

SUPPORTING EMPLOYEES DIAGNOSED WITH A TERMINAL ILLNESS

Management Guide

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This charter sets out an agreed way in which our employees will be supported, protected and guided throughout their employment, following a terminal diagnosis.

- We recognise that terminal illness requires support and understanding and not additional and avoidable stress and worry.
- Terminally ill workers will be secure in the knowledge that we will support them following their diagnosis and we recognise that, safe and reasonable work can help maintain dignity, offer a valuable distraction and can be therapeutic in itself.
- We will provide our employees with the security of work, peace of mind and the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss.
- We support the TUC's Dying to Work campaign so that all employees battling terminal illness have adequate employment protection and have their death in service benefits protected for the loved ones they leave behind.

Paula Clark, Chief Executive on behalf of University Hospitals of North Midlands NHS Trust
 Ian Houston, Staff Side Chair on behalf of University Hospitals of North Midlands NHS Trust
 Lee Barron, Regional Secretary on behalf of TUC

INTRODUCTION

University Hospitals of North Midlands NHS Trust is committed to treating its employees with dignity and respect, managing staffing and employment matters with sensitivity and compassion.

The Trust has affirmed its commitment to supporting terminally ill employees with dignity, respect and compassion by signing up to the Trade Union Congress' "Dying to Work" [Voluntary Charter](#), setting out the agreed way in which employees will be supported, protected and guided throughout their employment following a terminal diagnosis.

This guidance is designed as a resource for managers to assist them in supporting an employee who has been given a terminal diagnosis, and can also be used as a support framework for those employees themselves. Managers should read this guidance in conjunction with the [Sickness Absence Management Policy](#) HR14.

Managers have an important role to play in managing team members with terminal illness and need to be given the tools and training to perform this role sensitively and effectively:

- Managers are often the first point of contact in the workplace for an employee who has received a terminal diagnosis.
- They are central to discussions on work adjustment, work retention and workload.
- By handling communications well, managers can do a great deal to ensure the situation is as stress free as possible.

IMMEDIATE ACTION FOLLOWING A DIAGNOSIS

In most cases, a line manager will be aware that an employee is suffering with ill-health, and that the employee may have incurred absence as a result, although this isn't always the case. The employee may be currently absent from work or have continued to attend work. A line manager may be aware that an employee is receiving support from a medical practitioner, and / or undergoing medical tests or treatment, but some employees may not be aware of any medical condition until such a diagnosis is made. The important thing to remember is that each individual and each case is different, and individuals will manage such a diagnosis in a range of ways. Line managers will be keen to ensure that they support employees with sensitivity, compassion and flexibility.

When an employee first informs a manager of serious ill-health or terminal illness, it may be a difficult and distressing conversation for both parties to have. All employees will deal with such a conversation differently, and it is important to handle the conversation as the employee wishes. The employee may not know at that stage what their wishes are, so it is important to give the employee the space and time they need to take in the news they have received, but also ensure that appropriate support and opportunity to discuss the matter with you as a line manager or another suitable party is offered. This could be a colleague or alternative manager, Occupational Health, Staff Counselling Service or Staff Side Representative.

All discussions with the employee should be handled sensitively and empathetically, and any immediate or early [conversations](#) are likely to cover the following areas:

- How the employee feels and their immediate reactions to their diagnosis. Be sensitive to the needs of your employee and understand that each individual's case is different.
- Any treatment they are due to undergo and the likely impact of this treatment, including any impact on their ability to attend work, whether in the immediate term the condition or

treatment is likely to lead to sickness absence, any support or adjustment which can allow the employee to remain in work, and whether flexibility is required with regard to working time and / or time off to attend appointments / treatment.

- What colleagues within the team know and what the employee would like colleagues to be told – this includes who they would like to be told, who will tell colleagues and what information they wish to be shared. The employee's privacy must be respected; if they don't wish for colleagues to be informed this has to be honoured.
- Any financial impact upon the employee and sources of support we can provide as an employer. This can include reference to sick pay entitlement. It can also include at an appropriate time discussion with regard to options with regard to their pension through the NHS Pension Scheme.
- Reference to appropriate information within the Trust including services such as Occupational health, the Staff Counselling Service, relevant policies and procedures including the Sickness Absence Management Policy, sick pay entitlements and time off to attend appointments, and relevant information such as pensions and any further contacts for support.

