NHS Barnet Clinical Commissioning Group (CCG)  
Staff Affected by Change Policy

| **Responsible Person:** | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accountable Director:</strong></td>
<td>Director of Quality &amp; Governance</td>
</tr>
</tbody>
</table>
| **Ratifying Committee(s) and Date:** | Previously approved by:  
NHS NCL PCT Board  
NHS NCL PCT Senior Leadership Team 16.09.2011  
NHS NCL PCT Joint Partnership Group 20.09.2011  
Barnet CCG Governing Body – Sept 2013 |
| **Version:** | V 1.0 |
| **Available On:** | Intranet | Website |
| **Related Documents:** |  
- All other HR policies  
- Barnet CCG’s Risk Management Strategy |
| **Applies / Disseminated To:** | All staff |
| **Date Of Final Approval:** | |
| **Date Of Implementation:** | |
| **Date Of Next Formal Review:** | BCP to be updates as and when changes occur |

**Document Control**

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>19</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>19</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. **Introduction**

1.1 NHS Barnet Clinical Commissioning Group (referred to as Barnet CCG from hereon) actively manages its services so as to commission the most effective health care for patients and clients within its resources. It recognises that as a result of this, changes may need to be made to Barnet CCG’s organisational requirements which may affect staffing needs.

1.2 A model document has been developed so as to provide a unified approach to the issue of major organisational change by NHS organisations in London and Barnet CCG has decided to use this model as the Barnet CCG policy. “Major organisational changes” will include the reorganisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, or a major change in working practice. All such changes will be conducted in accordance with this document which incorporates best practice and legal requirements and aims to provide a framework for common understanding for managers, staff and trade unions.

2. **Purpose**

2.1 The purpose of this document is to set out Barnet CCG’s approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change.

2.2 The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the provision of the highest quality provision of patient care.

3. **Scope**

This document applies to all NHS staff employed by Barnet CCG, including those who are seconded out to another organisation and will be applied consistently and equitably to all staff. It does not apply to staff employed by another organisation and seconded into Barnet CCG (those staff are the responsibility of their substantive employer) or to agency staff.

4. **Definitions**

For the purpose of applying the provisions contained in this document, the following definitions shall have the following meanings:

Continuous Service means full or part time employment with Barnet CCG or any previous NHS employer provided there has not been a break of more than one week (Sunday to Saturday) between employments. This reflects the provisions of the Employment Rights Act 1996 and Agenda for Change handbook (where applicable) on continuous employment.

Reckonable Service means Continuous Service plus any service with a previous NHS employer where there has been a break of 12 months or less. At Barnet CCG’s discretion any period of employment outside the NHS which is relevant to NHS employment may be counted as Reckonable Service.
Redeployment means the transferring or recruitment of Staff At Risk into a suitable alternative post.

Ringfencing means the process by which Staff At Risk will be considered for a post in a new staffing or management structure which is similar to their current post and where there is more than one contender for that post.

Slotting In means the process by which Staff At Risk are confirmed into a post in a new staffing or management structure which is similar to their current post and where that individual is the only contender for that post. Slotting in may occur where a post is in the same band as the individual’s current post (or possibly a lower grade, in which case pay protection might apply) or where it remains substantially the same (usually defined as 70% the same) with regard to job content, responsibility, grade, status and requirements for skills, knowledge and experience.

Staff At Risk means staff whose posts may potentially be redundant as a result of organisational change if suitable alternative employment cannot be found.

TUPE means the Transfer of Undertaking (Protection of Employment) Regulations 2006.

CHANGE MANAGEMENT

5. Statement and principles

5.1 Organisational change is driven by the business needs of Barnet CCG. Change can be triggered either by the external environment or by an internal review of service requirements. Examples of significant organisational change include the reorganisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, or a major change in working practice.

5.2 In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable consultation with staff affected. Any situation which may lead to redundancy will not be deemed to be a minor change.

5.3.1 Barnet CCG is responsible for deciding the size and most efficient use of the workforce but in doing so is committed to the following principles for managing organisational change:

- Barnet CCG will provide such information about the proposed organisational change as it would be in accordance with good industrial relations practice to disclose to staff and the trade unions.

- Staff will receive notice of any organisational change which may affect their futures at the earliest opportunity.

- Staff will be treated as individuals with due regard to their personal and employment circumstances and their career aspirations at all stages of the change management procedure.
- Staff will have the right to be accompanied by a trade union representative or workplace colleague at meetings to discuss the organisational change.

- Requests by the employee for additional support at any individual meetings will be considered, e.g. where disability is involved and familiarity with the impairment or the individual or specialist input would be beneficial.

- Barnet CCG will consider all reasonably practicable steps to avoid compulsory redundancies.

- Staff will receive training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities, with funding and time to attend training and development activities given.

- Staff will have access to Barnet CCG's counselling services and career support will be available as appropriate.

6. **Duties and responsibilities**

6.1 Staff are central to the achievement and success of organisational change. Barnet CCG acknowledges that change can cause concern and uncertainty and should therefore be managed fairly and consistently in accordance with established good practice.

6.2 Barnet CCG recognises the need, wherever possible, to engage staff in any change management procedure. Staff also have a role to play in this procedure.

- Managers are critical to the change management process and shall therefore be regularly briefed so that they are in a position to respond to the concerns of staff in their teams. In turn managers should provide information to staff and trade unions so that they are able to make meaningful contributions to the consultation process.

- Managers must ensure that no member of staff is discriminated against on the grounds of ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status, when applying this policy. Managers should have had formal training in Equality and Diversity. As part of their essential training they can be made aware of the associated equality and diversity issues by a HR team member.

- Managers should liaise with HR to ensure Barnet CCG is not open to claims of discrimination as a result of a change management process and should be mindful of the need to consider making reasonable adjustments at the job design stage, when considering the suitability of alternative employment for an individual and in the arrangements for filling posts.

- Staff are expected to play an active role during the pre-consultation and consultation stages, in the further processes of implementation and in identifying new career opportunities.
Trade unions play a vital role in advising and representing staff undergoing organisational change and in working with managers to ensure that organisational change is managed with the least disruption to services to patients and in accordance with the principle of avoiding compulsory redundancies wherever possible. Barnet CCG will formally notify the trade unions of any proposed organisational changes and will undertake consultation with them in line with legal requirements.

So as to ensure that staff side is able to fully participate in the process, which may require frequent meetings with management and in particular affected staff, Barnet CCG will be expected to arrange paid time off facilities for agreed members of the staff side, over and above existing arrangements where warranted by the scale of the process.

CONSULTATION

7. Purpose of consultation

7.1 In accordance with legislation and the partnership working principles of the NHS, Barnet CCG commits itself to meaningful and appropriate consultation with trade unions and staff affected by the organisational change with a view to reaching agreement on the way forward although there will be times when organisational change will need to proceed without a consensus being reached on all issues. The timing and extent of consultation will be proportionate to the degree of proposed change, the number of staff affected and the impact on individuals.

7.2 The purpose of the consultation meetings with trade unions and staff will be:

- to receive and where possible address any questions on the consultation document
- to consider any comments or views on the consultation document including any alternative proposals and costings (which Barnet CCG shall as far as practicable make available) before determining any final decision to proceed
- to clarify any change processes and timeframes specific to the proposed organisational change exercise under discussion.

8. Consultation Procedure

8.1 Managers shall prepare a consultation document on the proposed organisational change having gathered information to support the need for change and consulted with HR as appropriate.

8.2 The consultation document may include details of the following, as appropriate:

- current situation analysis including staffing structure
  - an equality impact assessment which must be completed and appended
- impact on service/business
- impact on supplementary and ancillary services
- consideration of any relevant health and safety assessment
- the need for change and the rationale behind the change
- the options that have been considered
- the proposals for change including the proposed staffing structure(s) and any location change
- the financial, staffing and workload implications of the proposals
- the number and grades/bands of staff who may be at risk of redundancy as a result of the proposal
- proposed timescale for consultation and implementation of the proposed change
- the way in which staff will be selected for posts within the new structure or transferred
- if necessary, the selection criteria for redundancy
- the measures to be taken to avoid compulsory redundancies which may include natural wastage, redeployment with retraining, or voluntary early retirement or voluntary redundancy
- details of any suitable alternative employment which may exist
- details of how this information will be disseminated to staff
- description of the consultation process, including planned meetings, timetable, and how staff and representatives can respond and the deadline.

9. **Time periods for consultation**

9.1 In all cases Barnet CCG will allow sufficient time for meaningful consultation with staff and their representatives. In exceptional circumstances where changes need to be made very quickly, the trade unions will be briefed immediately and the verbal briefing will be followed by a written brief.

9.2 In a collective redundancy scenario, consultation will continue for a period of no less than the statutory time scales:

- where 20-99 redundancies are proposed consultation should commence at least 30 calendar days before the first redundancy takes place
- where 100 or more redundancies are proposed then consultation should commence at least 90 calendar days before the first redundancy takes place.
9.3 In an individual redundancy scenario, consultation will normally start at least 30 days before any individual notice of redundancy is given, however consultation may be for a shorter period, if jointly agreed by the parties.

9.4 Trade unions and staff may request additional information or an extension of time if this is necessary to enable them to understand and contribute to an informed discussion on the merits of the proposal. Such requests will not unreasonably be refused, and where they cannot be accommodated a reason will be given.

10. Consultation with the trade unions

10.1 Early informal consultation with the trade unions is encouraged and should occur where possible. This is also known as pre-consultation. Meaningful pre-consultation often leads to an agreed shorter formal consultation time and greater staff satisfaction with the process.

10.2 Formal consultation with the trade unions will commence within the minimum timescales above once any informal comments have been considered and the consultation document has been finalised. This will take the form of:

- ongoing discussions with the local accredited representatives
- trade unions representing staff affected by the change should be invited to the first meeting with all affected staff and given reasonable notice to attend.

10.3 In a redundancy scenario, the information provided in writing to the trade unions shall include the following:

- the numbers and descriptions of employees whom it is proposed to dismiss as redundant
- the total number of employees of any such description employed by NHS Islington at the establishment in question
- the proposed method of selecting employees who may be made redundant
- the proposed method of carrying out the process of redundancy, with due regard to any agreed procedure, including the period over which the dismissals are to take effect
- the proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to employees who may be dismissed.

10.4 During a period of change, management will ensure that trade unions are kept informed of developments and will meet with the trade unions as appropriate.

11. Consultation with individual staff

11.1 A meeting will be held with all staff affected by the organisational change to announce the proposed change and explain the consultation process which will follow.
11.2 Each member of staff affected by the organisational change will be provided with a copy of the consultation document. Staff who are absent from work for any reason including maternity leave, sickness absence, secondment to another organisation, career breaks will be sent a copy of the consultation document at their home address/other suitable address so that they can participate in the consultation process.

11.3 Each member of staff will be offered the opportunity of at least one individual meeting with their manager at which they have the right to be accompanied by a trade union representative or workplace colleague. HR advisory support will also be offered. In a redundancy scenario, the meeting will be to discuss the issues set out at paragraph 15.3.

11.4 At the meeting, each member of staff will be invited to comment and respond to the proposals, including how they may impact on their personal circumstances. It is recognised that staff may require time to respond and may not be able to do so at that particular meeting.

11.5 A written record of the individual meetings will be kept and provided to the employee and their trade union representative where applicable. The record will be a note of the main points discussed at the meeting, not verbatim notes.

11.6 Regular updates and frequently asked questions may be circulated to staff throughout the formal consultation period. Throughout this period staff should be encouraged to discuss their concerns and queries with their line manager and trade union.

11.7 In addition to the individual consultation meetings, staff can be kept informed by management, team meetings and briefings, newsletters, trade union meetings, email and other written communication and information supplied by the trade unions.

12. End of consultation

12.1 At the end of the consultation period the manager will give full consideration to all comments received from staff and the trade unions and will make a decision on the way forward. A written report will be provided to the staff and trade unions covering the change process to be followed and the timeframe. The report may include:

- the reasons for the decision
- equality impact assessment
- any relevant health and safety assessments
- an explanation where the management decision is in conflict with the views of the trade unions representatives and staff or where the proposal has changed as a result of consultation
- identification of posts which are the same or substantially the same in the old and new structures
• arrangements for filling posts via Slotting In or Ringfencing
• selection arrangements for posts within the new structure
• measures that will be taken to avoid compulsory redundancies
• arrangements for seeking suitable alternative employment
• reference to Barnet CCG’s protection arrangements and how these will apply
• support for staff who are affected by the change, including career counselling and reasonable time off to seek other employment or undertake training
• proposed timescales for each stage of the change process.

12.2 Where redundancies are inevitable Barnet CCG will set selection criteria for inclusion in the conclusions to consultation. These criteria should be objective, clearly defined, measurable and non discriminatory. Managers should seek advice from HR on the selection criteria to be used to ensure Barnet CCG is not open to legal challenge. Selection criteria will be discussed, and where possible agreed, with trade unions. Under normal circumstances, staff will be selected on the basis of their relevant skills, experience and qualifications to undertake the remaining jobs, as assessed through formal interviews held in accordance with Barnet CCG selection procedures. However there may be occasions where alternative selection criteria are agreed with the trade unions during the consultation process, such as for example;

- Conduct and performance (as evidenced through the disciplinary and performance review records)
- Attendance records (due regard will be had to the causes of absence and the equality impact of use of this criterion)

12.3 In considering any measures to avoid compulsory redundancies, including requests for voluntary redundancy or early retirement, operational efficiency and service needs must be taken into consideration. If a member of staff volunteers for redundancy/early retirement, approval of the request will be subject to the needs of the service and the cost implications. Care must be taken to ensure that decisions are based on sound organisational reasons and do not breach equality legislation.

13. Support for staff

13.1 All staff affected by the organisational change will be encouraged to seek the advice and support of their trade union. Relevant support will be provided by Barnet CCG and may include:

- help with the production of CVs/application forms (including assistance with NHS Jobs)
- help with preparation for interviews
- careers advice
- support in developing coping strategies and stress management, with support of the counselling service
- time to meet with recognised trade union representatives to discuss the change
- further assistance to staff who are at risk of redundancy will include reasonable time off to seek other employment or undertake training
- placement on NHS NCL’s staff at risk of redundancy register.

13.2 Even after the change has taken place, Barnet CCG acknowledges that staff may take some time to adjust to the change itself. Managers should remain available to staff to manage any issues that arise and support staff through the transition.

