



## Absence Management Policy

### 1. Policy Statement

The University is committed to developing a working environment and working practices which help maintain and improve the health of our employees. As such, the University will look for ways in which it can promote work-life balance and healthy working lives, both through the application of this Policy, and also through other policies and initiatives.

In terms of its commitments to equality of opportunity, the University will ensure that the application of this Policy supports those employees who have disabilities.

The University recognises that employees are likely to be absent from work due to sickness or ill health at some time and it is important that appropriate procedures are in place to support employees during these periods. It is also important to manage and monitor absence. Our aim is to treat employees sympathetically and in a non-discriminatory manner at all times.

Regular attendance by all employees is important to ensure that the University meets its overall objectives. If employees are frequently absent, this not only places a burden on colleagues but it can also disrupt the work of the University. Additionally, the University places importance on employees being fit for work and may reasonably require employees to attend Occupational Health Unit (OHU) or may suggest the employee seeks medical intervention from their GP at any time where their fitness for work is in question.

### 2. Scope and Purpose

This Policy applies to all employees of the University, except for those in a probationary period and those who are explicitly employed on non-standard terms and conditions<sup>1</sup>.

The purpose of this Policy and associated procedures is to:

- Ensure that employees who are, or have been absent from work due to sickness are:

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<sup>1</sup> Staff TUPE transferred to the University and remaining on pre-existing terms and conditions; KTP Associates, the Principal, Vice-Principals, Heads of Professional Service Group and comparable level Directors

- Provided with reasonable support to enable them to return to work where appropriate, and
  - Provided with reasonable support to help them improve their health and well-being
- Provide clear guidance for employees as to their rights and responsibilities in relation to attendance at, and absence from, work
  - Ensure that procedures for monitoring and managing sickness absence are consistent, fair and effective across the University
  - Ensure that all employees and managers<sup>2</sup> are aware of, and have a clear understanding of, the University's position with regard to absence management.

This Policy does not cover issues of capability relating to health where the employee is at work, or where disciplinary issues arise as a result of failure to follow absence procedures, or there is a suspected abuse of the University's Occupational Sick Pay scheme. The University's Managing Capability Policy or Disciplinary Policy should be followed on these occasions.

The Occupational Sick Pay schemes referred to in this Policy are those outlined in employees' contractual terms and conditions of employment.

### **3. Principles of the Policy**

The University will observe the following principles in all matters relating to absences due to sickness and ill health:

- The University aims to support all employees to be able to attend work and provide effective service, and will consider all reasonable options to enable them to do so
- Where an underlying condition has been identified which may have contributed to the employee's absence, decisions in relation to formal action due to absence levels will be taken following a referral to the University's Occupational Health Unit (OHU). Where the outcome of an attendance review meeting may result in dismissal a recent OHU report must be available
- In all cases of longer term absence, managers will consider phased returns to work for employees where advice in a 'Fit Note'<sup>3</sup> suggests it, or the manager, employee, or OHU believes it would be appropriate
- Any failure by employees to follow the correct absence reporting, certification, or other procedures set out in this Policy may be subject to disciplinary action
- Employees will have a right of appeal against any formal action taken as a result of absence levels
- The University's Dignity and Respect Policy will be observed in relation to this Policy.
- Reasonable adjustments to accommodate employees with disabilities will be considered and made as appropriate

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<sup>2</sup> For the purposes of this Policy the term 'manager' will be defined so as to include the nominated or line manager, or another designated person of suitable seniority and responsibility within the relevant work unit or group

<sup>3</sup> See Appendix D for further guidance

- The need for confidentiality in employee absence issues will be respected in all cases
- This policy will be managed in line with all data protection legislation and the Access to Medical Reports Act 1988.

#### **4. Responsibilities**

Managers are responsible for ensuring that:

- Good attendance levels are encouraged and all employees are informed of the sickness absence certification and reporting procedures and the sickness absence policy
- Absence issues are discussed with the employee as soon as they become apparent
- All incidents of sickness absence are reported quickly to the person responsible locally for recording and maintaining absence records
- All incidents/accidents at work are accurately recorded in line with the Health and Safety Department procedures
- Guidance is sought from their HR Team and/or OHU for cases other than routine sickness absence management
- Where mental health issues are identified, advice and guidance is initially sought from their HR Advisor
- Levels of sickness absence are reviewed regularly to ensure that their area is able to function effectively, and to check for patterns that indicate the possibility of health problems which may be exacerbated by the working environment
- Appropriate levels of communication with absent employees are mutually agreed and maintained
- Return to work discussions are carried out as appropriate
- Reasonable adjustments to accommodate employees with disabilities are considered and made as appropriate
- They respect the need for confidentiality in employee absence issues
- They implement this Policy in line with all data protection legislation and the Access to Medical Reports Act 1988.

Employees are expected to take responsibility for:

- Looking after their own health
- Minimising their absences from work
- Keeping their manager informed about health issues that might affect their ability to work and/or attendance
- Keeping their manager or designated person informed about their absence due to sickness and their likely return to work date
- Making arrangements for keeping in touch with their manager, including where they may be outside the UK at any stage during an absence
- Reporting any accidents at work in line with the Health and Safety Department procedures
- Following the procedures set out in this document
- Co-operating with their managers during absence management procedures
- Attending appointments with the OHU as and when required

- Working with their managers to support the implementation of reasonable adjustments as appropriate

## **5. Reporting Absence and Keeping in Touch**

Local procedures for initially reporting absences may be put in place where a designated person may be the initial contact for reporting absence, instead of the manager. Managers must, however, be informed of an absence at the earliest opportunity, and will take responsibility for all other aspects of absence management from the point at which they are informed.

Employees who are going to be absent from work due to illness should contact their manager, or other designated person, by phone. This should be done as promptly as possible, and ideally by the time they would ordinarily have started work on that day.

During this call, employees should explain:

- The specific reason they are absent
- The length of time they expect to be absent / their expected return date if known
- Whether they intend to seek, or have sought medical advice or help
- Whether there is anything the manager will need to do to reassign the employee's work or meetings for the time they will be absent.

In exceptional circumstances, where an employee is unable to make this call, a family member or friend may phone the manager or other designated person on behalf of the employee.

Where the nature of the work carried out in any area requires a different form of reporting, e.g. by email, then local guidance should be developed after consultation with the local College / Professional Service Group HR Team.