Managers should ensure that they:

- Are sensitive to the needs of the employee and allow the employee the time they need to discuss the matter with you in a private place.
- Listen and show the employee that they are listening, giving time for the employee to share whatever information they feel comfortable sharing, at their pace. Don't be afraid to ask questions to seek to identify the right information to help you to support the employee.
- Check guidelines, policies and procedures in advance of any planned meeting to ensure the correct support can be offered.
- Are willing to explore whether any adjustments or support can be made, including flexibility to permit an employee to attend medical appointments and / or recuperate from any procedures if they are able to remain in work.
- Only inform colleagues with the express agreement of the employee, having agreed with the employee what information will be shared, who by, and what involvement the employee wishes to have in such discussions. In discussing matters with colleagues, managers are encouraged to avoid personal or excessive detail, speak factually, and outline to staff whether the employee wishes for colleagues to discuss the matter with them or not.

It is acknowledged that discussions of this nature may be difficult for managers. Macmillan offer specific advice and [guidance for managers](#) on discussing a cancer diagnosis with staff, and managers are encouraged to access this guidance to prepare for detailed supportive discussions with staff in these particular cases. Macmillan also offer e-learning entitled '[Cancer in the Workplace](#)' which managers are able to access.

SUPPORTING AN EMPLOYEE WITH A TERMINAL ILLNESS IN WORK

An employee may be well enough and may wish to remain in work despite their diagnosis. Additionally, it has to be acknowledged that individuals have different views about work and also different priorities with regard to their personal and family life. Therefore some individuals will wish to remain in work as long as possible – indeed; it can be therapeutic to an employee to remain in a safe and supportive working environment for as long as possible; for others their priority may be to spend time with loved ones. In such a situation it is important that line managers engage in regular

supportive welfare discussions with the employee with regard to their health and ability to remain in work.

It is understandable for line managers to be concerned for the health and safety of an employee remaining in work with such a diagnosis, however in some cases the diagnosis may not in the immediate future prevent an employee from attending work and may in the medium term only require small adjustments to the role or work environment. Any support or adjustments required should be explored with the employee and Occupational Health as appropriate. It would be useful in such a situation to [risk assess](#) the role alongside the employee to consider which aspects may present any difficulty and how this difficulty can be removed to allow the employee to remain in work.

As a terminal diagnosis may be covered by the [Equality Act](#), there is a duty on an employer to consider and implement reasonable adjustments. The likely scope of a reasonable adjustment would depend on the employee's health and their particular job role; however these can be adjustments to the role itself, adjustment or removal of particular duties, adjustment to the work premises or work environment, working from home, flexibility in hours, or even redeployment to an alternative role if this is available. Specific advice on adjustments would need to be obtained from Occupational Health in most cases, or may be a recommendation from a GP 'Fit Note' or Consultant Report.

It is important to note that the medical and psychological impact of their diagnosis can change over time, so line managers need to ensure that they make arrangements to regularly review the situation alongside employees to consider their current ability to remain in work, current treatment and time-off needs, and any support and / or adjustments which are in place. The employee's wishes with regard to communication both with the line manager and within the team may change over time, so line managers are encouraged to continue to seek the employees' views with regard to communication.

An employee who is able to remain in work may require time off to attend appointments in relation to their condition. Time off to attend appointments can be considered in line with the [Sickness Absence Management Policy](#) HR14. Line managers are also reminded that, in such circumstances, consideration should be given to whether further flexibility can be afforded to the employee to allow them time off to attend appointments and / or treatment and / or rest following such appointments.

Employees who are able or want to remain in work may incur short to medium-term absences covered by a GP 'Fit Note'. Managers should be aware that advice contained within a GP Fit Note is considered medical advice and should be taken into account should any recommendation be made for adjustments to the role or supportive measures for an employee.

Employees can seek further information via the [Flexible Working Policy](#) HR51 on the options available to them to consider in supporting them to remain in work. This could allow an employee to have a reduction in hours, a change in working days or work pattern, or increased ability to work from home, subject to approval from the service.

SUPPORTING AN EMPLOYEE WITH A TERMINAL ILLNESS WHO IS ABSENT FROM WORK

Managers are encouraged to establish directly with the employee the method and amount of contact is agreeable to both parties to have, bearing in mind that this may change over time and to therefore keep this under review.

Managers are also encouraged to discuss with employees whether they wish to receive contact from colleagues during their period of absence and if they wish to receive other updates with regard to work, and how they wish to receive these.

Again, it is important to recognise that all individuals are different; some would wish to maintain regular contact and keep up to date with all of the latest information with regard to work, whereas some would wish to have minimal contact.