14. The process for filling posts in the new structure

14.1 There will be two stages in the process for filling posts in a new structure:

- Stage One takes place amongst the staff that are affected by the change. Posts in the new structure are filled either by Slotting In or by Ringfencing

- Stage Two is where wider competition takes place for any posts that remain vacant in the new structure following Slotting In or Ringfencing. The post can then be opened up to access by any Staff At Risk on NHS NCL’s at risk register for whom the post is considered suitable alternative employment or to open competition internally and externally, in line with the normal recruitment process, where there are no such applicants. The two stages may run in parallel but all reasonably practicable steps will be taken to avoid compulsory redundancies.

14.2 Job descriptions and person specifications will be produced for new posts. Jobs will be matched or evaluated in accordance with applicable national or local systems.

14.3 Selection criteria for all posts in the new structure (whether or not there is competition) must be non discriminatory, fair, objective, clearly defined and based on the skills and competency requirements of the post. The selection criteria must be made available with the consultation document.

14.4 Staff who are offered posts during Stage One will be deemed to have been offered suitable alternative employment by Barnet CCG. This will be confirmed in writing by the manager. [This is on the basis that if staff are Slotted In or offered Ringfenced posts it will be assumed that the posts offered are suitable alternative employment and hence the consequences of refusing to accept these posts will be as per refusing suitable alternative employment.]

14.5 Employees should only be turned down for posts where they fail to meet the essential criteria or where others in the at risk pool are considered to meet the requirements better (the fact that there may be better candidates in the external labour market is not a reason for non-selection). Any member of staff who is not appointed to a post in the new structure will be offered post-interview feedback,
coaching or training where appropriate and has the right to appeal to the relevant service director.

15. **Staff At Risk of Redundancy**

15.1 When changes in staffing levels or skill mix are proposed which will lead to a reduction in the numbers of staff employed in particular grades, occupational groups or specialties, management will identify the positions, individual staff or pool of staff who are at risk of redundancy as a result of the changes. Staff who are acting up will be placed in the pool relating to their substantive post.

15.2 The identification of being at risk of redundancy is not a notice of redundancy.

15.3 Staff at risk of redundancy will be invited to a meeting(s) with their manager and trade union representative or work colleague to:

- discuss how the proposed changes affect the individual
- explain why the individual is at risk of redundancy
- discuss ideas for avoiding redundancy dismissals, reducing the number of Staff at risk of redundancy who are made redundant and mitigating the consequences of any redundancy dismissals
- explore the possibility of Redeployment
- explain the process for Redeployment\(^1\)
- explain the arrangements for protection of pay and terms and conditions where applicable
- offer support and assistance
- discuss any other relevant issues and processes which may include providing a redundancy payment estimate if requested.

15.4 Following the meeting, staff at risk of redundancy will be given a letter within five working days to confirm their at risk status and the key points discussed at the meeting including answers, wherever possible, to questions raised at the meeting for which there were no immediate answers available at the time.

15.5 Staff at risk of redundancy will be given prior consideration for posts within the new structure where they meet the selection criteria, under Stage One of the process. Where they are selected for a new post they will normally be given the offer in writing within seven working days of the interview. Any training required will be discussed with the member of staff as part of the offer process. The appointment will be subject to a trial period.

15.6 In the case of significant change which spans a number of NHS organisations, Barnet CCG will endeavour to reach an agreement with those organisations

\(^1\) Individuals who were employed before the 31 March 2011 by Camden PCT are entitled to a 28 day redeployment period before they are issued formal notice of redundancy.
regarding the establishment of job redeployment opportunities. The agreement will contain a commitment to equality of opportunity for all staff who will then have the same access to opportunities and vacant posts with any of the organisations.

15.7 Staff who are not selected for a post in the new structure will be formally declared at risk of redundancy and given notice of redundancy in accordance with the contract of employment. They will continue to be listed on Barnet CCG’s staff at risk of redundancy register.

15.8 There may be situations where it is necessary to give notice of redundancy in accordance with the contract of employment at the end of the consultation process.

15.9 Staff at risk of redundancy will be required to register with NHS Jobs and apply for posts via that medium. In addition, the HR Department should wherever possible notify staff of potential opportunities. The HR Department will use the full functionality of NHS Jobs (including “internal only” and “restricted vacancy” functionality) to support redeployment of staff at risk.

15.10 Staff at risk of redundancy will be given prior consideration for other posts that are or become vacant in Barnet CCG during a specific organisational change and, subject to the arrangements regarding suitable alternative employment and trial periods, they will remain on the register until their last day of service.

15.11 Special provision is made in law where an employee’s job becomes redundant while he or she is absent on maternity or adoption leave; the employee is entitled to be offered any suitable alternative vacancy before the existing contract ends, in preference to employees who are not absent on such leave.

REDUNDANCY

16. Definition of redundancy

A member of staff may become redundant if they are dismissed and the reason for the dismissal is wholly or mainly due to one or more of the following reasons:

- Barnet CCG has ceased, or intends to cease, to carry on the activity for the purposes of which the individual was employed;
- Barnet CCG has ceased, or intends to cease, to carry out the activity in the place where the individual was employed;
- Barnet CCG no longer requires staff to carry out work of a particular kind in the place where they are employed;
- The requirement of staff employed by Barnet CCG to carry out work of a particular kind has diminished or is expected to cease or diminish.

16.1 The place of work referred to above should not be confused with the specific site or unit in which an individual works.

16.2 The HR Department is responsible for notifying the relevant Department (currently the Department for Business, Innovation and Skills (BIS)) in writing if Barnet CCG
proposes to make 20 or more staff redundant at any one time, within the terms of the legislation in force at the time. A copy of the notification form will be sent to the trade union representatives concerned. Advance notification to the relevant Department does not bind Barnet CCG to make the employees redundant.

17. **Suitable Alternative Employment**

17.1 Suitable alternative employment is work within Barnet CCG or another NHS Employer that is on broadly similar terms and within the same range of skills required as the current employment where the individual meets the essential criteria of the person specification. It may be on any site operated by Barnet CCG subject to travel considerations. Staff At Risk will be given prior consideration for suitable posts in line with their skills, experience and capabilities and where appropriate will receive protection of pay. Where there are insufficient numbers of vacant posts within Barnet CCG, the Human Resources Team will endeavour to identify suitable redeployment opportunities within the wider NHS and draw these to the attention of the staff. Staff are reminded that under Agenda for Change terms and conditions an unreasonable refusal to accept suitable alternative employment offered by Barnet CCG, or another NHS employer, will mean that they are not entitled to a redundancy payment. (See section 20.3 of this policy and AfC Section 16).

17.2 A post may be considered as suitable alternative employment if it is banded on the same band as the staff member’s current post, or the next higher or lower band.

17.3 In considering suitable alternative employment priority will be given to staff with permanent contracts or staff with fixed term or temporary contracts who have in excess of one year’s Continuous Service with Barnet CCG or within the NHS.

17.4 Following identification of potentially suitable posts at either Stage One or Stage Two, individual Staff At Risk will be offered the position in writing and be given a copy of the job description/person specification and a deadline of at least five working days within which to apply. In some circumstances e.g. annual leave and other types of leave, this period may be appropriately extended. During this period the individual may meet with the appropriate manager informally to discuss their interest.

17.5 If the individual is offered the post, this will be treated as an offer of suitable alternative employment and a trial period will apply.

17.6 Staff who unreasonably refuse an offer of suitable alternative employment may lose their right to a redundancy payment.

18. **Trial Periods and Training**

18.1 A trial period will only apply to Staff At Risk and where a formal offer of suitable alternative employment has been made.

18.2 The purpose of a trial period is for both the manager and the individual to assess the suitability of the post as alternative employment.

18.3 Where staff have the potential ability but not the immediate experience to undertake full duties of the role, they will be provided with appropriate skills
development/training. This will be provided when it is reasonable, practical and cost effective and where the member of staff demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.

18.4 The trial period will normally last for a minimum of four weeks but may be extended by mutual agreement where a member of staff requires additional training and development. For staff in grades 8 and above a minimum trial period of 8 weeks will apply. Trial periods should be reviewed fortnightly.

18.5 Following regular reviews of a trial period if this is unsuccessful, as determined by the individual and/or the manager concerned, redundancy arrangements will apply. This will be effective from the end of the individuals original notice date, or if this date has passed, a date to be determined by Barnet CCG. Until the end of their notice period Staff At Risk will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.

19. Change of location

If, as a result of organisational change, there is a requirement to move staff from their normal place of work to another location and this results in increased travel costs to and from work, staff may be reimbursed their extra daily travelling expenses for a period of 4 years from the date of transfer in accordance with paragraph 17.27 of the Agenda for Change Terms and Conditions handbook.

20. Redundancy arrangements

20.1 A member of staff will have their contract of employment terminated on the grounds of redundancy if no suitable alternative employment can be found or if a trial period is unsuccessful.

20.2 The terms under which a redundancy payment and/or early retirement benefit are payable are summarised below:

To qualify for a redundancy payment/early retirement benefit the individual must have:

- a contract of employment with Barnet CCG; and
- at least 2 years’ (104 weeks) Continuous Service within the NHS

A redundancy payment takes the form of a lump sum, dependent on the employee’s Reckonable Service at the date of termination of employment

The lump sum is calculated on the basis of one month’s pay for each complete year of Reckonable Service, subject to a minimum of 2 years’ Continuous Service and a maximum of 24 years Reckonable Service (i.e. the maximum payable is 24 months)

Early retirement on the grounds of redundancy is available, subject to the employee:

- being a member of the NHS Pension Scheme;
- having at least 2 years’ Continuous Service and 2 years’ pensionable
having reached the minimum pension age in accordance with the relevant NHS Pension Scheme arrangements.

20.2 Staff will not be entitled to redundancy payments/early retirement on the grounds of redundancy if they:

- are dismissed for reasons of misconduct
- at the date of the termination of the contract have obtained without a break, or with a break not exceeding four weeks, suitable alternative employment with Barnet CCG or other NHS employer
- unreasonably refuse to accept suitable alternative employment with Barnet CCG or another NHS employer
- leave their employment before expiry of notice, except if they are being released early
- are offered a renewal of contract with the substitution of a new employer for Barnet CCG

Staff whose employment is subject to TUPE or Retention of Employment Model (ROE) transfer will not be redundant and therefore will not be entitled to redundancy payments/early retirement on the grounds of redundancy.

For further information please refer to Part 3, Section 16, of Agenda for Change: NHS Terms and Conditions of Service Handbook and the NHS Pension Scheme early retirement booklet or seek further advice from Barnet CCG’s HR department or your trade union.

20.3 The manager will liaise with HR in order to obtain details of redundancy entitlements and other aspects of the redundancy process. The manager will provide, in writing, the individual and their trade union representative with the following details:

- the number of weeks’ notice, in accordance with the contractual notice period
- the effective date of the redundancy, which will also be the last day of service
- the number of days’ outstanding annual leave, where applicable, to be paid in lieu
- the amount of redundancy payment/enhanced pension benefits that will be paid, where applicable
- what efforts will be made to assist the individual in seeking suitable alternative employment during the notice period
- what support is offered during the notice period e.g. help with job search, CV and interview preparation
- what work the individual will be expected to undertake during their notice
that reasonable time off with pay will be given to seek and prepare for alternative work

that early release will normally be given, unless there are compelling service reasons to the contrary, if the individual is successful in obtaining other employment outside the NHS and wishes to take this up during the notice period; the date of early release will then become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment

the right of appeal against selection for redundancy or the terms of the redundancy.

21. 0 Protection arrangements

21.1 Protection of Pay provisions are contained within Barnet CCG’s Protection of Earnings Policy (Ref C/HR/029). They are in order to support staff who, as a result of organisational change, are required to move to a new post which would entail a reduction of earnings and certain terms and conditions of employment.

TUPE

22. Transfers of services and staff

22.1 Where there is a proposal to transfer services and staff to a different employer, there will be consultation with the trade unions at the earliest opportunity. Consultation will normally take place for 30 calendar days, but this may be reduced in line with legal requirements where there are business needs.

22.2 When services are transferred from one organisation to another in line with TUPE or by virtue of a Transfer Order under the National Health Service Act 1977, which mirrors TUPE, the employment of staff who are assigned to the services which are being transferred will transfer to the new organisation. TUPE applies in contracting out scenarios, retendering and where the services are brought back into the NHS.

22.3 All the terms and conditions within the transferring employee’s contract of employment (including relevant policies and procedures) will transfer with them and should not be changed as a consequence of the transfer.

22.4 In some limited circumstances, the supervision and management responsibility of staff (but not their employment) may be transferred to another organisation under what is known as the Retention of Employment (ROE) model. This model applies particularly in relation to the PFI Scheme where catering, security, portering, cleaning and laundry services are affected. Under this model, staff will be seconded from the NHS (under the auspices of the Community Care Act 1990) to work for the Private Service Provider. The terms of the secondment agreement will be reviewed and agreed with the staff who will be affected.

22.5 Where staff have responsibilities spanning more than one NHS organisation or more than one service, discussions will take place with the individual, their trade union representative and the organisations concerned to determine if their employment should transfer. The options in this situation might be that the
individual will transfer to one organisation with an agreement to provide services to the other(s), or have more than one contract of employment, or, in exceptional circumstances, to be declared at risk.

22.6 In all of these circumstances, for the purposes of the consultation that will be carried out, the manager will identify the services, posts and individual staff that will transfer or be affected in accordance with the obligations of TUPE or under the ROE (secondment) model and shall write to the staff affected and the trade unions informing them of the intention that staff will transfer, the implications of the transfer and any measures which will be taken in connection with the transfer.

22.7 The manager will then hold one-to-one meetings with individual staff and their trade union representative to discuss the implications of the transfer, measures to be taken in connection with the transfer, answer any concerns or queries, discuss possible options if appropriate and consider personal circumstances. These discussions will be documented and confirmed in writing. Every possible support will be given to staff to understand the reasons for and implications of the transfer and to ensure they have the necessary information with which to prepare themselves.

22.8 Formal notice of a transfer will be issued as long before the date of the transfer as possible in order to comply with the obligations of TUPE and this policy. Barnet CCG will make every effort to give 14 calendar days notice of a transfer as possible. Sometimes it may be necessary for a shorter notice period to be provided for example, as a result of the timing of external announcements or decisions of approval, and this will be discussed in advance with the Joint Partnership Group.

23. Appeals, complaints and joint agreements

23.1 Appeals against the selection criteria for redundancy or the decision to dismiss an employee by reason of redundancy will be heard in accordance with the Appeals Procedures set out in Barnet CCG’s Disciplinary Policy. The decision of the Appeal Panel will be final.