If the absence is expected to last longer than one day, managers and employees must agree how contact will be maintained, so that managers are kept fully aware of the situation, and can reallocate work and plan ahead where necessary.

Where employees leave work during the day due to illness (either through their own choice or because of advice from their manager), managers should keep a record, even where the employee confirms that they will return to work on the next working day.

Where stress is the reason for an absence, managers should refer to the guidance at Appendix A as soon as they are notified.

### **5.1 Routine Personal Health and Welfare Appointments**

Employees should try to make appointments with GPs, Dentists, Hospital and Opticians etc. out with work time where possible or alternatively at the start or end of the working day in order to minimise disruption. When requesting time off, employees should give their manager as much notice as possible.

The University reserves the right to ask for evidence of the appointment e.g. hospital letter, appointment card.

Reasonable paid time off will be granted to allow employees to attend hospital/clinic appointments subject to the discretion of their manager.

Reasonable adjustment to accommodate an employee with a disability should be considered and made as appropriate. Guidance on Working with Disabilities can be found at Appendix C.

## **5.2 Travelling Abroad**

The University recognises that it has a very diverse workforce of people from many different countries and that its employees often travel abroad on University business. This means that there will be occasions where University employees are taken ill during a visit to their home country, or when they are out of the UK on holiday or for other reasons. Employees may also wish to return to their home country during a long spell of absence or travel out of the UK for other reasons.

If employees are taken ill in the UK, and then wish to travel out of the UK during their absence from work, they must discuss their travel plans with their manager in advance and make arrangements for keeping in touch during their absence. In addition, they must provide their manager with a Fit Note<sup>4</sup> from their GP before they travel, confirming that they will not be fit to return to work during the period they intend to be out of the UK (even though they may be fit to travel).

If employees are taken ill while out of the UK they must always let their manager know as soon as practicable, and provide an appropriate medical certificate, written in English where possible. They should agree with their manager how they will keep in touch during their illness, and also confirm their plans to return to the UK. Even where employees are taken ill whilst out of the UK, there may be a requirement for advice and support from the OHU, and the employee may be asked to return to the UK to attend an appointment with the OHU as a necessary step in dealing with the absence.

Failure to follow these reporting and keeping in touch procedures may lead to disciplinary action, and a loss of Occupational Sick Pay (OSP).

## **5.3 Illness whilst on Annual Leave**

Where an employee falls ill whilst on annual leave or on a public holiday, they must follow the same reporting requirements as if they were due to attend work for that period. Provided that the correct reporting procedures have been followed, managers will cancel those days of annual leave on which the employee was ill, and classify those days as sick absence.

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<sup>4</sup> See Appendix D for further guidance

## **6. Certification requirements**

### **6.1 Self-Certification**

After any period of absence of up to and including seven calendar days, employees should be asked to sign the self-certificate section of a Return to Work Form

<https://www.ed.ac.uk/human-resources/forms>

Ideally at the point of their return to work discussion, showing the reason for, and dates of their absence.

### **6.2 Medical Certification**

If an absence lasts for longer than seven calendar days, the employee must always obtain a Fit Note<sup>5</sup> from their GP, or documentation from hospital where appropriate.

Employees should always send their Fit Notes, or other relevant documentation, to their manager as soon as they receive them. Failure to provide relevant documentation may result in a period of unauthorised absence, which could leave employees liable to disciplinary action and lead to Occupational Sick Pay (OSP) being withheld.

There should not be gaps between Fit Notes provided by the employee's GP except in exceptional circumstances e.g. the availability of GP appointments. Employees should keep their managers informed of the situation. The manager should consider each case on its own merits, and seek advice from the College / Professional Service Group HR Team, before deciding if any further action should be taken.

## **7. Returning to Work**

The University is keen for employees to return to work following an illness at the earliest date i.e. when they are well enough to do so. Managers should always be made aware of an anticipated return date where there is one.

There are occasions where employees indicate their intention to return to work even though they may not be fully recovered. Where this is the case, managers must discuss the implications of an early return with employees, and may involve the OHU where it is believed an employee is not well enough to return.

Returning to work because entitlement to OSP is about to reduce or expire is not a sufficient reason to allow an employee to return to work, where their health would ordinarily prevent them from doing so.

For employees who are sufficiently or fully recovered from their condition, early returns to work can be agreed with their manager through discussion and a common sense approach. The information on a Fit Note will contribute to that discussion, and may be the trigger for it. Any arrangements made out with the normal working arrangements should be detailed and put in writing so that each party knows what has been agreed and what to expect, and progress can be regularly reviewed, adjusted and monitored against clear and agreed timeframes and conditions.

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<sup>5</sup> See Appendix D for further guidance

Further guidance on agreeing phased returns to work, and information about salary payment for the duration of these arrangements, is attached at Appendix E.

If an employee has an ongoing health problem where a recovery to full health is not imminent but they may be fit to work on a reduced hours basis, the manager and employee may wish to discuss alternative working patterns, if appropriate. In these circumstances, the manager should seek advice from the OHU and their HR Advisor before making any decision.

## **8. Return to Work Discussions**

Return to Work discussions are intended to enable managers to understand an employee's individual circumstances, and provide help, support and advice in relation to attendance at work.

Managers are encouraged to check on an employee's health and fitness for work after every absence, regardless of its duration, through informal discussions where appropriate.

Managers should follow the process for Return to Work discussions as set out below in cases where:

- The employee has been absent for more than 3 calendar days, and/or
- The employee's level of absence is unsatisfactory, and/or
- The manager wishes to discuss what support can be offered to the employee
- The manager considers that a more structured absence management approach is required.

The content and length of a return to work discussion will depend on the reason it is taking place. Where absence levels are not giving cause for concern, the discussion will generally be aimed at ensuring the employee is well again, and updating them on anything they have missed while they were absent.

Where a more detailed return to work discussion is necessary, the manager should arrange for it to take place as soon as practicable. Exceptionally, and with the agreement of their manager, the employee may have this discussion with an HR Advisor where there are issues of a personally sensitive nature to discuss. The aims of this discussion are as follows:

- To confirm that the employee is well enough again to be at work and carry out their duties
- To establish the following (not all may be applicable):
  - The reason for the absence
  - Whether or not medical advice was sought
  - Whether the sickness appears to be a 'one-off' or is likely to recur
  - Whether any work related issues are contributing to the employee's absence levels

- Whether there is any ongoing health issue that may affect the ability to work and/or attendance in future
- To ask the employee to sign the self-certificate section of the Return to Work Form, where appropriate <https://www.ed.ac.uk/human-resources/forms>
- To ensure the appropriate medical certification has been provided if necessary
- If appropriate, to inform the employee of the support services available e.g. Occupational Health and Staff Counselling; and
- To determine whether there are any implications for work resulting from their absence
- To update the employee on any news or events that have happened in their absence.