Line Managers are encouraged to refer to the [Sickness Absence Management Policy](#) HR14 to determine if and when a referral to Occupational Health should be made in individual cases.

SICKNESS ABSENCE MANAGEMENT PROCEDURES

As broadly outlined in the introduction of the [Sickness Absence Management Policy](#) HR14, the Trust is committed to supporting employees, with the intention of the policy is to be as supportive as possible to employees depending on their circumstances balanced against service need. As such, the broad principles of the policy will continue to apply in cases of terminal illness.

Absence triggers do not always therefore lead to formal action where there are compassionate circumstances, and instead should be used to prompt positive interventions such as Occupational Health referrals and reasonable adjustments.

As referenced under point 1.5.3 of the [Sickness Absence Management Policy](#) HR14, in the case of a terminally ill employee, there is a need to consider the individuals circumstances and their continued employment with sensitivity and compassion, and as such, managers are expected to exercise maximum discretion before taking any action under the formal steps of the procedure.

ILL HEALTH RETIREMENT

Some employees may choose to give up work when they receive a diagnosis of a terminal illness, as this may allow them time to focus on treatment and on personal and family matters. The Trust affirms its commitment through the voluntary charter to allow employees the time to consider the options available to them and wherever possible, manage the situation as the employee wishes. Some employees may therefore wish to be considered for ill health retirement, which will allow release of their pension benefits early on health grounds.

Employees are encouraged to seek independent financial advice in considering the options available to them, and are encouraged to seek pension's estimates with regard to the benefits they may expect to receive if they take this option. The employee is able to seek support from their line manager or their Trade Union Representative to liaise with the NHS Pension Scheme to obtain such estimates. The Trust has a Pensions Officer within the Payroll Department and [contact details](#) can be found on the intranet.

Employees are also encouraged to take time to carefully consider the options available to them and to not make any irrevocable decisions with regard to their finances.

To qualify for [ill health benefits](#) under the NHS Pension Scheme, the Trust as the employer would need to have received independent medical authorisation through Occupational Health that the employee meets the criteria for early release of their pension. If an employee is diagnosed with a terminal illness and the Independent Medical Advisor acting on behalf of Occupational Health indicates the life expectancy of the employee is less than 12 months, the employee will be provided with the option to commute their pension to a one-off lump-sum.

DEATH IN SERVICE

Some employees may identify that in a financial sense, benefits payable through [death in service](#) is the most appropriate option for them. Again, the Trust, through its commitment to the voluntary charter, seeks to allow employees to take the decision which is right for them and where possible will support an employee who wishes to choose this option.

Again, employees are encouraged to seek independent financial advice in considering the options available to them and if possible to seek pension's estimates with regard to the benefits they may expect to receive if they take this option. The employee is able to seek support from their line manager or their Trade Union Representative to liaise the NHS Pension Scheme to obtain such estimates. The Trust has a Pensions Officer within the Payroll Department and [contact details](#) can be found on the intranet.

TERMINATION OF EMPLOYMENT ON THE GROUNDS OF ILL HEALTH

The Trust has, on 21 December 2017, signed up to the TUC "Dying to Work" Voluntary Charter, signalling its commitment to support employees who are diagnosed with a terminal illness in accordance with their wishes wherever possible. What this means in practice for employees who have been diagnosed with a terminal illness is different in each case, however it is clear that financial matters can be a worry for individuals. Whilst some employees are members of the NHS Pension Scheme and have options available to them in respect of their pensions in such circumstances, it is acknowledged that not all employees are members of the NHS Pension Scheme.

The Trust, in signing up to the [Voluntary Charter](#), has indicated that it supports the TUC's Dying to Work campaign so that all employees battling terminal illness have adequate employment protection and have their death in service benefits protected for the loved ones they leave behind. In practice, in some individual situations, a termination of employment on the grounds of ill health, managed in the most sensitive and dignified way, may be of financial benefit to an employee who is diagnosed with a terminal illness, particularly where an employee has exhausted sick pay entitlements.

In considering all options available to an employee who is diagnosed with a terminal illness and considering their options in respect of their employment, managers are encouraged to gather relevant information to share with an employee.

SOURCES OF SUPPORT AND INFORMATION

[ACAS Guidance](#) – The Equality Act and Cancer, MS and HIV

[Macmillan](#) – A guide for employers – supporting employees affected by cancer

[Dying to Work](#) – The TUC Campaign

[NHS Pension Scheme](#) – Guidance and information