23.2 In the event of a complaint about misapplication of the Change Management Policy and Procedure in the way that the consultation or redeployment processes have been handled will be dealt with in accordance with Barnet CCG’s Grievance Procedure.

24 Associated Local Documentation

- Disciplinary Policy
NHS Barnet Clinical Commissioning Group (CCG)
Managing Absence Policy

Responsible Person: Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)
Head of Quality & Organisational Development at Barnet CCG

Accountable Director: Director of Quality & Governance

Ratifying Committee(s) and Date: Previously approved by:
NHS NCL PCT Board
NHS NCL PCT Senior Leadership Team 16.09.2011
NHS NCL PCT Joint Partnership Group 20.09.2011
Barnet CCG Governing Body – Sept 2013

Version: V 1.0

Available On: Intranet | Website

Related Documents:
- All other HR policies
- Barnet CCG’s Risk Management Strategy

Applies / Disseminated To: All staff

Date Of Final Approval:

Date Of Implementation:

Date Of Next Formal Review: BCP to be updates as and when changes occur

Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>3</td>
</tr>
<tr>
<td>2. Aims &amp; Purpose</td>
<td>3</td>
</tr>
<tr>
<td>3. Roles &amp; Responsibilities</td>
<td>4</td>
</tr>
<tr>
<td>3.1 Responsibilities of the Line Manager</td>
<td>4</td>
</tr>
<tr>
<td>3.2 Responsibilities of the Employee</td>
<td>4</td>
</tr>
<tr>
<td>3.3 Responsibilities of Occupational Health Department</td>
<td>4</td>
</tr>
<tr>
<td>3.4 Responsibilities of Human Resources</td>
<td>5</td>
</tr>
<tr>
<td>4. Notifying Sickness and Absence</td>
<td>5</td>
</tr>
<tr>
<td>5. Return to Work Interviews</td>
<td>6</td>
</tr>
<tr>
<td>6. Managers’ Responsibilities Under the Disability Discrimination Act</td>
<td>6</td>
</tr>
<tr>
<td>7. Review Procedure for Unacceptable Absence</td>
<td>7</td>
</tr>
<tr>
<td>7.1 Informal Stage – Exploratory Interview</td>
<td>8</td>
</tr>
<tr>
<td>7.2 Formal Stage 1 – Advisory Interview</td>
<td>8</td>
</tr>
<tr>
<td>7.3 Formal Stage 2 – Advisory Interview (No Underlying Health Problems)</td>
<td>9</td>
</tr>
<tr>
<td>7.4 Formal Stage 2 – Advisory Interview (Underlying Health Problems)</td>
<td>9</td>
</tr>
<tr>
<td>8. Unauthorised Absence or Abuse of Trust Rules on Sickness Absence</td>
<td>11</td>
</tr>
<tr>
<td>9. General Information</td>
<td>12</td>
</tr>
<tr>
<td>9.1 Rehabilitation</td>
<td>12</td>
</tr>
<tr>
<td>9.2 Redeployment</td>
<td>12</td>
</tr>
<tr>
<td>9.3 Ill Health Retirement</td>
<td>13</td>
</tr>
<tr>
<td>10. Review</td>
<td>13</td>
</tr>
<tr>
<td>Appendix 1 - Absence Procedure Flowcharts</td>
<td>13</td>
</tr>
<tr>
<td>Appendix 2 - Sick Pay Entitlement</td>
<td>14</td>
</tr>
<tr>
<td>Appendix 3 - Return to Work Meeting/Exploratory Record</td>
<td>15</td>
</tr>
<tr>
<td>Appendix 4 - Occupational Health Referral Form</td>
<td>16</td>
</tr>
<tr>
<td>Appendix 5 - Guidance for Employees Completing the Self Certification Form</td>
<td>17</td>
</tr>
<tr>
<td>Appendix 6 - Self Certification Form</td>
<td>18</td>
</tr>
</tbody>
</table>
1. **INTRODUCTION**

The objective of this document is to ensure robust staff management and support mechanisms are in place to report and monitor all sickness absence, to deal with sickness absence in a fair, consistent and sensitive manner, whilst minimising the effect of absences on the delivery of services.

Unplanned absence is costly. High levels of sickness and absence can have an effect on the level and quality of service provision and can result in increased costs through the use of bank, agency staff and overtime.

Barnet CCG recognises the right of employees to enjoy reasonable job security when absent through sickness. At the same time, employees have a responsibility to ensure regular attendance at work. Consequently, managers should deal with sickness absence in a clear and consistent manner.

This policy applies to handling of sickness and absence during both paid and unpaid sickness/absence. Entitlement to occupational sick pay for staff on Agenda for Change terms and conditions of employment is set out at Appendix 3.

This policy and procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon).

2. **AIMS & PURPOSE**

The aim of the policy is to:

- Attain and maintain a healthy workforce
- Support staff in their return to the workplace.
- Ensure all sickness absence is reported, managed and monitored appropriately.
- Ensure appropriate support is available for staff and managers.
- Know when to take action.
- Minimise impact on service delivery.
- Ensure a consistent and equitable approach is taken.

However, deliberate misuse of the provisions for sick leave and sick pay will be regarded as misconduct and dealt with as a disciplinary issue.

The purpose of this policy is to act as a guide on how to deal with sickness absence. This policy sets out the principles under which Barnet CCG will manage attendance at work and minimise absence due to sickness.

One of the guiding principles behind this policy is that of supporting and keeping up-to-date with the employee. In managing absence pro-actively opportunities may also arise in relation to improving working conditions generally and so improving the working lives of employees.
3. **Roles & Responsibilities**

### 3.1 The Responsibilities of The Line Manager

- To accurately record, report and monitor attendance and absence of all staff for whom they are responsible;
- To resolve absence problems and support staff to achieve satisfactory levels of attendance;
- To maintain a clear and accurate record of attendance;
- To initiate referrals for Occupational Health assessments;
- To maintain contact with the employee who is absent as a result of sickness;
- To inform all staff of this policy and of any local procedures for notifying sickness;
- To conduct a “Return To Work” with all employees as soon as possible after every absence, regardless of the length;
- To complete and submit to Payroll attendance records for all staff by the 5th of every month, ensuring that accurate, timely reporting is undertaken to enable the correct sickness payment to be made;

### 3.2 The Responsibilities of the Employee

- To ensure regular attendance at work;
- To notify their manager of absence in accordance with departmental procedures; inform their manager/appropriate post-holder if they are unable to attend work for whatever reason. This should be prior to (or where this is not possible within one hour of) their expected time on duty or in accordance with local absence reporting arrangements if applicable;
- To submit timely certification for all absences including self certificates from the 1st day of absence and medical certificates/fit notes from the 8th calendar day of absence;
- To attend a health assessment at the request of their manager;
- To keep their manager informed of progress during absence and of dates for returning to work;

### 3.3 The responsibilities of Occupational Health

- To provide impartial, expert advice to managers on the fitness of employees to undertake their role;
- To provide health assessments on employees;
- To provide confidential advice on supporting employees to assist in returning to work in a safe and secure manner at the earliest opportunity;
- To flag risks to individuals/groups to whom the Trust has a duty of care
- Advice from Occupational Health may include:
  - The impact of a health problem on the staff member’s ability to work
  - Likely duration of absence/timescales for improvement
  - Limitations on work activities/conditions
  - Options to assist rehabilitation/continued employment
  - Return to work programmes
  - Application of the Disability Discrimination Act
  - Ill health retirement where appropriate.
Occupational Health advice given to the manager will not contain confidential medical details.

3.4 The responsibilities of the **Human Resources (HR) Department**

- To provide up to date advice to managers on dealing with sickness and absence;
- To ensure accurate monthly absence reports are provided to managers to develop plans for ensuring absence rates are kept to a minimum;
- To provide support and training to managers to help keep absence levels low and to develop appropriate skills to deal sensitively, fairly and reasonably with absence;
- To advise on correspondence and give relevant support at all formal stages.

4. **NOTIFYING SICKNESS AND ABSENCE**

It is a condition of employment that staff who are unable to attend work because of illness should notify their manager as soon as possible on their first day of sickness (unless there is a substantial and acceptable reason preventing notification) and at regular subsequent intervals. Each department will determine the normal limits within which notification of sickness should occur and the manager to whom the employee should report. In the absence of any local procedure, the default requirement is to report absence to the immediate line manager prior to (or where this is not possible within one hour of) their expected time on duty. Managers have a responsibility to ensure their staff know and understand the procedures.

As shown in the table below self certification is required for any period of absence from Day 1 (See Appendix 6 & 7 for self certificate & guidance notes). The line manager needs to ensure this has been completed at the Return to Work interview, (see Appendix 4)

**Table 1: Certification Requirements**

<table>
<thead>
<tr>
<th>Any single period up to 7 calendar days</th>
<th>Provide a self-certificate (this is available at Appendix 6 &amp; 7 of this policy) within 3 working days of the start of sick leave or the day of return to work (whichever is earliest) for any period of sickness of 7 days or less.</th>
</tr>
</thead>
<tbody>
<tr>
<td>If sickness extends beyond 7 continuous days (weekends included)</td>
<td>Provide a doctor’s certificate/fit note within 3 working days after your 7th day of absence and provide a doctor’s certificate on day of expiry of previous certificate if period of sickness continues.</td>
</tr>
</tbody>
</table>

Failure to supply either a self-certificate or a medical certificate will result in the withholding of pay. Exceptionally Barnet CCG reserves the right not to guarantee payment on backdated certificates from GPs and employees will need to provide detailed reasons in writing to their line manager if this becomes necessary. If pay is to be stopped the manager will confirm the details to the employee.

Staff should not undertake work whilst claiming sick pay from Barnet CCG nor engage in activities inconsistent with the nature of their illness. Falsely claiming
sick pay from Barnet CCG is considered as gross misconduct and the matter may therefore be referred to the Local Counter Fraud Service and be dealt with under Barnet CCG’s Disciplinary Procedure.

5. RETURN TO WORK DISCUSSION

Following any period of absence the manager should meet with the employee after any period of sickness absence; this return to work interview will take place on the first day back.

As a guide, the meeting may include discussion or the following:

- Checking the employee’s absence record and that they have followed the reporting procedures. Seek HR advice if appropriate.
- Ask how the employee is, if they are fit to return, if they require any support
- Update the employee on events of note that have occurred during their absence
- Discuss the reasons for any failure to report absence and how this will be dealt with
- Consider referral to OH if a) either party has any concerns about the individual’s fitness to work, or b) either party identifies any risk associated with the employee’s work or c) the absence was over 21 days in length
- If absence has exceeded 8 days in the last 12 months or 3 instances of 1 day or more in the last 3 months, or if absence is unacceptable due to a particular pattern of absence, or if the period of absence was long term, set up an Informal Stage Exploratory Interview, in accordance with Section 7 of this policy or inform the employee that the next appropriate stage of the policy will be followed.
- Possible outcomes of the meeting may include:
  - referring the individual to Occupational Health for advice and to support the employee (see Appendix 5 for Referral Form)
  - seeking further HR advice
  - advising the employee to contact the staff counselling and advisory service for additional support
  - arranging an Informal Stage Exploratory Interview/Formal Stage 1 or 2 Advisory Interview/Formal Hearing (see Section 7)

- Make a record of the meeting. The pro-forma at Appendix 4 can be used for this purpose.
6. MANAGERS’ RESPONSIBILITIES UNDER THE DISABILITY DISCRIMINATION ACT

At all phases in the application of this policy and procedure due regard must be paid to the provisions of the Disability Discrimination Act 1995 (DDA) and Amendment Act 2005, and the Equality Act 2010.

The DDA defines a disabled person as someone who “has a physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities.” Long term means that it must have lasted, or be expected to last, at least 12 months.

The (DDA) imposes the following duties on employers:

a) not to treat less favourably a disabled employee/job applicant/worker because of their disability or for a reason related to their disability; and
b) to make reasonable adjustments to the workplace in order to help a disabled worker overcome any disadvantage caused by their disability

The DDA 2005 relates to disability generally and applies beyond the area of employment, although some provisions do affect employers and employees, as follows:

- Extension of the definition of disability to cover persons with progressive conditions such as HIV, multiple sclerosis and cancer.
- People with mental illness are protected in the same way as everyone else by removing the requirement that their illness be clinically recognised.

Managers should seek guidance and specific advice on all aspects of the DDA from their HR team.

7 REVIEW PROCEDURE FOR UNACCEPTABLE ABSENCE

The following procedure is designed for the management of:

a) unacceptable frequent short-term absence, which is defined as absence of 8 days or more in a rolling 12 month period, or 3 occasions of 1 day or more in the last 3 months; and

b) long term absence, which is defined as absence of 21 days or more.

There may occasionally be exceptions to this process, e.g. where a manager knows that a member of staff is going to be off for a particular period of time, e.g. for a surgical procedure, broken limb, etc, whereby regular contact and support is needed and a return can be predicted within a reasonable timeframe.

In cases of long term absence where there is a serious underlying health problem, it may be appropriate to immediately hold a formal meeting without carrying out the Informal Stage and Advisory Interviews. This may occur, for example, where it is clear that progressing through each stage is not likely to assist in resolving the
matter and redeployment, ill health/voluntary retirement or dismissal on the grounds of incapacity may be the only realistic option.

The following procedure sets out the process to be followed in cases of unacceptable absence where, after an exploratory interview, it is agreed that there is no underlying health problem. The process is as follows:

- **Informal Stage Exploratory Interview to determine whether there is a an underlying health problem (section 7.1)**
- **Formal Stage 1 Advisory Interview (section 7.2)**
- **Formal Stage 2 Advisory Interview (no underlying health problem) (section 7.3)**

**Note that once the above stages have been exhausted within this procedure, formal hearings will be held under Barnet CCG’s Capability Policy, Section 3**

Also set out is the procedure to be followed in cases of unacceptable absence where, after an exploratory interview and Occupational Health assessment, it is agreed that there is an underlying health problem. The process is as follows:

- **Informal Stage – Exploratory Interview to determine whether there is a an underlying health problem (section 7.1)**
- **Occupational Health Assessment**
- **Formal Stage 1 Advisory Interview (section 7.2)**
- **Formal Stage 2 Advisory Interview (underlying health problem) (section 7.4)**
- **Ill Health or Voluntary Retirement/Redeployment (section 7.5)**

**Note that once the above stages have been exhausted within this procedure, formal hearings will be held under Barnet CCG’s Capability Policy, Section 3**

Please refer to the flowcharts at Appendix 1. Please note that in cases where Occupational Health advise that an employee is not fit to undertake their role for the foreseeable future, it may be necessary to proceed directly to Formal Stage 2.