Following this discussion, managers must decide whether any further action may be appropriate, taking into account the guidance in Section 13 of this Policy.

The outcome of the return to work discussion may be:

- No further action is required
- Further discussion is needed on work-related issues that may be contributing to the absence
- Seeking further advice from HR or the OHU
- A referral to the OHU
- A Formal Attendance Review meeting.

The outcomes of detailed Return to Work Discussions should always be recorded on the Return to Work Discussion Form, which will be retained by the manager.

There may be times when, even though a management referral to the OHU is not appropriate, the employee may consider a self-referral if they feel it might be beneficial. However, managers should be aware that the outcome of a self-referral is confidential to the employee, unless the employee chooses to disclose any advice or information they have been given by the OHU.

Detailed guidance on making referrals to the OHU is available at Appendix F.

## **9. Unsatisfactory Absence Levels**

Managers must monitor the absence levels of all their employees in order to ensure that appropriate action is identified and taken when unsatisfactory absence levels are reached.

Unsatisfactory short term absence levels have been defined within the University as:

- 3 or more instances of absence within a rolling 6 month period or
- 10 or more days of short term absence in a rolling 12 month period.

Any periods of long term absence would also count towards the number of instances of absence in a 6 month period e.g. if an employee was off long term sick for a period of 8 weeks and then returned to work, this would count as 1 instance of absence.

- Managers may additionally decide that action is required before these levels are reached, in circumstances where an employee's absence record gives cause for concern, for example where:
  - The pattern of days of absence
  - Whether absences have been self-certified, or were covered by a GP's Fit Note
  - How the employee's work, and the work of their team, is affected by their absence pattern and levels.

If the employee's absences are nearing an unsatisfactory level, the manager must confirm this to the employee in the return to work discussion. The Manager may also point out to the employee that any further absences may result in formal action, depending on the individual circumstances involved.

Whatever the outcome of this discussion, the manager should let the employee know what action, if any, they intend to take. If the manager is considering taking formal action they should set this out in a letter to the employee as soon as possible after the return to work discussion.

Reaching an unsatisfactory level of absence is not necessarily a trigger for formal action under this Policy. It is a point at which managers should consider the circumstances of the case, and in particular they should:

- Consider the reason for the absence levels and whether action is appropriate in the circumstances
- Consider the employee's absence history prior to the 6 month period in question
- Consider whether the employee's absence levels are improving or deteriorating
- Take into account all relevant factors and consider reasonable adjustments, seeking advice from their local HR Advisor, if required.

Where any formal meetings are necessary due to unsatisfactory absence levels, the 'Guidance for Handling Formal Meetings' should be followed.

**[A Flow Chart outlining the main steps can be found at Appendix 1]**

## **10. Representation**

At all formal meetings held as part of the formal absence management procedure (below), the employee has the right to be accompanied by a Trade Union representative or workplace colleague. When arrangements for meetings are confirmed, it is the employee's responsibility to notify their chosen representative of the arrangements, and to notify the chair of the meeting of the name of the person accompanying them in advance.

## **11. Dealing with Frequent Absences**

Absences of any length of time can cause disruption to continuity of work, colleagues and customer service. As such, it is vital that such absences are managed in a way which, while supporting colleagues back to work, also highlights the importance of good attendance at work, and aims to reduce absenteeism.

### **11.1 First Formal Attendance Review Meeting**

If an employee's absences have reached an unsatisfactory level as described above, the manager will have confirmed to the employee during the return to work discussion that formal action is now being considered.

The employee should be invited to a Formal Attendance Review meeting with the manager and the HR Advisor, and should be given at least one week's notice. If a referral to the OHU has been made, a copy of the OHU report and the employee's detailed absence history will be provided to the employee with the letter inviting them to the meeting.

At this meeting, the manager will:

- Confirm to the employee that their absences have now reached an unsatisfactory level
- Discuss with the employee any advice and information received from the OHU
- Ask the employee to give their view of their own health situation, and any further information which they feel is appropriate
- Explore whether there are any circumstances at work which may be contributing to the absences.
- Discuss any reasonable adjustments which could be considered by the Manager to improve the employee's attendance.

If there are circumstances at work which are contributing to the absences, then these should be further explored outside this meeting, and where possible, resolved, before any further action is taken in relation to absence management.

After this meeting, the manager and HR Advisor will discuss the case and agree the outcome, which could be any of the following:

- That no further formal action is to be taken at this time, but that the employee's absence levels will be regularly reviewed for a specific period of time
- That reasonable adjustments will be made to help the employee improve their attendance
- That further medical advice or clarification is required before a decision is made
- That the employee is to be given a written warning for poor attendance.

The outcome of this meeting should be confirmed in writing to the employee within one week of the meeting.

If further medical advice is required before a decision can be reached, the manager should confirm this to the employee in writing, and let them know that they will write again once medical advice has been received and they have discussed it with the HR Advisor.

If the outcome is a written warning, the letter will specify the improvement required. The letter will remain on file for a period of 12 months before it is disregarded. Immediate and sustained improvement is required so that the employee reduces their absence levels to a satisfactory level, otherwise further formal action could be taken which may result in dismissal.

If the outcome is that a written warning is to be given, the letter will also confirm the employee's right of appeal. See section 12 for full details.

## **11.2 Failure to Make Improvements in Frequent Absence Levels**

If an employee has been given a written warning after a First Formal Attendance Review Meeting, then they should be given the opportunity to reduce their absence levels over the next 12 months, and this will be reviewed every three months.

If, during the 12 month period after the warning is given, the employee's absence levels do not improve then the manager must refer the matter to their manager or their nominated deputy, who will initiate a Second Formal Attendance Review Meeting. This could be at any stage during the 12 month warning period.

## **11.3 Second Formal Attendance Review Meeting**

The manager chairing the second formal attendance review meeting will write to the employee inviting them to this meeting giving at least one week's notice, where an HR Advisor will be present. They will confirm to the employee that they have the right to be accompanied by a Trade Union representative or workplace colleague.

