness for work, help and advice should be sought from OHS. At the same time, the Line Manager should stress the importance of regular attendance at work and reaffirm the organisational and departmental standards of attendance.

Where advice from OHS indicates that there is no health problem preventing a staff member from attending work, the Line Manager must advise the staff member that the situation is unsatisfactory and set appropriate standards for attendance. The Line Manager should meet with the staff member to let him or her know that:

- the level of attendance will be closely monitored;
- this monitoring will continue for an appropriate period of time according to individual circumstances;
- the level of attendance must improve; and

- if there has been no improvement in their level of attendance at the end of the monitoring period, the situation may be looked at under the NSS Disciplinary Policy and Procedure.

#### 11.16 Carry Over of Holiday Entitlement During Long Term Sickness Absence from One Leave Year to The Next

Employees who are unable to use up their holiday entitlement within a given holiday year because of long term sickness absence will be entitled to carry over unused holiday entitlement into the following leave year. This is based on statutory holiday entitlement as defined by the Working Time Directive and holiday carry over will be calculated as follows:

- the difference between any annual leave and/or public holidays taken before sick leave began and the statutory entitlement.

For example, an employee has already been off for a 1 day public holiday in May 2009 and then 5 days annual leave in June 2009. The employee then goes off sick and does not return before the end of the 2009/10 annual leave year – 31 March 2010.

On return to work they would be entitled to 22 days leave from the previous year (ie the difference between the statutory entitlement of 28 days and the 6 days taken before sick leave commenced).

- the difference should be carried over and added to the entitlement in the new leave year.
- where employment ends and an individual does not return to work, payment will be made in full for accrued leave.

Staff may decide while on sick leave they should have a holiday perhaps for the purposes of recuperation during periods of sickness absence. Days taken as holiday during this time would continue to be regarded as sickness absence and recorded as such. If this holiday was for an extended period it would be helpful for the member of staff to inform their Line Manager, who may otherwise try to make contact while they are away.

When the employee's entitlement to Occupational Sick Pay ceases they may choose to take statutory annual leave during the period of sickness absence by informing their Line Manager who will advise HR. Any payment of annual leave under these circumstances does not break the period of sickness absence and does not create a new entitlement to Occupational Sick Pay. Employee's entitlement to annual leave will be calculated as above.

If an employee is in receipt of any benefits related to their sickness absence it is their responsibility to inform Jobcentre Plus that they are in receipt of these payments.

## 12. **Unauthorised Absence**

Where a member of staff fails to follow the agreed absence reporting and notification procedures, he/she will be deemed to be on unauthorised absence for which payment may be withheld. The matter will be fully investigated and considered in accordance with the NSS Disciplinary Policy and Procedure.