**7.1 Informal Stage**

Where an employee's attendance record is unsatisfactory due to persistent short-term absences, long term absence, or a particular pattern of absence, the manager should arrange an informal exploratory interview with the employee to discuss the frequency, reasons and amount of the employee’s absence. The manager should advise that the employee’s absence is causing concern and offer any support that might be appropriate. Advice and guidance can be sought from HR.

This meeting provides an opportunity for the manager to remind the employee of the standards of attendance for the department. If it is agreed that the attendance problem is caused by health reasons, the employee should be referred to Occupational Health for assessment. If no underlying health reasons exist the manager should follow the procedure set out for managing absence where no underlying health problem exists and may want to refer to Barnet CCG’s Flexible Working Policy.
A note of the Exploratory Interview should be agreed and signed by both parties and kept confidentially by the line manager in a place which cannot be accessed by others. Appendix 4 can be used for this purpose.

7.2 Formal Stage 1

When the health assessment is received or if it is agreed that there is no underlying health problem, the manager should seek the advice of Human Resources and arrange a Formal Stage 1 Advisory Interview with the employee. 7 calendar days notice of the meeting should be given in writing.

The purpose of the meeting is to inform the employee of the results of the assessment (where applicable) and to advise on the consequences of continued poor attendance. An HR representative will, at this stage, and subsequent stages, be present at the meeting. The employee must be informed that they may be represented by a trade union representative/officer or a workplace colleague employed by Barnet CCG.

If appropriate, the employee should be advised of the:

- improvement in attendance levels required (and that this level of attendance should be sustained beyond the review period)
- length of the review period; which should normally be between 1 and 6 months;
- likely consequences of failure to achieve and maintain a satisfactory improvement during the review period.

The manager will confirm the outcome of the meeting including the above details in writing to the employee and his/her representative. A copy must be sent to the Human Resources representative.

In appropriate cases, consideration should be given to retirement or termination of contract on the grounds of ill health following receipt of such advice from the Occupational Health Department (see below).

7.3 Formal Stage 2 (No Underlying Health Problems)

Where there is no underlying health problem and if there has not been a sustained improvement in the employee’s attendance during the review period at Formal Stage 1, a further Advisory Interview should be arranged. The employee should be given 7 calendar days notice of the hearing, advised of their right to representation and an HR advisor should be present. The causes and frequency of the absence should again, be discussed and, if necessary, a health assessment or further health assessment may be obtained.

The employee should be given a second opportunity to improve their attendance record against the expected standards. A further period of review would be agreed and the employee’s attendance would be monitored for an appropriate period (between 1 and 6 months) and reviewed either within or at the end of the period, depending on the standards of attendance achieved. The employee must be
informed of the consequences of further failure to improve their attendance and that, if the expected standards of attendance have not been achieved, further action would be taken up to and including dismissal. This must be confirmed in writing following the Advisory Interview.

7.4 **Formal Stage 2 (Underlying Health Problems)**

Where there is an underlying health problem, and:

a) if there has not been a return to work, or
b) there has been no sustained improvement in the employee’s attendance as a consequence of the Advisory Interview, or
c) the Occupational Health advice is that the individual is not fit to undertake their role for the foreseeable future,

a further Advisory Interview should be arranged.

An HR representative will, at this stage, be present at the meeting. The employee may be represented by a trade union representative or a workplace colleague. The arrangements for the meeting should be confirmed in writing to the employee. 7 calendar days notice of the meeting will be given in writing.

The causes and frequency of the absence should again, be discussed and, if necessary, a further health assessment may be obtained.

The aim of the meeting is to consider, with the employee, the range of options that might be available as alternatives to the termination of their contract on the grounds of capability.

Circumstances will determine the range of options available, but these may include:

a) any opportunities for permanent or temporary duties within the employee’s capabilities elsewhere in Barnet CCG.
b) the possibility of changing working arrangements or environment on an established temporary basis – retraining where applicable and appropriate.
c) the possibility of voluntary retirement or retirement on the grounds of ill health.
d) arrangements for a return to work if the assessment indicates a return immediately or in the foreseeable future and an ability to undertake full duties.
e) a further health assessment if doubt prevails.

A reasonable timescale should be set to explore these alternatives and sufficient time be given for the employee to consider the options. The employee should be informed in writing of the actions to be pursued and the timescale over which they would be considered. At this stage, the employee will also be informed that if there continues to be no sustained satisfactory improvement in attendance, or the range of options explored cannot be realised, a formal hearing will be arranged and this could lead to termination of employment on the grounds of capability.

7.5 **Formal Hearing – Capability Policy**
In the event that the employee’s absence has not improved and Barnet CCG’s procedures have been exhausted, a formal hearing will be convened under Barnet CCG’s Capability Procedure, Stage 3.

8. UNAUTHORISED ABSENCE OR ABUSE OF BARNET CCG’s RULES ON SICKNESS ABSENCE

These issues will normally be managed using the disciplinary policy. This occurs when an employee is absent from work and fails, without good reason, to communicate this absence and the reason for it within a reasonable period of time to their manager (or the person in charge at the time), usually on the first day of absence.

Failure to notify the relevant manager of a period of absence and reason for the absence will be regarded as a disciplinary offence and pay may be suspended immediately. If no notification is received on the first day of absence, and there is no substantial and acceptable reason for this, a recorded letter will be sent seeking an explanation for the absence and informing them that their pay has been suspended. Additionally, this communication will inform the employee that a continued failure to communicate will result in a disciplinary hearing being scheduled. Where there are exceptional, extenuating circumstances, such action would not be appropriate.

A further failure to communicate will automatically result in a hearing being scheduled which may result in disciplinary action being taken up to and including dismissal.

Where an employee fails or ceases to submit timely medical certificates, pay will be suspended and the manager should write by recorded letter to the employee on at least two occasions. On the first occasion the employee should be informed that a continued failure to submit certificates will result in a disciplinary hearing being scheduled and that pay has been suspended. On the second occasion the employee should be informed that a hearing has been scheduled which may result in disciplinary action being taken, up to and including dismissal.

Employees who wish to absent themselves during normal working hours must gain the permission of their manager (or the person in charge at the time) beforehand. Failure to do so may result in disciplinary action.

An employee who otherwise abuses Barnet CCG rules on sickness absence, e.g. falsely claiming sick pay, will be dealt with under Barnet CCG’s Disciplinary Procedures and may be referred to the Local Counter Fraud Service.

9. GENERAL INFORMATION

9.1 Rehabilitation

Where a member of staff is fit to return to work but not on full contractual hours or full range of duties (usually after long term sickness), the manager should consider returning them to work on a phased basis on full contractual pay for a defined period of time (up to 4 weeks). This rehabilitation period is to allow an effective,
sustained return to work. It should be supported by an agreed and structured programme taking into account the advice of Occupational Health.

The length of the rehabilitation programme will be based on clinical need. Where annual leave has been accrued beyond the statutory entitlement of 4 weeks, the manager and member of staff should discuss and agree how this can best be used to support the return to work.

9.2 Redeployment

Where there is an underlying medical condition and the member of staff is unable to fulfil the full requirements of the post, the manager, in consultation with Human Resources and Occupational Health staff, should explore the possibility of redeployment to a suitable alternative post within Barnet CCG.

Factors to be taken into account may include:

- The needs of the service and the best interests of the service users.
- The views of the employee.
- Whether the job description can be amended to allow the employee to remain in a workplace within which they are familiar.
- The availability of other suitable posts.
- Possible use of physical, technological or other support to assist the employee.
- An analysis of the ability of the employee to undertake work of a different kind including the consideration of retraining.

Where a member of staff moves to a post on a lower band or working fewer hours etc. there will be no protection of salary or other conditions. However, each individual case should be fully explored with the member of staff and their representative.

9.3 Ill Health Retirements

Employees who pay into the NHS Pension scheme may apply for the benefits under the NHSPA current guidelines. Advice can be obtained from the Pensions Officer/HR. Should application for ill health retirement be successful, termination of employment would be by mutual consent and therefore there is no entitlement to paid notice.
APPENDIX 1

Absence Procedure Flowchart

Pattern of Absence Identified

Informal Stage – Exploratory Interview
Interview & referral for health assessment (if appropriate)

Formal Stage 1
Advisory Interview

Formal Stage 2
Advisory Interview
Inform of consequences of failure to improve

Underlying health problem identified

Redeployment
Capability Policy Stage 3
Ill Health Retirement or Voluntary Retirement

No underlying health problem identified

Capability Policy Stage 3

Improvement
Acceptable Attendance

No Improvement

Improvement
Acceptable Attendance

No Improvement

No Improvement
APPENDIX 2

Sick Pay Entitlement

- **During the 1st year of service** – 1 month’s full pay and 2 months half pay
- **During the 2nd year of service** – 2 month’s full pay and 2 months half pay
- **During the 3rd year of service** – 4 month’s full pay and 4 months half pay
- **During the 4th and 5th year of service** – 5 month’s full pay and 5 months half pay
- **After completing the 5th year of service** – 6 month’s full pay and 6 months half pay
## APPENDIX 3

### RETURN TO WORK DISCUSSION RECORD

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Date of Absence</th>
<th>From</th>
<th>To</th>
<th>Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certified</td>
<td>Yes/No</td>
<td>Self Certificate/Medical Certificate</td>
<td></td>
</tr>
<tr>
<td>Reason for Absence &amp; Additional Information/Circumstances (NB: unwell or ill are not acceptable)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of Days</th>
<th>Number of Episodes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total absence during last 6 months</td>
<td></td>
</tr>
<tr>
<td>Covered by medical certificate</td>
<td></td>
</tr>
<tr>
<td>Self certified</td>
<td></td>
</tr>
<tr>
<td>Additional Information/circumstances surrounding previous episodes</td>
<td></td>
</tr>
</tbody>
</table>

Return to Work Interview/Exploratory Meeting took place on: ______________________

Reason: __________________________________________________________

Meeting Attendees: ________________________________________________

**Plan/Discussion of how to minimise future occurrences**

(Please use reverse of form if necessary)

Signed (Manager): ________________________ Date: __________

Signed (Employee): ________________________ Date: __________
APPENDIX 4 – Occupational Health Referral Form

Link here
APPENDIX 5

Notes for Employees Completing the Self Certificate Form

Self Certificates are required for ALL periods of sickness absence from Day 1.

1. If you are absent from work for 7 calendar days or less because you are sick and your absence is not covered by GP’s Fit Note. You must complete a self certificate form on the day of your return to work or 3 days after the start of your absence (whichever is soonest). This form should be completed from Day 1 of any period of absence.

2. You are also required to complete this form if you are absent for more than 7 calendar days and the first 7 days of your absence is not covered by a Fit Note. You must complete a self certificate form on the day of your return to work or 3 days after the start of your absence (whichever is soonest).

3. It is important that the information on this form is not misleading, false or incomplete. If you fail to provide full, accurate information the matter may be dealt with under the Disciplinary Procedure and referred to the Local Counter Fraud Service and pay may be withheld.

4. When describing why you could not come to work, be as specific as possible. General descriptions such as “illness” or “unwell” are not sufficient and may jeopardise payment of sick pay.

5. You must hand the completed form to your immediate manager, who will discuss your absence and check the form is correctly completed.

6. If you are sick and you do not report in to your manager as well enough to return to work before your rostered days off (including Saturday and Sunday for staff who work Monday to Friday), your days off will be considered as sickness days even though they are rostered as days off.

NOTES FOR MANAGERS COUNTERSIGNING SELF CERTIFICATE FORM

- This information should be treated confidentially at all times
- Once signed, absence should be noted on monthly absence return forms and sent to payroll by the 5th of each month
- The self certification should be kept securely on your management file for the employee
APPENDIX 6

SELF CERTIFICATE FORM

This form is to be completed by the employee for all periods of absence up to and including seven calendar days. Full details of sickness and absence reporting and certification requirements are set out in Barnet CCG’s Managing Attendance and Absence Policy and Procedure.

To be completed in block capitals.

<table>
<thead>
<tr>
<th>1. Surname:</th>
<th>5. Reason for Absence:</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Name:</td>
<td></td>
</tr>
<tr>
<td>Dept/Ward:</td>
<td></td>
</tr>
<tr>
<td>Base:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Employee Number:</th>
<th>6. Was this due to an accident at work?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>YES / NO</td>
</tr>
</tbody>
</table>

| 3. Inclusive Dates of Absence | 7. I declare that the information given is full and true to the best of my knowledge and is in no way misleading. I understand that if I give false information I can lose my entitlement to sick pay and disciplinary action may be taken and the matter may be referred to the Local Counter Fraud Service. I confirm that I have not undertaken paid work elsewhere during this period or engage in activities inconsistent with declaring myself unfit for work and understand that such a matter would be referred to the Local Counter Fraud Service and disciplinary action may be taken. |
| From:                      |                        |
| To:                        |                        |

<table>
<thead>
<tr>
<th>4. Date of Return to Work:</th>
<th></th>
</tr>
</thead>
</table>

| 7. I declare that the information given is full and true to the best of my knowledge and is in no way misleading. I understand that if I give false information I can lose my entitlement to sick pay and disciplinary action may be taken and the matter may be referred to the Local Counter Fraud Service. I confirm that I have not undertaken paid work elsewhere during this period or engage in activities inconsistent with declaring myself unfit for work and understand that such a matter would be referred to the Local Counter Fraud Service and disciplinary action may be taken. |
| Signed: _________________________ |
| Dated: _________________________ |

Received by Manager on: _______________________________________

Signed by Manager: ____________________________________________

➢ To be securely retained by Line Manager
# NHS Barnet Clinical Commissioning Group (CCG)
## Capability Policy

**Responsible Person:** Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG

**Accountable Director:** Director of Quality & Governance

**Ratifying Committee(s) and Date:**  
Previously approved by:  
NHS NCL PCT Board  
NHS NCL PCT Senior Leadership Team 16.09.2011  
NHS NCL PCT Joint Partnership Group 20.09.2011  
Barnet CCG Governing Body – Sept 2013