Before the meeting takes place, the manager and HR Advisor will agree whether any medical advice is required. If so, they will arrange for a referral to the OHU, and the meeting will take place once the OHU have submitted their report to the manager, and the employee has also seen the report.

At this meeting, the manager will:

- Ask the employee to give their view of their own health situation, and any further information which they feel is appropriate
- Receive information from the line manager on any reasonable support or adjustments which have been put in place and review the impact on the employees attendance.
- Discuss any reasonable support or adjustments which could be agreed by the Manager to improve the employees' attendance.
- Explore whether there are any circumstances at work which may be contributing to the absences
- Discuss with the employee any advice and information received from the OHU
- Confirm to the employee that their absences are still at an unsatisfactory level.

If there are circumstances at work which are contributing to the absences, then these should be further explored outside this meeting, and, where possible, resolved, before any further action is taken in relation to absence management.

After the meeting, the manager and HR Advisor will discuss the case, and agree the outcome of the meeting, which should be confirmed in writing to the employee within one week of the meeting.

The possible outcomes are as follows:

- Further medical evidence is required before a decision can be made
- That reasonable adjustments will be made to help the employee improve their attendance
- A final written warning will be given if absence levels are still unsatisfactory.

If a final written warning is to be given, this will be placed on the employee's file for a further period of 24 months. The employee will be advised that a failure to reduce and maintain absence at an acceptable level throughout the 24 month period may result in dismissal.

In all cases, the employee will be advised of their right of appeal against any formal warning. See section 12 for full details.

## **11.4 Further Failure to Improve Absence Levels**

If, during the 24 month period after a final written warning is given, the employee fails to reduce their absence levels, and improve attendance to a satisfactory level, or where absence levels have increased during the 12 months following a written warning, the manager will refer the matter to their Head of School, College or Professional Service Department, or their nominated deputy, and arrangements for a Final Formal Attendance Review meeting will be made.

In advance of the meeting, a referral, or further referral may be made to the OHU for medical advice if required. The advice will be considered by the manager and HR Advisor before the meeting takes place.

The same process should be followed for this meeting as the Second Formal Attendance Review meeting outlined at 11.3. However, where there are no extenuating circumstances, the outcome of this meeting will normally be dismissal.

## **12 Appeals**

### **12.1 Making an appeal**

The employee can appeal a formal warning or dismissal within two calendar weeks of receiving their written notification. The outcome letter will make it clear to whom they must send their appeal. Employees must do so in writing, explaining the reasons for their appeal which must be based on one or more of the following:

- the process was not followed properly
- they have some new relevant evidence that was not available at the time of the meeting
- the sanction imposed was too severe.

If there is new evidence the employee must submit this with their appeal letter. If they don't provide any relevant grounds their appeal will not be taken further.

## **12.2 Written Notice of Appeal Hearing**

Should the employee appeal, another manager will be appointed as the Appeal Convener to hold an Appeal Hearing with them. They will be at least the same grade as the manager who decided to issue a warning or to dismiss the employee. They will write to the employee:

- asking them to attend a formal Appeal Hearing and giving details of the arrangements
- advising them of their right to be accompanied at the hearing.
- advising them of the names of one or two other managers who will form the panel to consider their appeal

Employees will be given at least one calendar week's notice of the meeting, which will normally take place within four calendar weeks of their appeal letter being received.

If the employee needs any adjustments or special arrangements to attend this hearing they must let the Appeal Convener know in advance, as the Appeal Convener may not be aware of their circumstances. The employee must also let them know if they will be accompanied by a trade union representative or workplace colleague. .

If the employee is aware of a conflict of interest that the appointed Appeal Convener has in relation to their case they must write to the person to whom they submitted their appeal specifying what the conflict is, and an assessment will be made about the person's objectivity. They will confirm their decision to the employee. If it is concluded that there is a conflict of interest a different manager will be appointed to carry out the role. The employee must refer to the [Policy on Conflict of Interest](#) before deciding to make an objection.

## **12.3 Rearranging the Appeal Hearing**

The employee, and their companion (i.e. their trade union representative or workplace colleague), if they choose to bring one, must make every effort to attend the hearing at the time and date that has been arranged. If they or their companion are unavailable to attend, the employee must notify the person arranging the hearing as soon as possible. They may request a postponement and suggest alternative times and dates normally within one week of the original date. Where a suggested alternative is feasible, the hearing will be postponed.

While every attempt will be made to accommodate the availability of the employee's companion, a postponement can only be agreed provided it does not cause unreasonable delay or disruption. Therefore, if their companion is unable to attend the

rearranged time, the employee should select a different companion who is able to be there.

If the employee fails to attend a rearranged Appeal Hearing without good reason, the panel may continue with the hearing in their absence and a decision will be made based on the evidence available.

#### **12.4 Appeal Hearing – Sanctions below dismissal**

The appeal panel will be chaired by the Appeal Convener who is at the same grade or higher than the manager who issued the sanction which is being appealed. There will be up to two other panel members and no one will have been involved with the case previously. At least one panel member will be from the same job category as the employee. This means that if they are an academic at least one panel member will be an academic or if they hold a professional services role at least one panel member will have a professional services role. A representative from HR may be there to advise the panel on process and there will be a note taker. The employee's manager will normally attend and may have a representative from HR with them.

The appeal panel will not rehear the case. It will review and decide whether the action taken by the employee's manager was fair and reasonable based on the reasons provided in their letter of appeal and during the Appeal Hearing.

The hearing will normally take place as follows:

- the manager will summarise reasons for the original outcome and sanction
- the panel will ask the manager questions
- the employee will respond to the summary given by the manager, put forward their point of view and may ask the manager questions
- the panel will ask the employee questions.

After the discussion the Appeal Convener will adjourn the hearing so that the panel can consider all they have heard. The employee will normally be called back to the hearing later in the day to be told the outcome. If the panel needs more time to consider the employee's appeal they will be told when they will hear the outcome.

#### **12.5 Appeal Hearing – Dismissal**

The appeal panel will be chaired by the Appeal Convener who will normally be from a different School/Professional Services Department to the employee who raised the appeal. There will be up to two other panel members and no one will have been involved with the case previously.