### **13. Education and Training**

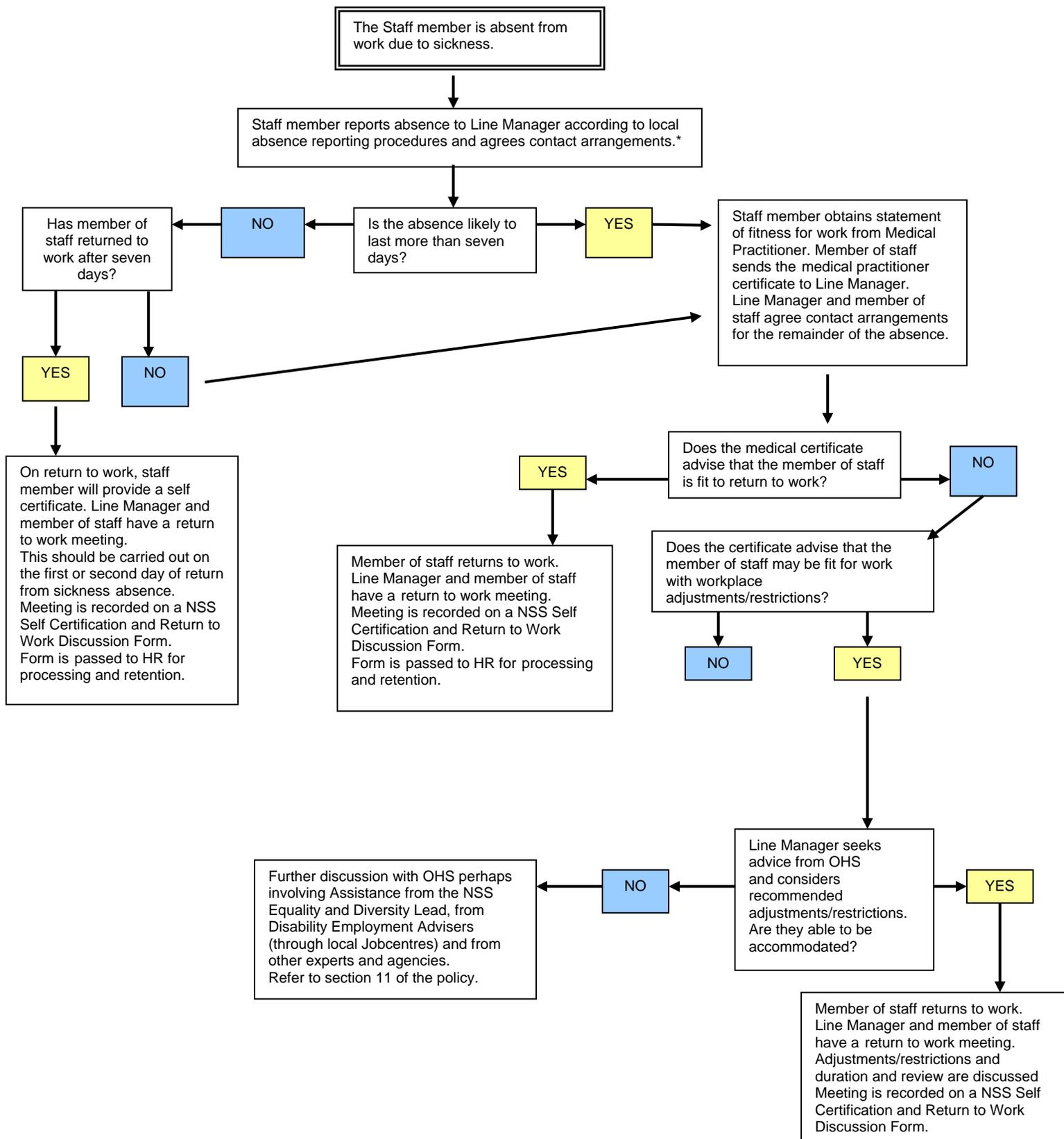
To promote attendance positively, NSS will raise awareness of this policy, guidelines and its standards as part of departmental and organisational induction for new staff. We will also provide training for staff, Line Managers and staff side which will include, as a minimum, the following issues:

- the benefits of good attendance at work;
- roles and responsibilities of staff, Line Managers, the HR Department, OHS and staff side/professional organisations;
- the procedure for reporting absence;
- trigger points for reviewing absence in NSS;
- return to work discussions and procedures;
- referrals to OHS;
- recording and monitoring attendance levels;
- awareness of local reporting procedures.

### **14. Monitoring and Reviewing**

The activities which result from the introduction of this policy will be examined and the activities of each component part monitored. This review process will lead to a regular revision of the policy.

Regularly reviewing and reporting to Divisional Directors sickness absence rates, staff turnover, levels of redeployment and the number of terminated contracts and ill-health referrals will also contribute to the evaluation and audit of the policy.



\*N.B. In certain circumstances medical suspension may be appropriate. See section 11.9 of the Policy.

# PROMOTING ATTENDANCE POLICY FLOWCHART

# Appendix B

\* \*for return on restricted duties  
Or with workplace adjustments  
see Appendix A