**Version:** V 1.0

**Available On:** Intranet | Website

**Related Documents:**  
- All other HR policies  
- Barnet CCG’s Risk Management Strategy

**Applies / Disseminated To:** All staff

**Date Of Final Approval:**

**Date Of Implementation:**

**Date Of Next Formal Review:** BCP to be updated as and when changes occur

---

**Document Control**

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
## CONTENTS

<table>
<thead>
<tr>
<th></th>
<th>INTRODUCTION &amp; SCOPE</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>DEFINITION OF CAPABILITY</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>DECIDING WHETHER THE MATTER IS ONE OF CAPABILITY OR CONDUCT</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>POSSIBLE CAUSES OF INCAPABILITY &amp; SOLUTIONS</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>FIRST STEPS: INFORMAL COUNSELLING</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>FORMAL ACTION</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>RIGHT TO BE ACCOMPANIED</td>
<td>5</td>
</tr>
<tr>
<td>8</td>
<td>FAILURE TO ATTEND MEETINGS</td>
<td>5</td>
</tr>
<tr>
<td>9</td>
<td>GRIEVANCES</td>
<td>5</td>
</tr>
<tr>
<td>10</td>
<td>WITNESSES &amp; OBSERVERS</td>
<td>6</td>
</tr>
<tr>
<td>11</td>
<td>DOCUMENTS TO BE USED AT PERFORMANCE REVIEW MEETINGS</td>
<td>6</td>
</tr>
<tr>
<td>12</td>
<td>PERFORMANCE REVIEW MEETINGS</td>
<td>6</td>
</tr>
<tr>
<td>13</td>
<td>APPEALS</td>
<td>7</td>
</tr>
<tr>
<td>14</td>
<td>REVIEW OF THIS PROCEDURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>APPENDIX 1: OUTLINE OF INFORMAL COUNSELLING/INVESTIGATION MEETING</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>APPENDIX 2: CAPABILITY FLOWCHART</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>APPENDIX 3: EXAMPLE ACTION PLAN</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>APPENDIX 4: AUTHORITY TO CONDUCT MEETINGS UNDER SECTION 6.4 OF THIS POLICY</td>
<td>12</td>
</tr>
</tbody>
</table>
1 INTRODUCTION & SCOPE

This policy and procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon), except as directed by the Department of Health document “Maintaining High Professional Standards in the Modern NHS” for medical staff, which sets out separate procedures and criteria for their application in certain circumstances.

Other workers will be subject to the procedures laid out in any written agreement that exists between Barnet CCG and/or the worker and/or the agency through which they work. This procedure will not apply to agency workers and independent contractors, including Bank workers.

Separate procedures exist for managing employees on a probationary period, for managing absence and attendance and for managing conduct.

2 DEFINITION OF CAPABILITY

Capability refers to an employee’s skills, aptitude, ability and knowledge in relation to the job that they are employed to do. Lack of capability will normally lead to unsatisfactory performance and it is therefore important to ensure that any capability issue is identified and rectified quickly.

Capability is different from misconduct, in that it refers to situations where an employee is genuinely trying to perform to the required standard but is incapable of doing so. It is not a deliberate failure to perform, poor attitude, or failure to meet standards as a result of carelessness, negligence or idleness; these matters are matters of misconduct.

3 DECIDING WHETHER THE MATTER IS ONE OF CAPABILITY OR CONDUCT

Sometimes it can be difficult to establish whether the matter relates to a person’s conduct or their capability. In these circumstances, the person’s manager will need to establish the answer through investigation or counselling. There should be no automatic assumption that the matter relates to a person’s conduct.

In some circumstances, an employee may have both capability and conduct issues. In these circumstances, the manager should keep the issues separate and deal with each issue under the appropriate policy.

4 POSSIBLE CAUSES OF INCAPABILITY & SOLUTIONS

In order to effectively manage incapability, managers should attempt to ascertain the cause of the problem. Causes can include:

- inadequate or insufficient training, systems, policies and procedures, tools/equipment, supervision/support
- a lack of clarity about the job role, objectives, management instructions
- excessively high workloads
- poor working relationships or bullying/harassment
- ill health or personal problems
Possible solutions, therefore, may include coaching the employee, reviewing systems, policies, procedures, supervision and support, fixing faulty equipment, reviewing workloads, clarifying job roles/instructions, providing additional training to the employee or training their supervisor on particular aspects of people management.

5 FIRST STEPS: INFORMAL COUNSELLING

The first step is for the employee’s manager to meet and discuss the poor performance with the employee, in order to:

- Make the employee aware of the issues and the effect on the organisation
- Attempt to establish the cause/s
- Obtain the employee’s perspective on the matter
- Clarify expected standards
- Identify solutions
- Identify realistic, measurable targets and the period over which these should be achieved and sustained (between 1 and 3 months) to achieve a satisfactory improvement in the employee’s performance
- Confirm what methods will be used to assess the employee’s performance
- Confirm when the performance standards will be reviewed and the fact that formal action could be taken if the required improvement is not satisfactorily achieved and sustained
- Confirm what support mechanisms Barnet CCG will put in place to assist the employee to achieve the required standards

If in the course of the monitoring period the manager feels that the improvement has not been satisfactory or consistent and the employee will not meet the set objectives by the end of the monitoring period, they can decide to invoke formal action without the monitoring period being completed.

An example outline of such a meeting is set out at Appendix 1. A note should be kept of the meeting and the solutions/other outcomes identified. This note can be made available to the employee if requested. In addition, an action plan should be agreed and copy given to the employee (see Appendix 3 for example action plan).

Some possible solutions are detailed in Section 4. The solutions should, where possible, be agreed between the employee and the manager. Where it is not possible to reach agreement, the manager will need to carefully assess the situation and decide what solutions are appropriate in the circumstances, taking account of the employee’s perspective on the matter.

It is important that after the counselling session, the manager continues to provide day-to-day management and ensures that the employee is appropriately supported to help them achieve and maintain the required standard.

The manager should follow up the first counselling meeting in writing within 7 calendar days, clearly setting out the objectives, timeframes and possible outcome should the employee fail to make a satisfactory improvement.
6 FORMAL ACTION

If, despite support, the employee is unable to reach and/or maintain the required standard of performance, the consequences of failure to do so should be set out in writing to the employee, using a series of formal stages, which are cumulative and follow the sequence set out below:

- First Formal Stage and Monitoring Phase
- Second Formal Stage and Monitoring Phase
- Final Formal Stage: Possible Dismissal/Alternatives to Dismissal

The flowchart at Appendix 2 shows an overview of the capability management procedure.

The First and Second Formal Stages will consist of an action plan, setting out the actions required by both the employee and their manager to bring about an improvement in their performance situation. There will be a development phase that will continue during the period that the formal action is active. This phase will be for the employee to demonstrate sustained improvement and for the manager to ensure they continue to assess the employee’s needs, providing tailored support to the individual and continually assessing their capability.

In exceptional circumstances, it may be possible to proceed directly to the first/final formal stage without having completed the preceding steps. This might occur where the employee’s performance has had, or is liable to have, a serious or harmful impact on the organisation.

Formal action will normally remain active for between 1 - 6 months and, once expired; will be removed from an employee’s formal record.

6.1 Formal Stage 1

If, despite support, the employee is unable to reach and/or maintain the required standard of performance, the manager may convene a performance review meeting, the arrangements for which are set out below at Section 12. If, having taken account of all the circumstances, the chair of the performance review meeting considers it appropriate, the employee may be placed on the First Formal Stage of this procedure. The decision will be confirmed in writing within 7 calendar days of the meeting, setting out clearly:

- the nature of the problem, and an action plan (see Appendix 3),
- detailing the action required of both the employee and the manager,
- including details of the improvement required, the targets and timescales for review, clarifying the possible next stage if the employee does not make or sustain the necessary improvement
- the employee’s right to appeal.

The action plan will be complemented by a monitoring phase, which will continue for the period that the First Formal Stage is active (between 1 and 6 months). The purpose of the monitoring phase is for the employee to demonstrate sustained improvement and for the manager to ensure they continue to assess the employee’s needs, providing tailored support to the individual and continually assessing their capability. Details of this phase, such as supervision meetings, should be planned and set out in the action plan, where possible. Additional action, such as demotion or redeployment, may be taken, as set out in Section 12 of this procedure.
However if the employee fails to make a satisfactory improvement or fails to maintain the improvement within the set monitoring period, then the manager, after consultation with HR, can take the decision to proceed to the next formal stage before the monitoring period has expired.

6.2 Formal Stage 2

If, despite the First Formal Stage and monitoring phase and having been offered appropriate support, the employee is unable to satisfy and/or maintain the required standard of performance, the manager may convene a further performance review meeting, the arrangements for which are set out below at Section 12. If, having taken account of all the circumstances, the Chair of the performance review meeting considers it appropriate, the employee may be placed on the Final Formal Stage of this procedure. The decision will be confirmed in writing within 7 calendar days;

- setting out the nature of the problem, and an action plan (see Appendix 3),
- detailing the action required of both the employee and the manager,
- including details of the improvement required,
- targets and timescales for review,
- possibility of dismissal if the employee fails to make or sustain the necessary improvement
- and the employee’s right to appeal.

The possible actions should have been discussed in the meeting and should be agreed by both parties.

The employee’s performance will be continually monitored for the period that the Final Formal Stage is active (between 1 and 6 months). The purpose of this monitoring period is for the employee to demonstrate sustained improvement and for the manager to ensure they continue to assess the employee’s needs, providing tailored support to the individual and continually assessing their capability. Details of this monitoring period such as supervision meetings should be planned and set out in the action plan, where possible. Additional action, such as demotion or redeployment, may be taken, as set out in Section 12 of this procedure.

6.3 Formal Stage 3: Possible Dismissal/Alternatives to Dismissal

In cases of ill-health, providing an employee has been managed through all the appropriate stages of Barnet CCG’s Managing Absence Policy, the Capability Procedure may be invoked at this Stage.

In the case of employees whose capability issues are as a result of ill-health reasons, i.e. for those who are incapable of attending work or are unable to attend work with sufficient regularity, the management case should contain:

A report by the manager, detailing in chronological order, the steps taken to manage the employee’s sickness absence through the Managing Absence Policy, including any previous attempts to re-deploy the employee, and any attempts to adapt their working hours/environment, in line with the DDA.
The case should also include all relevant documentation such as:

- All certified sickness absence certificates
- Reports/letters to and from Occupational Health
- Reports (if relevant) from GP/Consultant

Formal Stage 3 should be invoked when the employee fails to reach and/or maintain the required standard of performance despite having received both training and support, the manager will convene a Disciplinary hearing, the arrangements for which are set out below at Section 12. If, having taken account of all the circumstances from formal stage 1 & 2, the manager can make the recommendation that the employee is dismissed as part of his final report.

The employee will have the right to appeal against their dismissal. This must be received in writing within 21 calendar days of the receipt of the outcome letter.

7 RIGHT TO BE ACCOMPANIED

The employee has the right to be represented by a recognised Trade Union Representative, a recognised professional organisation representative or a workplace colleague not acting in an official capacity to the Formal meetings. It is the employee’s responsibility to arrange their own representation. Legal representatives, whether solicitors, barristers or otherwise, are not permitted to take part in the proceedings in any capacity.

8 FAILURE TO ATTEND MEETINGS

Employees will be expected to take reasonable steps to attend all meetings, whether as the employee concerned or as a witness. If the employee concerned fails to attend without good reason and does not nominate a representative to attend in their absence, the meeting/hearing may take place in their absence if they have failed to attend once before.

If a meeting/hearing is arranged but appropriate representation cannot be obtained, the employee may request the meeting/hearing be rescheduled and they should provide to the investigating manager details of alternative dates and times over the 7 calendar days following the original date of the meeting/hearing that they and their representative will be available. Failure to do so may mean the meeting/hearing being rescheduled in the absence of information on the employee and their representative’s availability.

Appropriate weight shall be given to the evidence of any witness that fails to attend a meeting/hearing and their reasons for non-attendance will be taken into account, if known.

9 GRIEVANCES

During the application of this policy and procedure, if a grievance is raised that relates to the employee’s incapability issues or their management, Barnet CCG will consider how best to proceed. Barnet CCG recognises the merit of resolving all issues as quickly as possible and will therefore normally attempt to deal with both matters. The two processes will not be co-joined under this procedure and an alternative, neutral manager will be nominated to consider the grievance. HR advice regarding grievances
should be sought and reference should be made to the Grievance Procedure in relation to matters that are specifically excluded from its scope.

10 WITNESSES & OBSERVERS

If the investigating manager is relying upon evidence from a witness, the witness’s statement may also be supported by their attendance at the performance review hearing as detailed in paragraph 6.3. It is the investigating manager’s responsibility to arrange the attendance of their witnesses.

If the employee concerned and their representative wish to call witnesses at the performance review meeting, they will be responsible for arranging witnesses’ attendance.

Observers may be present at meetings, for example, for training purposes. However, it will be at the discretion of the Chair whether to admit observers to the hearing with the agreement of all parties. Observers will not be permitted to contribute to the meeting.

11 DOCUMENTS TO BE USED AT PERFORMANCE REVIEW MEETINGS

Both the manager and the employee and their representative will have the opportunity to submit documents for use at the performance review meeting/appeal hearing. These documents will be distributed to all attendees a minimum of 7 calendar days in advance of the meeting/hearing.

The documents submitted by the manager at a performance review meeting should include all the evidence gathered, including witness statements, examples of unsatisfactory work, notes of investigation meeting(s) and evidence of having completed earlier stages of the procedure.

12. PERFORMANCE REVIEW MEETINGS: GENERAL INFORMATION

In addition to dismissal the Panel Chair may also impose one or more of the following sanctions:

Redeployment of the employee concerned to an alternative role/work base, with the agreement of the individual. The process to be followed will emulate the individual consultation and redeployment phase set out in Barnet CCG’s Staff Affected by Change Procedures. NHS Barnet’s Pay Protection Policy on protection of basic pay may also be followed, where applicable.

- Deferral of incremental pay progression

In accordance with Sections 6.26 and 6.27 of the Agenda for Change: NHS Terms and Conditions of Service Handbook, if there are significant weaknesses in performance that have not been resolved despite opportunities for appropriate training/development and support, in exceptional circumstances pay progression may be deferred until the problems are resolved. Significant weaknesses are defined as those that prevent a staff member from continuing to apply consistently, across a recognised normal workload without continued supervision and support inappropriate to the post, the knowledge and skills specified under the KSF foundation post outline, for staff at the foundation gateway. For staff above the
second gateway, the full range of knowledge and skills specified under the full KSF post outline will apply.

A separate policy exists for dealing with gateway reviews.