At least one panel member will be from the same job category as the employee. This means that if they are an academic at least one panel member will be an academic or if they hold a professional services role at least one panel member will have a professional services role. If they are an academic at grade 8 or above an external panel member will also be appointed. A representative from HR may be there to advise the panel on process and there will be a note taker. The manager who made the original decision to dismiss will normally be there and may have a representative from HR with them.

The appeal panel will not rehear the case. It will review and decide whether the action taken by the Chair of the Final Formal Attendance Review or Final Long Term Absence Review was fair and reasonable based on the reasons provided in the employee's letter of appeal and during the Appeal Hearing.

The meeting will normally take place as follows:

- the Chair of the Final Formal Attendance Review or Final Long Term Absence Review (see section 13) will summarise the reasons for the original outcome and sanction of dismissal
- the panel will ask the Chair of the previous meeting questions
- the employee will respond to the summary given by the Chair of the previous meeting, put forward their point of view and may ask the Chair questions
- the panel will ask the employee questions.

After the discussion the Appeal Convener will adjourn the hearing so that the panel can consider all they have heard. The employee will normally be called back to the hearing later in the day to be told the outcome. If the panel needs more time to consider your appeal they will be told when they will hear the outcome.

## **12.6 Outcome of Appeal**

The possible outcomes of an Appeal Hearing are:

- the appeal is turned down and the original decision is confirmed
- the appeal is supported and the sanction is removed or replaced with a lower one.

If an appeal against dismissal is supported the panel may additionally reinstate the employee to their role or explore opportunities for redeployment to an alternative role.

The Appeal Convener will confirm the outcome of the hearing in writing to the employee within one calendar week of the hearing. The decision of the appeal panel is final.

## **13. Long Term Absence**

Long term absence from work will normally be considered to be an absence which will last for more than four weeks. During a period of long-term sickness absence it is important for both the employees and the University that regular contact is maintained in order to reduce feelings of isolation for the employee, to ensure the manager remains informed about the likely duration of the sickness absence, and to keep the employee informed of any major workplace developments.

Accordingly, it is expected that employees will keep in contact with their managers to give an update on their situation and likely return to work date, and managers will ensure appropriate contact is undertaken to keep employees informed of workplace developments. The regularity of contact with the employee will be dependent on the circumstances of the case, and the nature of the medical incapacity/absence.

Where a potential return to work date is given after a long term absence, consideration should always be given to making a referral to the OHU, to assess the current ability of the employee to continue to carry out their work, and also whether a phased return to work is appropriate. Guidance on Phased Returns is provided at Appendix E.

On return to work, the period of long term absence should be counted as 1 instance of absence for the purposes of monitoring trigger levels contained within this Policy.

### **13.1 Long Term Absence Management**

Where there are indications that the sickness will be prolonged or employees are unable to indicate when they are likely to return, managers, in conjunction with their HR Advisor, will arrange a referral to the OHU. The University will take a sympathetic and considered approach to long term sickness absence and will take into account the following when determining the appropriate management action:

- The likelihood of improvement in health and return to work
- An assessment of previous and likely future absences due to ill health
- The possibility of redeployment to alternative work if this would be appropriate
- The approach adopted by the University to similar situations in the recent past, which will be confirmed by the HR Advisor
- The feasibility of making reasonable temporary adjustments to the employee's work, including reduced working hours, part-time working and other flexible working arrangements to facilitate a return to work
- Where the absence is a result of or linked to a disability, consideration will be given to making reasonable adjustments to the employee's job and working environment to assist a return to work.

In the event that employees refuse to attend an appointment, or to participate in a referral to the OHU, then a decision regarding management of the case will be made on the information available.

Where an employee is absent from work due to sickness for a prolonged period and has subsequently gone onto either half pay, or nil pay, they may request a period of paid annual leave, so long as they still have some annual leave remaining for the current leave year. In these circumstances, the employee will be paid their normal pay for the period of annual leave they wish to take. Where managers receive a request for Annual Leave in these circumstances, they should discuss the matter with their HR Advisor.

### **13.2 Long Term Absence Review Meeting**

Where appropriate, once advice has been received from the OHU, the employee will be invited in writing to a meeting with their manager and their HR Advisor to discuss the following:

- The advice from the OHU
- The employee's view of their health situation
- The prognosis and likely time scale for a return to work, if known
- Any other medical advice or opinion

- Support that could be offered by the University, prior to and/or on return to work.

The employee may choose to be accompanied by a Trade Union representative or workplace colleague, and at least one week's notice will be given (unless the employee agrees to less).

### **13.3 Continued Unfitness for Work**

If, on the advice of the OHU, and taking all circumstances into account, there continues to be no indication of a likely return to work, consideration will be given, in consultation with the employee, to the following:

- Redeployment to suitable alternative employment within the University if appropriate
- Waiting for a further defined period to see if the employee could return to work and give effective service in the future.

Where either of these is not possible or reasonable, then dismissal on medical incapacity grounds or ill-health retiral is likely to be the only remaining routes. Guidance on Ill Health Retiral is provided at Appendix B.

### **13.4 Dismissal due to Medical Incapacity - Long Term Absence**

If any of the following apply:

- The OH report indicates that the employee does not meet the criteria for retiral on grounds of ill-health
- The employee does not apply for retiral on grounds of ill-health
- The employee's application is rejected by the pension scheme, or
- The employee is not a member of the pension scheme.

then the manager and the local HR Advisor will arrange to meet with the employee, who may be accompanied to this meeting by a Trade Union representative or workplace colleague. In these circumstances, the member of staff may wish to be accompanied by a family member and this will normally be acceptable.

The manager and the HR Advisor will discuss the OH report with the employee and will give a clear indication of the implications of the report to the employee. In any decision taken as a result of the meeting, full consideration will be given to:

- All available medical information
- Any adjustments which have been made
- Any opportunities for redeployment
- Any adjustments which could be made but have not been made
- The requirement for any further medical information, if any
- The need to get the work done
- The requirement for that particular employee to do the work

- Any additional cost being incurred as a result of the employee's illness/infirmity
- Any other relevant information.

After the meeting, the manager and HR Advisor will make a decision as to whether, in all the circumstances, the employee should be dismissed.

If so, the manager will write to the employee confirming that the dismissal is to take place and setting out the following:

- The reason for the dismissal
- The date of termination of employment
- Any contractual benefits or rights such as outstanding annual leave
- The employee's right of appeal.

Arrangements for appeals against dismissal are set out in section 12.

### **13.5 Terminal Illnesses**

In cases of very serious or terminal illnesses, the University will make every effort to support the employee and to take their views into account when identifying ways to manage the situation. Managers should always seek advice from their HR Advisor.

Where an employee contributes to a pension scheme, they are strongly advised to seek pensions advice, as in these circumstances commutation of pension may be considered.

## **14. Policy History and Review**

This Policy was approved by CJCNC on 30 March 2011 and took effect from 1 April 2011. It replaces the following policies/documents: Sickness Absence: Policy and Procedures (Academic and Academic Related Staff) (SAM 6:30) and Sickness Absence Policy (non-Teaching Staff) (SAM 3:4) which ceases to apply from the same date.

A full review of this Policy was carried out, and amended as noted at Section 14.1, and was approved by CJCNC on 27 September 2013. In August 2021 it was amended to embed the appeals procedure and reflect organisational terminology.

In the event of any significant change to the legal position on absence management, relevant statutory requirements or any other related matter this Policy will be subject to immediate review in consultation with the Trade Unions. In the absence of such a change, the Policy will be reviewed again by December 2021.

### **14.1. Change control record:**

No.	Approval date:	Amendment made:	Approved by:
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1.	25 May 11	<b>Minor</b> textual amendment at Section 13 to update language in line with the Equality Act 2010.	HR Policy Development Working Group on behalf of CJCNC.
2.	1 Sep. 11	Section 5.2 Illness whilst on Annual Leave added and flow chart of the process included at Appendix 1	HR Policy Development Working Group on behalf of CJCNC.
3.	Sep. 13	<p><b>Full Review:</b> This Policy was reviewed which resulted in the following amendments being applied:</p> <p><b>Policy statement:</b> Minor textual amendments only and the inclusion of option of referral to OHU not just a GP if fitness for work is in question.</p> <p><b>Principles, Bullet 2:</b> Clarification on the process for underlying conditions which may have contributed to employee absence.</p> <p><b>Section 4, Management Responsibilities:</b> Inclusion of a bullet on the process when mental health issues are identified.</p> <p><b>Section 4, Employee Responsibilities:</b> Inclusion of three extra bullets to clarify and encourage employees to work and cooperate with managers on the procedures set out in the Policy.</p> <p><b>Section 5.1:</b> New section on the process for Routine Personal Health &amp; Welfare Appointments.</p> <p><b>Section 5.2:</b> Clarification on the process if employees are taken ill whilst out of the UK.</p> <p><b>Section 5.3:</b> Clarification on the process if employees are taken ill whilst on annual leave.</p> <p><b>Section 7:</b> An additional bullet on the return to work discussions and support that can be offered; and a bullet on provision of medical certification if appropriate, as part of the more detailed return to work discussion.</p> <p><b>Section 8:</b> Clarifying the process, and monitoring of, periods and instances of unsatisfactory absence levels.</p> <p><b>Section 10.2:</b> Inclusion of a bullet on discussing reasonable adjustments at the First Formal Attendance Review Meeting.</p> <p><b>Section 10.3:</b> Inclusion of bullets on reviewing the impact of any reasonable support or adjustments made, for discussion at the Second Formal Attendance Review Meeting.</p> <p><b>Section 11, Paras 2 and 4:</b> Clarifying the process for Long Term Absence.</p> <p><b>Section 11.4 and 11.5:</b> Clarifying the process for absence due to medical incapacity or terminal illness.</p> <p><b>Other:</b> minor, non-substantive textual amendments made throughout to improve readability, and renumbering applied where sections have moved to other parts of the Policy, or appended to it.</p>	CJCNC
3.	1 Jun 19	<p><b>Section 5.3:</b> minor amendment to include falling ill on a public holiday</p> <p><b>Section 12.1:</b> section added regarding taking annual leave during prolonged sickness absence</p>	HR Policy Development Working Group on behalf of CJCNC.
4	1 Aug 2021	Section 11.5 was changed to section 12 (all subsequent section numbers adjusted accordingly). Section 12 details the appeals procedure replacing the stand-alone 'Employment Related Appeals Procedure', which was decommissioned on the same date.	HRPDG

## **Appendix A - Dealing with Stress**

The University recognises that stress can be a common and sometimes unavoidable feature in the lives of many of its employees, both in and out of work. Stress can also be the root cause of mental ill-health, especially anxiety and depression.

Employees should, where possible, let their managers know they are suffering from stress at the earliest opportunity. Early intervention allows managers to provide support quickly, and access the relevant advice and guidance from their HR Advisor so that any issues at work which may be contributing to stress levels are resolved.

When an employee informs their manager that they are suffering from stress, but are still at work, they should work together to complete the Stress Risk Assessment, and aim to resolve any identifiable causes of stress in the workplace where possible. Managers should consider contacting their HR Advisor for advice in these circumstances.

For all cases where absences may be attributable to work related stress, the manager and employee must work together, ideally before the employee returns to work, to identify and if possible, alleviate any causes of stress at work. This could facilitate an earlier return to work than might otherwise have been expected. Further support will also be available from the Occupational Health Unit, whether the employee is absent from work or not.

Where stress has been identified as a current feature in the life of an employee and it is having a detrimental effect, managers should bring to their attention the confidential Staff Counselling service, which can be accessed by any of our employees.

Further guidance on dealing with stress at work is available through the Health and Safety section of the University's website.

## **Appendix B - III Health Retiral**

If the OHU have indicated that a request for retiral on health grounds is likely to succeed, the manager and the local HR Advisor will arrange to meet with the employee, who may be accompanied to this meeting by a Trade Union representative or workplace colleague. In these circumstances, the employee may wish to be accompanied by a family member and this will be given due consideration.

The manager and the HR Advisor will discuss the following with the employees:

- The OHU report, giving a clear indication of the implications of the report
- The role of the OHU and the Pension Department
- The ill-health retiral process
- Anticipated timescales
- Any alternatives to retiral on ill-health grounds.

If employees wish to consider applying for ill-health retiral, they will be given adequate time to seek any further advice which may be considered to be necessary before formally making a request.

## **Appendix C - Working with Disabilities**

The University is committed to taking positive steps to provide an environment where disabled employees can maximise their potential and contribute to the work of the University to the best of their ability.