- **Demotion**

  Staff who have been promoted and are unable to perform at that level may be demoted without pay protection if, despite being afforded appropriate opportunities to enable them to perform at the higher level, they cannot do so. This option can only be pursued with the agreement of the individual concerned.

- **Appropriate training and development**

- **Some other intervention**

  This may include, for example, an intervention to improve working practice or the working environment.

The outcome of the meeting and reasons for the decision, together with details of how to appeal against the decision will normally be set out in writing to the employee within 7 calendar days of the review meeting.

**Dismissal**

*If there has been no improvement following the issuing of a stage 2 warning (which is still active), it may be appropriate to dismiss the employee*

**13 APPEALS**

Where formal action is taken, the employee concerned has the right to appeal against the Chair’s decision within 21 calendar days of the date of the letter confirming the outcome of the hearing, using the Appeal Pro-forma at Appendix 5. Both the employee’s intention to appeal and their detailed grounds for the appeal must be submitted at this stage. Failure to do so may mean that an appeal is not heard.

The purpose of an appeal hearing is normally to review the decision made by the performance review meeting chairperson. However, in some exceptional circumstances, for example, where the appellant identifies new evidence that came to light after the performance review meeting or where the appeal panel chairperson has a reasonable belief that the appellant has established a prima-facie case to demonstrate that the performance review meeting may have been rendered unfair due to procedural irregularities, an appeal may take the form of a re-hearing. The decision on whether to hear a full or part appeal re-hearing rests with the appeal hearing Chair. New evidence may only be submitted at an appeal re-hearing and both parties may only call witnesses to an appeal re-hearing. Requests for a re-hearing and the grounds for such a request should be submitted by the appellant along with their grounds for appeal. The procedure to be followed at an appeal review hearing is detailed in Appendix 6 and that for an appeal re-hearing is detailed in Appendix 7.

The appeal hearing panel shall consist of a chairperson, who will usually be more senior than the chairperson of the performance review meeting, against whose decision the
employee is appealing. The chairperson must be a Barnet CCG Director. The chairperson should not have been involved in the preceding stages of the procedure. The chairperson will be assisted by the Head of HR or a nominated representative.

Specialist advisors to the panel may be appointed, for example, if the chairperson is from a non-nursing background and the matters being examined may require specialist nursing advice.

The chairperson and their advisors (this includes the HR advisor and any specialist advisor in attendance, as detailed above) will all equally be able to participate in proceedings. However, the responsibility for making the final decision will rest with the chairperson. The chairperson will also be responsible for ensuring the procedure followed is fair and that the circumstances of the matter are appropriately established to enable them to reach an appropriate decision. The HR representative will be able to provide further advice on these points.

The chairperson will fully consider all the information presented to them by both the employee and their representative and the manager, together with relevant advice from the panel members and advisor/s in deciding whether to uphold the decision of the performance review meeting chairperson.

The chairperson may decide to uphold/overturn the decision of the performance review meeting chairperson and may reduce/increase the level of sanction and/or remove/add other requirements, for example, redeployment, training/development, deferral of incremental pay progression, or some other intervention, as detailed above in Section 12.

The appeal hearing chairperson is responsible for the conduct of the meeting and may at any stage decide to adjourn/adapt proceedings to ensure fairness and clarity on any points.

The decision of the appeal hearing chairperson will be final and the employee will have no further recourse to have the matter further examined under any of Barnet CCG’s procedures.
• APPENDIX 1: OUTLINE OF INFORMAL COUNSELLING MEETING

The following is an example outline of an initial, informal counselling meeting:

• Explain that the meeting is to discuss the employee’s job performance and that the meeting is of a counselling and investigatory nature, and not part of the disciplinary procedure.
• At the meeting, clearly state the nature of the problem and explain why it is a problem, for example the consequences for Barnet CCG when the employee makes mistakes or misses deadlines.
• Give the employee specific examples of instances where their performance has fallen below the required standard or where tasks have not been completed on time or satisfactorily.
• Remind the employee that they are not being blamed for the problem and that you are on the employee’s side.
• Seek the employee’s agreement that there is a problem with certain aspects of their performance.
• Ask the employee what they think the root cause of the problem is.
• Consider any mitigating factors put forward, for example problems in the employee’s personal life.
• Restate what is expected in terms of job duties, outputs and targets. Avoid assuming that the employee knows everything that is expected of them.
• Ask the employee’s opinion on what they can do to achieve improvement in performance.
• Seek to agree specific action points with the employee, the details of which will depend on whether or not any specific cause of unsatisfactory performance has been identified.
• Agree a timescale for the improvement to be achieved (between 1 and 3 months).
• Arrange training where appropriate.
• Schedule a follow-up meeting to review the employee’s performance and make sure that the meeting takes place.
• Keep a record of the meeting and what has been agreed and write up and agree an action plan (see Appendix 3).
APPENDIX 2: FLOWCHART OF THE CAPABILITY MANAGEMENT PROCEDURE

INFORMAL COUNSELLING
Meet to discuss the poor performance with the employee, in order to:
- Clarify expected standards and identify gaps
- Identify solutions
- Identify realistic, measurable targets and the period over which these should be achieved, setting out a written action plan
- Agree a review period (between 1 & 3 months)
- Discuss the consequences of failure to improve/sustain improvement
- Agree a written action plan (see Appendix 3)

PERFORMANCE REVIEW MEETING: FORMAL STAGE MEETING 1
Line manager, HR, TU representative & employee meet to discuss the poor performance, in order to:
- Review performance against the agreed action plan and standards set at informal stage
- Consider effectiveness of support given and what additional assistance can be offered
- Agree action plan and clarify length of first formal stage (between 1 & 6 months)

PERFORMANCE REVIEW MEETING: FORMAL STAGE 2
Line manager, HR, TU representative & employee meet to discuss the poor performance, in order to:
- Review performance against the agreed action plan & standards set at informal stage
- Consider effectiveness of support given and what additional assistance can be offered
- Agree action plan and clarify length of second formal stage (between 1 & 6 months)
- Explain that failure to improve/sustain improvement could lead to dismissal

FORMAL STAGE 3: POSSIBLE DISMISSAL/ALTERNATIVES TO DISMISSAL
Line manager, panel chair, HR, TU representative & employee meet to discuss the poor performance and consider dismissal on the grounds of capability.

Appeal
### APPENDIX 3: EXAMPLE ACTION PLAN

<table>
<thead>
<tr>
<th>Target Area</th>
<th>Expected Standard/level of Proficiency</th>
<th>Gap</th>
<th>Agreed Actions</th>
<th>Who Will Provide Support?</th>
<th>Timescale</th>
<th>Review Date</th>
<th>Date to Achieve Expected Standard/Level of Proficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of details on IT system</td>
<td>Record detailed updates of all contact on an IT system within 24 hours, including assessment details and agree plans</td>
<td>50/80 records currently incomplete 20/80 records not updated No consistent record for other practitioners to refer to regarding the outcomes of the reviews or the agreed action plans</td>
<td>Further training on an IT system Protected time each day to complete records and familiarise self with the new system Support from designated system lead Commence and complete ECDL training to improve IT literacy</td>
<td>L&amp;D Department Line Manager to arrange Local Lead</td>
<td>Within 1 month Ongoing for one month Ongoing</td>
<td>1 month 1 month 3 months</td>
<td>Within 3 months</td>
</tr>
</tbody>
</table>

This action plan has been agreed by:

Name of Manager: __________________________ Signed: ______________________ Dated: __________________

Name of Employee: _________________________ Signed: ______________________ Dated: __________________
APPENDIX 4: AUTHORITY TO CONDUCT FINAL STAGE PERFORMANCE REVIEW MEETING

The following officers will have the authority to dismiss under this procedure:

1. Directors

2. Associate/Deputy Director level managers

3. Managers who are at Head of Service/Department/Function level
# NHS Barnet Clinical Commissioning Group (CCG) Disciplinary Policy

**Responsible Person:** Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG

**Accountable Director:** Director of Quality & Governance

**Ratifying Committee(s) and Date:** Previously approved by:  
- NHS NCL PCT Board  
- NHS NCL PCT Senior Leadership Team 16.09.2011  
- NHS NCL PCT Joint Partnership Group 20.09.2011  
- Barnet CCG Governing Body – Sept 2013

**Version:** V 1.0

**Available On:** Intranet | Website

**Related Documents:**  
- All other HR policies  
- Barnet CCG’s Risk Management Strategy

**Applies / Disseminated To:** All staff

**Date Of Final Approval:**

**Date Of Implementation:**

**Date Of Next Formal Review:** BCP to be updates as and when changes occur

## Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
CONTENTS

1. INTRODUCTION & SCOPE 3

2. ROLE OF HUMAN RESOURCES 3

3. INFORMAL ACTION 3
   3.1 Day-to-Day Management 3
   3.2 Formal Counselling: Improvement Note 4

4. FORMAL ACTION 4

5. INVESTIGATION 5
   5.1 Role of the Investigating manager 5
   5.2 Role of the Employee Concerned 6
   5.3 Role of all Staff 6
   5.4 Evidence of Service Users and their Relatives 6
   5.5 Police or Legal Proceedings 7

6. CRIMINAL OFFENCES

7. SUSPENSION 7

8. RIGHT TO BE ACCOMPANIED 8

9. GRIEVANCES 8

10. DISCIPLINARY HEARINGS 8
    9.1 Timescales 8
    9.2 Failure to Attend 9
    9.3 Witnesses & Observers 9
    9.4 Role and Membership of the Disciplinary Hearing Panel 9
    9.5 Possible Hearing Outcomes 10
    9.6 Redeployment 11
    9.7 Deferral of Incremental Pay Progression 11
    9.8 Right of Appeal 11

11. APPEAL HEARINGS 11
    10.1 Timescales 11
    10.2 Failure to Attend 12
    10.3 Role and Membership of the Appeal Hearing Panel 12
    10.4 Possible Appeal Hearing Outcomes 12
    10.5 Appeal Re-hearings 13

APPENDICES

Appendix 1: Disciplinary and Appeal Hearing Procedures 15
Appendix 2: Offences that may be dealt with under these procedures 20
Appendix 3: Appeal Pro-Forma 21
Appendix 4: Example Letters/Pro-Formas 23
   (Suspension; Investigation; Improvement Note)
Appendix 5: Authority to Dismiss 28
1. INTRODUCTION & SCOPE

This procedure has been drawn up with reference to legal considerations, the ACAS code of Practice on Disciplinary and Grievance Procedures and has been agreed between Management and Staffside.

This procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon), except as directed by the Department of Health document “Maintaining High Professional Standards in the Modern NHS” for medical staff, which sets out separate procedures and criteria for their application in certain circumstances.

Other workers will be subject to the procedures laid out in any written agreement that exists between the CCG and/or the worker and/or the agency through which they work. This procedure will not apply to agency workers and independent contractors, including Bank workers.

The general principles of this procedure will apply. These are:

- to encourage all staff to achieve and maintain standards of conduct to encourage managers to manage their staff appropriately, avoiding the need to take formal action where appropriate
- to ensure appropriate investigation to establish the circumstances
- to treat staff fairly
- to ensure compliance with the Barnet CCG’s Equalities Policy and the code of practice set out in Barnet CCG’s Prevention of Bullying and Harassment and Policy
- to take appropriate action, which is reasonable in all the circumstances

Separate procedures exist for managing employees on a probationary period, capability and for managing absence and attendance. Unauthorised absence, however, will be dealt with as misconduct under this procedure.

2. ROLE OF HUMAN RESOURCES

Human Resources (HR) staff are responsible for providing HR advice on the management of all disciplinary matters at all stages of this procedure, to ensure that the procedures are applied fairly and consistently.

HR is also responsible for maintaining accurate personnel and disciplinary records and providing monitoring data.

3. INFORMAL ACTION

3.1 Day-to-Day Management

It is part of the role of managers to manage the work of their staff on a day-to-day basis and to draw employees’ attention to any shortcomings and give counsel or correction. However, in some circumstances it may become necessary to take further corrective action.
3.2 Formal Counselling: Improvement Note

It is in everyone’s interests to avoid the need to invoke formal disciplinary proceedings where possible. To this end, therefore, formal counselling may be appropriate to discuss conduct standards and the discussion may result in an improvement note being issued.

Formal counselling should be carried out between the employee and their manager as part of good management practice. Such a meeting should be conducted in an atmosphere that encourages open discussion and enables the employee and manager to make the most of the opportunity for improvement provided them.

At the meeting, the manager should:

- counsel the employee to identify the unsatisfactory conduct
- discuss potential contributing factors and offer any support that might be appropriate to overcome these
- establish any other relevant circumstances
- identify the improvement required, where possible specifying realistic, measurable objectives and the period over which these should be achieved and sustained
- confirm when the conduct standards will be reviewed and the fact that formal action could be taken if the required improvement is not satisfactorily achieved and sustained

If the manager considers it reasonable to do so in the circumstances, they may issue the employee a formal improvement note to ensure clarity on the conduct issue, the action required of both the employee and the manager, including details of the improvement required, and the timescale (see example at Appendix 4). It is important that during the monitoring period, the manager continues to provide day-to-day management as outlined above in section 3.1 and ensures that the employee is appropriately supported to help them achieve and maintain the required standard.

4. FORMAL ACTION

Whilst the aim of these procedures is to elicit an improvement in conduct standards, there may be circumstances where, despite formal counselling, an employee has failed to meet the required standards or sustain these. In addition, some conduct issues may be considered serious enough that informal action is inappropriate and formal action is warranted instead. Examples of the types of offences that may be dealt with under these procedures appears at Appendix 2.

Barnet CCG therefore operates a cumulative hierarchy of procedures which are invoked according to the nature and seriousness of the allegation, consisting of the following formal stages:

- **First Written Warning** – if the conduct is sufficiently serious or if there has been no improvement following formal counselling, it may be appropriate to issue a first written warning, which will normally remain active for one year.

- **Final Written Warning** – if the conduct is sufficiently serious or if there has been no improvement following the issuing of a first written warning (which is still active), it may be appropriate to issue a final written warning. Final written warnings will normal remain active for a period of one year. In very exceptional cases, due to the
seriousness of the misconduct, this period may be extended and where the misconduct is verging on gross misconduct, the warning may never be deemed inactive.

- **Dismissal** – if the conduct is sufficiently serious or if there has been no improvement following the issuing of a final written warning (which is still active), it may be appropriate to dismiss the employee. In cases of gross misconduct, Barnet CCG reserves the right to summarily dismiss staff. Those officers of Barnet CCG with the authority to dismiss are detailed at Appendix 5.