In support of this Policy, the University will take positive action where an employee confirms that they have a disability.

Wherever practicable, the University will:

- Seek to retain any employee who becomes disabled during their employment
- Make use of the services and advice offered by Access to Work wherever appropriate to help retain existing employees who have become disabled, or new employees who have a disability
- Seek professional medical advice from the OHU when an issue of performance or attendance is raised in connection with an employee who is known to have a disability
- Seek to clarify whether an employee's medical condition is classed as a disability as defined by the Equality Act 2010, so as to understand the University's obligations
- Make reasonable adjustments to enable the employee to continue to make a valuable contribution to the work of the University.

### **Dealing with Absences Connected to a Disability**

Where an attendance issue has been raised in relation to an employee, and the manager or their HR Advisor recommend a referral to the OHU, consideration may be given to finding out through the OHU whether a medical condition would be classed as a disability under employment legislation, specifically if there is any doubt. This will ensure that managers understand exactly what the University's obligations are in relation to the particular employees.

Speaking to the OHU adviser before making a referral will give the manager the opportunity to understand what questions might be asked in the referral form.

### **Understanding the Legislation in Relation to Disability**

Legislation exists which promotes rights for disabled people and protects disabled people from discrimination. Employers have a duty to make reasonable adjustments where a provision, criterion or practice, or a physical feature of the employer's premises, places a disabled person 'at a substantial disadvantage in comparison with persons who are not disabled'.

Where the University has been informed that a disability exists, it has a legal responsibility to provide help to enable employees to carry out their duties.

## **Making Reasonable Adjustments**

Following the referral of employees to the OHU or Access to Work, managers may be advised of adjustments to consider which might enable employees to increase their attendance levels. Adjustments will vary depending on the type of role employees are employed to carry out, but could include:

- Adaptations to premises
- Re-allocating some duties which the employee cannot fulfil
- Altering working hours
- Finding alternative accommodation
- Modifying equipment, instructions or manuals
- Providing extra training.

In addition, where an employee's disability leads to frequent short term absences, a reasonable adjustment may be to accept a higher level of absence (taking into account OHU advice) when considering formal absence management action.

## Appendix D – Guidance for Working with Fit Notes

Fit notes provide information about an employee's ability to carry out their work.

A fit note will confirm either:

*That the employee is not fit for work:* this means that the GP considers the employee to have a health condition which prevents them from working for a specified period of time. It will also indicate if the GP needs to assess the employee's fitness for work at the end of the specified period. If the GP does not need to reassess the employee's fitness, they can simply return to work at the end of the specified period.

Or

*That the employee may be fit for work taking account of the following advice:* this means that the health condition the employee has does not necessarily stop them from returning to work, but they may not be able to return immediately to their normal working hours or duties.

In giving this option, the GP will indicate whether the employee could benefit from any adjustments to their duties, workplace or working hours, and may also comment on the functional effects of the employee's health condition. In these circumstances, the manager and employee should discuss whether a return to work is reasonably practical.

Employees who are provided with fit notes by their GP should forward them immediately to their manager so the implications can be discussed between the employee and the manager, regardless of when the employee is due to return to work, , regardless of the type of advice given by the GP.

When a GP has confirmed via a fit note that an employee can return to work, the manager should contact the employee so that they can discuss how the employee's return can be managed. The manager may also wish to seek advice from their HR Advisor and / or the Occupational Health Unit. There may be situations where managers believe it would be unreasonable or impractical for the employee to return to work at a specific time. In these circumstances, the manager should discuss the matter with the employee at the earliest opportunity.

Similarly, if an employee's fit note confirms that they can return to work without giving any advice about temporary adjustments to their hours, duties or workload, managers should contact the employee to discuss return to work arrangements, especially if the employee has been absent for a prolonged period.

It should be noted that the advice given by GPs on Fit Notes does not have to be followed by managers. However, in circumstances where managers feel the advice or recommendations cannot or should not be implemented, further advice and guidance should be obtained from the OHU or HR

Further guidance on fit notes can be access from: <http://www.dwp.gov.uk/fitnote>

## **Appendix E - Phased Returns to Work**

The University aims to be supportive and flexible with all employees who have been ill, allowing for an element of recuperation / rehabilitation where appropriate after a sustained period of illness through phased returns to work.

Phased returns to work are a useful tool in providing employees with an opportunity to return to work on a gradual basis after a long term illness or absence due to a medical condition which may be ongoing to some degree. Although phased returns are not necessary in all such cases and are not an absolute requirement, they can assist in allowing employees to return to work as early as possible, where they may not yet be fit for their usual working hours, or for their full duties. Without the phased return process, it is likely that many employees would remain absent from work for a longer period.

Phased returns also give both parties the opportunity to gauge the employee's ability to cope with their work, and a gradual increase in working time. Phased returns will always take account of the employee's individual circumstances, the reason for their absence from work, their role and the environment in which they work and whether the proposed arrangements can be accommodated within the needs of the business.

### **Phased Return Arrangements**

Phased returns can take many forms, but will normally last between two and six weeks, dependent on the nature of the employee's condition. In very exceptional circumstances, they may be scheduled to last up to a maximum of 12 weeks, or for less than two weeks. Typically, they are arranged so that employees gradually build up to working their usual hours over a defined period of time. An example of this could be where, on their return to work, a full time employee begins by working two days a week, and gradually increases to five days through working an additional day each week over two weeks until they are back to their full time hours.

Annual leave should not be substituted for those days away from work which are part of an agreed phased return to work programme.

However, there may be some occasions where accrued annual leave could form part of an extended return to work arrangement where advice received from either the GP or the OHU specifies a period of time for the return, but the employee feels they would benefit from a more gradual arrangement than advised.

### **Initiating a Phased Return**

Phased returns may be recommended by a GP on a fit note, and in these circumstances, the GP may provide some detail as to how the phased return might operate.

Additionally, employees, managers, HR or Occupational Health may suggest a phased return to work, even where the GP has not recommended it.

## **Agreeing to a Phased Return**

It is recognised that managers and employees may agree to, and successfully implement a phased return programme with both parties having full participation in its formation, without the input of HR and OHU staff.

If a GP has recommended a phased return on the fit note, then the manager may contact the employee at home to discuss how the arrangement might work. If both parties agree with the arrangement proposed, then they can make plans to implement it at the appropriate time. If however, the employee and manager disagree about the possibility of a phased return arrangement, or how it might operate, they should involve their HR Advisor and OHU at the earliest opportunity so that professional advice and guidance may be sought.

Additionally, where a phased return is thought to be appropriate, or is recommended by the employee's GP, but the manager and employee are unsure of the best arrangement, the HR Advisor and OHU should be contacted for professional advice and support.

There may be some situations where a proposed phased return cannot be accommodated due to specific working arrangements, local business needs, working or shift patterns, or because of other staffing issues. In these circumstances, the manager will do their best to accommodate a phased return, but final arrangements may need to differ from the original proposal.

Any alteration to a phased return as proposed by the OHU should be discussed with the OHU and an acceptable alternative explored or advice sought. In all cases, the arrangements for a phased return must be supported by the manager concerned prior to implementation.

## **The role of the Occupational Health Unit in phased returns**

The Occupational Health Unit will provide professional advice on a case-by-case basis to the manager concerned as and when required.

In order for the OHU to be able to provide suitable advice, the manager should provide them with the following information:

- The employee's job description and / or grade profile
- Any issues relating to the employee or their role, or local working arrangements which may impact on a phased return programme.

The OHU will be given access to any medical evidence held within the employee's College or Professional Service Group in relation to this specific absence, and may seek further medical evidence from the employee's GP if appropriate. They may also meet with the employee, and speak to the manager concerned, to ascertain their views.

In making their recommendation, the OHU will consider:

- The nature of the absence and any specific known medical condition
- The length of the absence and prognosis
- The normal pattern of work
- The nature of the work

- The requirement for the work to be done
- Any potential legislative and best practice considerations.

Once they have considered all the available information, the OHU will, following discussion with the manager, produce a brief report detailing the issues they have considered, and confirming whether, in their view, a phased return may be appropriate.

If a phased return is appropriate, the OHU will confirm how a phased return might operate, showing the proposed return date, the gradual increase in working time and the period of the phased return. The OHU will send their report directly to the manager who will discuss the report with the employee. If the manager cannot accommodate the phased return for strictly operational reasons, they should confirm this to the employee. The manager may then approach the OHU for advice about any potential alternatives.

It is for managers to agree what hours or days employees might work over the phased return period, in consultation with employees, taking into account the advice from the OHU.

Where the OHU report contains personal medical information which the OHU feels is necessary to support their provision of advice, the employee will have to provide consent to the OHU for that specific information being released to their manager.

### **Making a Referral to the Occupational Health Unit for a Phased Return**

In the majority of cases where employees have been absent from work for a sustained period, the OHU will already have had some involvement in the case. In these circumstances, managers should contact the OHU confirming the details of their referral, i.e. for professional advice and guidance in relation to a phased return to work.

In their requests, managers should include as much specific and relevant detail as possible. They must also let employees know that they have contacted the OHU, and allow them access to the correspondence they are sending to the OHU if they request it.

Managers are advised to speak to the OHU before sending their referral, to ensure that they are providing all the necessary information needed, but also to ensure that they are asking the right questions in the referral process.

The manager must explain to the employee why they are making this referral before the form is sent to the OHU.

### **Monitoring Phased Returns**

Throughout the phased return to work period, managers and employees should review how well the arrangement is working on a regular basis. The manager should report any difficulties to their HR Advisor and the OHU if they feel further support and advice is needed, or a change to the arrangement might be necessary.

Where employees are coping well with the return to work, but are unable to carry out some of their duties because of the effects of their medical condition, the manager and employee should discuss what adjustments could be made to their work, or working

methods, to enable them to continue. Further guidance is contained in the section of the document relating to disabilities.

A phased return to work may be considered to be a reasonable adjustment. However, if employees have not been able to return to the full range of duties and hours of work at the end of the scheduled period, it will be necessary to consider what other reasonable adjustments may be made. These could include a move to part time working for which the employee will be paid for actual hours worked, or using accrued annual leave to allow full pay to be maintained for an agreed period.

### **Salary Payment During a Phased Return to Work**

Prior to a period of phased return, employees may have been on full Occupational Sick Pay (OSP), half OSP or no OSP. However, during the full scheduled period of a phased return, employees will be placed on their normal contractual pay.

Although the employees may still be absent for part weeks or days as part of a phased return, these pre-agreed absences will not be classed as sick absence, and therefore will not contribute to the accrual of sick leave for the purposes of calculating sick pay entitlement.

## **Appendix F - Making Referrals to the OHU**

The OHU, in the context of this Absence Management Policy and procedure, aims to assist managers in supporting employees returning to, and remaining at work following ill health, whether absences have been short or longer term.

They will provide professional support and advice to managers and HR Teams to help them deal with individual absence issues in accordance with best practice, taking all appropriate medical information into account with a view to enabling effective attendance.

Referrals to the OHU should be made as quickly as possible so that positive action can be taken in good time.

In any circumstance where managers or local HR Teams agree that the professional input of the OHU is required, managers must complete the OHU Referral Form. This form captures the details of the manager and employee, the employee's role, and the medical condition(s) the employee is or has been suffering from.

The form itself contains some standard questions for which managers may seek a response from the OHU. However, there is the opportunity for managers to ask other, very specific questions in relation to the individual employee. The OHU referral process is one which is designed to provide managers with the information they need to help them make a decision about how to deal with the absence(s) in question.

To make sure the referral process works well, managers should seek advice from their HR Advisor, and are encouraged to talk to the OHU in advance of completing the referral, to make sure they are asking relevant questions, and obtain the best possible information to enable them to make informed decisions. Managers should also discuss with the OHU at this point whether they believe a referral by the OHU to the employee's GP may be necessary.

Example questions which may be put to the OHU could include:

- This employee has had six short periods of absence in the past three months, all of which appear unrelated. Is there any underlying condition which has led to these absences?
- Are there any adjustments we could consider making to the role to accommodate an early return to work, or provide more effective service?
- This person is a lone worker – with this in mind, does their medical condition make it unsafe for them to return to work at this stage?
- Is the employee's condition likely to be classed as a disability under employment legislation
- Have any workplace issues / relationships contributed to the absence levels of this employee? If so, what are they?

Managers must always let employees know that they intend to refer them to the OHU, and they must also explain why they are making the referral. If employees request a copy of the referral form, managers should provide it for them. Similarly, the OHU may provide employees with a copy of their report if they request it.