Before formal action is taken, the allegations of poor performance or misconduct should be investigated to establish the circumstances, as set out in Section 5. Formal action will not be taken by the investigating manager. Formal action will only be taken following referral of the matter to a disciplinary panel, as set out in Section 10.

Spent, inactive warnings shall be disregarded for disciplinary purposes and removed from an employee’s formal record upon their expiry.

There is a right of appeal against each formal stage of the disciplinary process, see sections 10.8 and 11.

5. **INVESTIGATION**

5.1 **Role of the Investigating Manager**

When an allegation or concern regarding an employees’ conduct comes to light, an investigating manager will be nominated to carry out a thorough, fair investigation to appropriately establish the facts of the matter. In nominating an investigating manager, consideration should be given as to their suitability and neutrality.

As part of the investigation, the employee concerned will be invited to respond to the allegation/s and may be required to attend an investigatory meeting. Before making any statement, staff may wish to seek advice from their Trade Union representative. The investigating manager will be responsible for arranging any investigatory meeting/s at an appropriate time and location. If invited to an investigatory meeting, the employee should be advised in writing of the arrangements, the nature of the meeting, of their right to be accompanied, of the nature of the alleged misconduct, the possible outcome of the meeting and details of those who will be present. An example letter appears at Appendix 4. The manager will chair the investigation meeting and may be assisted by an HR representative, to provide HR advice and assist the manager in clarifying the circumstances of the matter under examination.

As part of the investigation, it may be necessary to gather witness statements and/or meet with witnesses and gather any other relevant information to assist in fully establishing the circumstances. The investigating manager will be responsible for ensuring all the appropriate information is gathered and that this is gathered in a way that preserves the integrity of the information and that does not subject witnesses to undue pressure. For this reason, the employee concerned and their representative will not be permitted to approach witnesses/potential witnesses unless explicitly allowed to do so by the investigating manager. A note of meetings carried out as part of the investigation will be taken and distributed to the relevant parties if they are to be used at a later stage of this procedure, as set out in section 9.1.
The process of investigation should normally take up to 28 calendar days, except for in more complex cases. The investigating manager should ensure that reasonable steps are taken to keep the period of investigation as short as possible, without compromising the fairness and thoroughness of the investigation. The investigating manager should take reasonable steps to minimise delays and should gather information from witnesses as quickly as possible before memories fade.

The investigating manager will be responsible for determining the outcome of the investigation. Where possible, staff will be advised of the investigation outcome following a suitable adjournment of the investigatory meeting. Alternatively, staff will be advised of the outcome in writing. If it is decided that the matter should be referred to a disciplinary hearing, the investigating manager will compile a written statement of their case, which will be distributed to all hearing attendees at least 7 calendar days in advance of the hearing, which will normally take place within a month of the investigation being concluded, where possible. The investigating manager will take reasonable steps to ensure that any relevant witnesses attend the hearing.

5.2 Role of the Employee Concerned

It is the responsibility of the employee concerned to arrange their own representation and to take all reasonable steps to attend meetings/hearings and cooperate with the Disciplinary Procedure. Failure to do so without good reason may result in meetings/hearings taking place in the absence of the employee and/or their representative. Failure to cooperate with the process may entitle the investigating manager and/or panel members to draw their own inferences as to the motivation for this and attach appropriate weight to evidence.

5.3 Role of all Staff

It should be noted that CCG staff are all expected to contribute to the successful implementation of this procedure, to help the CCG ensure conduct standards are met. Therefore all staff are expected to comply with reasonable requests to cooperate with these procedures. Professionally registered staff may also have obligations to do so under the terms of their professional registration.

5.4 Police or Legal Proceedings

Barnet CCG reserves the right to take appropriate disciplinary action in circumstances where there are police or other legal proceedings. This would normally occur where the nature of the circumstances appears to have a bearing upon the employee’s performance, their ability to fulfil their employment contract, or upon the employer’s responsibilities to others.

Barnet CCG may decide to stay relevant internal proceedings, pending police/legal proceedings. Such proceedings include NHS Counter Fraud proceedings.

6. CRIMINAL OFFENCES

6.1 Staff have a duty to disclose previous convictions during the recruitment process. Barnet CCG will also undertake Criminal Records Bureau checks on staff in designated positions.
6.2 Staff also have a duty to disclose convictions or criminal proceedings occurring during their employment with Barnet CCG. This would include being arrested or cautioned.

6.3 If a criminal offence occurs within Barnet CCG’s premises the normal disciplinary procedure will be followed, although it will also rest with the relevant manager to contact the police with a view to a criminal charge being made.

6.4 Criminal offences outside employment, including associated police enquiries and legal proceedings, will not be treated as automatic reasons for dismissal. The main consideration will be whether the offence is one that makes the member of staff unsuitable for his or her post. Suitable alternative employment will be considered where possible.

7. SUSPENSION

Suspension is not a disciplinary act and does not imply any suggestion of guilt. It is a neutral act, enabling an individual to be released from their place of work while receiving full pay, pending an investigation into the allegations made.

Staff may be redeployed by mutual agreement, or suspended on full pay, until the results of inquiries are known. Except in an emergency, the local representative of the trade union or professional organisation will be contacted.

If it is undesirable for the employee to remain on the premises in a case of possible gross misconduct, potential risk to Barnet CCG’s property or potential risk to Barnet CCG’s duty to others, or any other cause; for example if there is a reasonable belief that evidence may be tampered with; then the employee should be suspended on full pay including enhancements, as if working normally, pending investigation.

Whilst on suspension employees are not to return to any Barnet CCG site or contact any staff (or service users) without the express permission of the suspending/investigating manager. Mechanisms will be put in place to ensure the suspended member of staff has access to appropriate support during their suspension. Whilst on paid suspension, staff are expected to make themselves available to attend meetings.

In some circumstances it may not be possible to obtain relevant advice and therefore take a decision on whether to suspend, for example, at night or over weekends. In these circumstances, it may be acceptable to ask an employee to leave work on special paid leave and arrange a meeting to clarify how the matter will be dealt with at the earliest possible opportunity.

Normally the authority to suspend will be given only to those managers who have authority to dismiss, however during their absence the most senior manager on duty will have the authority to suspend an employee on full-pay in consultation with HR wherever possible.

The suspension must be confirmed in writing to the employee or their delegated representative and the reason(s) for the suspension stated. An example letter appears at Appendix 4.
8. RIGHT TO BE ACCOMPANIED

At the investigation and suspension phases of this procedure and at all formal hearings, the employee has the right to be represented by a recognised Trade Union Representative or a colleague. It is the employee’s responsibility to arrange their own representation. Legal representatives, whether solicitors, barristers or otherwise, are not permitted to take part in the proceedings in any capacity.

If disciplinary action is considered against an employee who is an accredited Trade Union representative, the matter should be discussed (after obtaining the employee’s agreement) with a senior trade union representative or permanent union official.

If a meeting is arranged but appropriate representation cannot be obtained, the employee may request the meeting be rescheduled and they should provide to the investigating manager details of alternative dates and times within 7 calendar days following the original date of the meeting that they and their representative will be available. Failure to do so may mean the meeting being rescheduled in the absence of information on the employee and their representative’s availability.

9. GRIEVANCES

If, in the course of a disciplinary process, a grievance is raised that relates to the case, Barnet CCG will consider how best to proceed. Barnet CCG may consider suspending the disciplinary procedure for a short time whilst the grievance is dealt with under Barnet CCG’s Grievance Procedure, where applicable. Alternatively, in some circumstances, Barnet CCG may consider appointing an alternative, neutral manager to consider both the grievance and disciplinary matters as part of the same investigation and process. HR advice on contractual and statutory rights regarding grievances should be sought.

10. DISCIPLINARY HEARINGS

The procedure to be followed at a disciplinary hearing is detailed in Appendix 1. The following points address other matters.

10.1 Timescales

A disciplinary hearing will normally be convened within 28 calendar days of the conclusion of the investigation, wherever possible. Both the investigating manager and the employee and their representative will have the opportunity to submit a written case and supporting evidence that they wish to rely upon at the hearing. All documents to be used at the hearing should be submitted in sufficient time to ensure that they can be distributed to and received by all hearing attendees at least 7 calendar days in advance of the hearing. The date for exchanging these documents will be confirmed in writing to the employee and the investigating manager. The investigating manager and the employee and their representative should confirm by the same date the names and positions of those witnesses that they may wish to call at the hearing. The outcome of the disciplinary hearing will normally be communicated to all attendees within 7 calendar days and the employee concerned will have 21 calendar days from the date of that letter to appeal the outcome, using the appeal pro-forma attached at Appendix 3.
10.2 Failure to Attend

Barnet CCG employees will be expected to take reasonable steps to attend disciplinary hearings, whether as the employee concerned or as a witness. If the employee concerned fails to attend without good reason and does not nominate a representative to attend in their absence, the hearing may take place in their absence where they have been warned of this possibility in advance. Appropriate weight shall be given to the evidence of any witness that fails to attend the hearing and their reasons for non-attendance will be taken into account, if known.

10.3 Witnesses & Observers

The investigating manager is responsible for arranging the attendance of their witnesses. As detailed at Section 5.3, all staff are expected to comply with reasonable requests to cooperate with these procedures. Professionally registered staff may also have obligations to do so under the terms of their professional registration.

If the employee concerned, and their representative, wish to call witnesses at the disciplinary hearing, they will be responsible for arranging their attendance. However, if doing so could breach another part of this procedure, for example, the terms of suspension, requests for witness attendance may be passed through the HR Department.

The investigating manager, the employee, and their representative should confirm by the document exchange date the names and positions of those witnesses that they may wish to call at the hearing.

Staff attending as witnesses will be given paid time off to attend and will be reimbursed for appropriate travelling expenses.

Witnesses for the respective parties must wait in separate waiting rooms, if possible, and must not be present at the hearing or appeal except for the purpose of giving evidence.

Arrangements must be made to avoid contact between witnesses who have been heard and those who have not yet given evidence. It is usual for witnesses to be questioned by both parties and by members of the panel and this is made clear in the procedure laid down for the hearing.

Observers may be present, for example, for training purposes. However, it will be at the discretion of the Chair whether to admit observers to the disciplinary hearing, with the agreement of all parties.

10.4 Role and Membership of the Disciplinary Hearing Panel

The hearing panel will consist of a chairperson, who will be assisted by a member of HR staff.

Advisors to the panel may be appointed, where specialist knowledge or experience is of use.

The Chair and their advisors will all equally be able to participate in proceedings, however, the responsibility for making the final decision will rest with the Chair. It is therefore important that consideration is given in advance as to the suitability of the Chair and that
the Chair carefully considers all the circumstances and advice before reaching a decision. The Chair will also be responsible for ensuring the procedure followed is fair and that the circumstances of the matter are appropriately established to enable them to reach an appropriate decision. The HR representative will be able to provide further advice on these points.

The Chair has absolute discretion on the conduct of the hearing and may at any stage decide to adjourn/amend proceedings to ensure fairness and clarity on any points.

10.5 Possible Hearing Outcomes

The Chair will ensure that reasonable steps have been taken to establish the circumstances of the matter as fully as possible and that the procedure followed is fair. The Chair will fully consider all the information presented to them by both staff side and management side and relevant advice from the panel advisor/s in deciding whether to uphold the allegation/s.

If the Chair decides not to uphold the allegations, the disciplinary sanctions detailed in Section 4 of this procedure will not be imposed. However, the Chair may make other recommendations, for example to improve practice or the working environment or to reintroduce and support a previously suspended member of staff back to work. In some exceptional circumstances, this may include a recommendation to discuss the possibility of redeploying an individual; however, any move would be made in agreement with the employee.

If the Chair decides to uphold the allegation/s, in deciding the sanction to be imposed, they should take into account:

- the employee’s disciplinary and general employment record
- the employee’s length of service
- actions taken in any previous cases, similar cases and any rules that may exist
- the explanations given by the employee

The Chair will then decide what action would be reasonable to take, considering all the circumstances. This may include taking no formal action or formal action such as that described under Section 4 of this procedure.

In addition to imposing one of the formal disciplinary sanctions listed in Section 4 of this procedure, the Chair may decide to call for any (or none) of the following:

- Redeployment of the employee concerned to an alternative role/work base
- Deferral of incremental pay progression
- Appropriate training and development
- Some other intervention, for example, to improve working practice or the working environment
- Withholding of pay for a period of unauthorised absence

10.6 Redeployment

If no formal disciplinary action is taken, the Chair may decide, exceptionally, to recommend the redeployment of the employee concerned. However, any proposed move will be discussed and agreed with the employee and their representative.
Where formal disciplinary action is taken, the Chair may decide to impose a move to an alternative role or work base. The employee and their representative will be consulted and suitable alternatives will be discussed with them, with a view to securing agreement. The process to be followed will emulate the individual consultation and redeployment phase set out in Barnet CCG’s Staff Affected by Change Procedures. Barnet CCG’s Pay Protection Policy on protection of basic pay will also be followed, where applicable.

10.7 Deferral of Incremental Pay Progression

In accordance with Sections 6.26 and 6.27 of the Agenda for Change: NHS Terms and Conditions of Service Handbook, if there are significant weaknesses in performance that have not been resolved despite opportunities for appropriate training/development and support, in exceptional circumstances pay progression may be deferred until the problems are resolved. Significant weaknesses are defined as those that prevent a staff member from continuing to apply consistently, across a recognised normal workload without continued supervision and support inappropriate to the post, the knowledge and skills specified under the KSF foundation post outline, for staff at the foundation gateway. For staff above the second gateway, the full range of knowledge and skills specified under the full KSF post outline will apply.

A separate policy exists for dealing with gateway reviews.

10.8 Right of Appeal

Where formal disciplinary action is taken, the employee concerned has the right to appeal the Chair’s decision within 21 calendar days of the date of the letter confirming the outcome of the hearing, using the Appeal Pro-forma at Appendix 3. Both the employee’s intention to appeal and their detailed grounds for the appeal must be submitted at this stage.

11. APPEAL HEARINGS

The procedure to be followed at an appeal hearing is detailed in Appendix 1, subject to section 10.5. The following points address other matters.

11.1 Timescales

An appeal hearing will normally be convened within a month of receiving the grounds for appeal, where possible. Both the disciplinary hearing Chair and the appellant and their representative will have the opportunity to submit a written case and supporting evidence that they wish to rely upon at the appeal hearing. All documents to be used at the hearing should be submitted in sufficient time to ensure that they can be distributed to, and received by, all hearing attendees at least five working days in advance on the hearing. No new evidence (subject to Section 10 of this procedure) should be submitted by either party. The date for exchanging these documents will be confirmed in writing to the appellant and the disciplinary hearing Chair. The outcome of the appeal hearing will normally be communicated to all attendees within 7 calendar days.
11.2 Failure to Attend

The appellant will be expected to take reasonable steps to attend the appeal hearing. If the appellant fails to attend without good reason and does not nominate a representative to attend in their absence, the hearing may take place in their absence where they have been warned of this possibility in advance. Appropriate weight shall be given to evidence of anyone that fails to attend the hearing and their reasons for non-attendance will be taken into account, if known.

11.3 Role and Membership of the Appeal Hearing Panel

The appeal hearing panel shall consist of a chairperson and two other senior managers, one of whom must be the Head of HR and People Development (or their nominated representative) and one must be an Barnet CCG Director. For appeals against a dismissal the panel should include an Barnet CCG Executive Director and an Barnet CCG Lay Member.

If possible and where relevant one member of the panel should have knowledge of the field of work of the appellant. Members of the appeal panel should not have been involved in the preceding stages of the procedure. The panel may request the services of a specialist advisor to provide specialist advice to the appeal panel.

Each panel member will be able to participate equally in proceedings, however, the responsibility for making the final decision will rest with the Chair. It is therefore important that consideration is given in advance as to the suitability of the Chair and that the Chair carefully considers all the circumstances and advice before reaching a decision. The Chair will also be responsible for ensuring the procedure followed is fair and that the circumstances of the matter are appropriately established to enable them to reach an appropriate decision. The HR representative will be able to provide further advice on these points.

The decision of the appeal hearing Chair will be final and the employee will have no further recourse to have the matter further examined under any Barnet CCG procedures.

11.4 Possible Appeal Hearing Outcomes

The Chair will ensure that reasonable steps have been taken to establish the circumstances of the matter as fully as possible and that the procedure followed is fair. The Chair will fully consider all the information presented to them by both staff side and management side and relevant advice from the panel members and advisor/s in deciding whether to uphold the allegation/s and sanctions imposed at the disciplinary hearing.

The Chair may decide that the allegation/s cannot be upheld and may therefore overturn the sanctions imposed at the disciplinary hearing. The Chair may, however, call for other action that does not constitute formal disciplinary action, for example, measures to improve practices or in some exceptional cases, redeployment, as outlined in Section 10 of this procedure.

If the Chair decides to uphold the allegation/s, they must then consider the reasonableness of the disciplinary sanction/s previously imposed in all the circumstances. The Chair may decide to uphold the previous sanction/s or reduce/increase the level of sanction and/or remove/add other requirements, for example, redeployment,
training/development, deferral of incremental pay progression, or some other intervention, as detailed in Section 10 of this procedure.

11.5 Appeal Re-hearings

Appeal hearings are normally a review of the decision made by the Chair of the disciplinary hearing. However, in some exceptional circumstances it may be necessary to conduct an appeal re-hearing, either in full or in part. Such exceptional circumstances may include where new evidence has come to light following the conclusion of the disciplinary hearing or where the Chair has a reasonable belief that the appellant has established a prima-facie case to demonstrate that the disciplinary hearing may have been rendered unfair due to procedural irregularities. The decision on whether to hear a full or part appeal re-hearing rests with the appeal hearing Chair and the procedure to be followed in such circumstances is detailed at Appendix 1.

New evidence may be submitted at an appeal re-hearing and witnesses may also be called by both parties. Requests for a re-hearing and the grounds for such a request should be submitted by the appellant along with their grounds for appeal. Details of any witnesses to be called should be provided by the document exchange deadline. The appeal hearing Chair has absolute discretion on the conduct of the appeal hearing and may at any stage decide to adjourn/amend proceedings to ensure fairness and clarity on any points and may call for a full or part re-hearing even if not requested by either party.
APPENDIX 1: DISCIPLINARY & APPEAL HEARING PROCEDURES

1.1 PROCEDURE AT A DISCIPLINARY HEARING

At a disciplinary hearing the following procedures shall be observed:

(a) The Investigating Manager shall state the case in the presence of the employee and their representative and may call witnesses.

(b) The employee and/or her/his representative shall have the opportunity to ask questions of the Investigating Manager and their witnesses.

(c) The members of the Disciplinary Panel shall have the opportunity to ask questions of the Investigating Manager and witnesses.

(d) All parties shall have the opportunity to cross-examine the witnesses on any matter referred to in their examination by members of the Disciplinary Panel, the employee or their representative.

(e) The employee and/or their representative shall put their case in the presence of the Investigating Manager and may call witnesses.

(f) The Investigating Manager shall have the opportunity to ask questions of the employee, their representative and their witnesses.

(g) The members of the Disciplinary Panel shall have the opportunity to ask questions of the employee, their representative or their witnesses.

(h) The employee and/or their representative shall have the opportunity to re-examine her/his witnesses on any matter referred to in their cross examination by members of the Disciplinary Panel or the Investigating Manager.

(i) The Investigating Manager and the employee or their representative shall have the opportunity to sum up their cases if they so wish. The employee and/or their representative shall have the right to speak last. In their summing up neither party may introduce any new matter.

(j) Nothing in the foregoing procedure shall prevent the Disciplinary panel from questioning witnesses, management and staffside as appropriate to clarify issues or seek supplementary information, manage the conduct of the case presenters or to amend proceedings to ensure fairness, clarity and the ability to hear the matters appropriately.

(k) If at the outset, the employee concerned admits the allegation/s and does not contest the evidence presented by the Investigating Manager, the Chair may decide, with the agreement of all parties, to amend the procedures and hear evidence solely relevant to the level of sanction, for example, on mitigating circumstances and the seriousness/consequences of the allegation/s in order to determine the appropriate level of sanction.
(l) The Disciplinary Panel may, at its discretion, adjourn the hearing in order that further evidence may be produced by either party or for any other reason. If further evidence is produced then both parties will have the opportunity to test the evidence put before the hearing.

(m) The Investigating Manager, the employee and their representative and witnesses shall withdraw.

(n) The Disciplinary Panel shall deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.

(o) No statement of previous acts of misconduct by the employee or the issue of a formal warning or warnings unrelated to the alleged offence(s) on which the disciplinary action is based shall be made until after the Chair has reached a decision on the allegations.
1.2 PROCEDURE AT AN APPEAL HEARING REVIEW

At the hearing of an Appeal Review the following procedures should be observed.

(a) The appellant and/or their representative shall put their case in the presence of Barnet CCG’s representative.

(b) Barnet CCG’s representative and members of the Appeal Panel shall have the opportunity to ask questions of the appellant and/or their representative.

(c) Barnet CCG’s representative shall state Barnet CCG’s case in the presence of the appellant and their representative.

(d) The appellant and their representative and members of the Appeal Panel shall have the opportunity to ask questions of Barnet CCG’s representative.

(e) Barnet CCG’s representative and the appellant or their representative shall have the opportunity to sum up their cases. In their summing up neither party may introduce any new matter.

(f) Nothing in the foregoing procedure shall prevent members of the Appeal Panel from seeking to clarify any points from either party, managing the conduct of the case presenters or amending proceedings to ensure fairness, clarity and the ability to hear the matters appropriately.

(g) No statement of previous acts of misconduct or the issue of a formal warning or warnings unrelated to the alleged offence(s) on which the disciplinary action is based should be made until after the Panel has reached a decision on the appeal.
1.3 PROCEDURE AT AN APPEAL REHEARING

At an Appeal Re-hearing the following procedures should be observed:

(a) The appellant and/or their representative shall put their case in the presence of Barnet CCG’s representative and may call witnesses.

(b) Barnet CCG’s representative shall have the opportunity to ask questions of the appellant, their representative and witnesses.

(c) The members of the Appeal Panel shall have the opportunity to ask questions of the appellant, their representative and/or their witnesses.

(d) The appellant and/or their representative shall have the opportunity to cross examine their witnesses on any matter referred to in their examination by members of the Appeal Panel or Barnet CCG’s representative.

(e) Barnet CCG’s representative shall state Barnet CCG’s case in the presence of the appellant and their representative and may call witnesses.

(f) The appellant and their representative shall have the opportunity to ask questions of Barnet CCG’s representative and witnesses.

(g) The members of the Appeal Panel shall have the opportunity to ask questions of Barnet CCG’s representative and witnesses.

(h) Barnet CCG’s representative shall have the opportunity to cross examine the witnesses on any matter referred to in their examination by members of the appeal Panel, the appellant or their representative.

(i) Barnet CCG’s representative and the appellant or their representative shall have the opportunity to sum up their cases if they so wish. The appellant or their representative shall have the right to speak last. In their summing up neither party may introduce any new matter.

(j) Nothing in the foregoing procedure shall prevent the Appeal Panel from questioning witnesses, management side and staffside as appropriate to clarify issues or seek supplementary information.

(k) The Panel may, at its discretion, adjourn the appeal in order that further evidence may be produced by either party or for any other reason.

(l) The Panel Chair has discretion over the calling of witnesses, the conduct of the case presenters, amending proceedings to ensure fairness, clarity and the ability to hear the matters appropriately and any policy decision arising from the procedure.

(m) Barnet CCG’s representative, the appellant and their representative and witnesses shall withdraw.
(n) The Panel shall deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.

(o) No statement of previous acts of misconduct by the employee or the issue of a formal warning or warnings unrelated to the alleged offence(s) on which the disciplinary action is based shall be made until after the Panel has reached a decision on the appeal.
APPENDIX 2: TYPES OF OFFENCES THAT MAY BE DEALT WITH UNDER THESE PROCEDURES

1) Timekeeping
2) Health and Safety
3) Abuse of Facilities
4) Misconduct
5) Contravention of codes of conduct/other rules
6) Gross Misconduct e.g.
   - theft; fraud; deliberate falsification of records; fighting; assault or abuse of another person; deliberate damage to/serious abuse of CCG property/facilities; serious incapability through alcohol or being under the influence of illegal drugs; serious negligence which causes unacceptable loss, damage or injury; serious act of insubordination; unauthorised entry to computer records; unauthorised access and use of confidential/sensitive data; discrimination; harassment; victimisation; bullying; threatening/intimidating/violent behaviour.

NB This list contains only some examples and is by no means exhaustive.
APPENDIX 3: APPEAL PRO-FORMA

Important: You are required to complete this form and send it to the Head of HR within 21 days of the date of the letter confirming the outcome of the Disciplinary Hearing.

1. State the grounds of your Appeal.

................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
................................................................................................................................................
(continue on a separate sheet if necessary)
2. Please state your name, address and telephone number (BLOCK CAPITALS)

Name: ........................................................................

Address: ........................................................................

..............................................................................................

Telephone No (work): .............. (home): .....................

3. Please state your job title, grade and your department (BLOCK CAPITALS)

Job title and grade: ..........................................................

Department: ........................................................................

4. If a representative has agreed to act for you in this case, please give his or her name and address below (BLOCK CAPITALS)

Name of representative: .....................................................

Union or Organisation: ....................................................... 

Address: ........................................................................

..............................................................................................

Telephone No: ............................................................... 

You are advised to consult your representative before submitting this completed form.

Signed: ............................................................................. Date: .........................

NB: Once you have formally lodged your Appeal, it will be acknowledged in writing.
4.1 EXAMPLE INVESTIGATION LETTER

(See section 5 of the Disciplinary Procedure and contact HR for further guidance)

18 September 2013

Private & Confidential

NAME & ADDRESS

Dear NAME OF EMPLOYEE

I am writing further to our conversation/meeting/my letter of ___DATE___, when I/you informed you/stated that _________ [e.g. (serious) concerns had been brought to my attention regarding the incidents of ___DATE___] OR I am writing regarding (serious) concerns which have been brought to my attention by _______, regarding ____. I attach a copy of ____ for your information.

I have therefore arranged for an investigation meeting to take place, in accordance with Barnet CCG’s Disciplinary Procedure (a copy of which I enclose – IF APPROPRIATE). The meeting will take place at ______ on __________________ 200X in ___________. I will be chairing the meeting and NAME OF HR REPRESENTATIVE, JOB TITLE, will also be in attendance to provide HR advice. You may wish to bring with you a colleague, union representative, or friend to the meeting. (If you wish to submit a written statement regarding the above allegation, please submit it to me by ___________ - If they have not already done so). Please note that at this meeting I may need to conclude my investigation and decide whether the allegation/s against you should be upheld and therefore whether further action should be taken in accordance with Barnet CCG’s Disciplinary Procedure.

If you have any further queries, please feel free to contact me on the above number.

Yours sincerely

NAME OF MANAGER
TITLE OF MANAGER
cc: HR Representative
Enc. (Enclose relevant statements/document, individually identifying those that are enclosed & Disciplinary Procedure if appropriate)
4.2 EXAMPLE SUSPENSION LETTER

(See section 6 of the Disciplinary Procedure and contact HR for further guidance)

18 September 2013

Private & Confidential

NAME & ADDRESS

Dear NAME OF EMPLOYEE

I am writing to confirm the outcome of our meeting of date, at which name, job title was providing HR advice (optional) and name, job title, was taking notes (optional).

It was explained to you that you were entitled to be accompanied by a trade union representative, a colleague or a friend, and you informed everyone present that you were happy to go ahead with the meeting without representation. OR name was also present as your relationship.

At the meeting I explained that an allegation had been made by who, explain allegation/s OR serious concerns have been brought to my attention by who, explain concerns You were asked if you wished to make a statement in response to the allegation, and you did so/declined to do so. I also asked you to submit a written statement within 5 working days, by date.

This is a very serious allegation and I decided that you should be suspended from duty with effect from date, until an investigation into the allegation has been carried out in accordance with Barnet CCG’s Disciplinary Procedure, a copy of which name gave you at the meeting.

I would like to emphasise that suspension is not a disciplinary act and does not imply that there has been any misconduct, nor that there is any suggestion of guilt. It is a neutral act enabling the individual to be released from their place of work while receiving full pay, pending an investigation into the allegation made. A copy of Barnet CCG’s Information Pack on Suspension for Employees was also given to you at the meeting. May I remind you that whilst on suspension you are not to return to any BARNET CCG site or contact any clients or staff without my express permission.

As I explained at our meeting, I want to ensure that this matter is resolved as quickly as possible and also that the allegations/concerns raised are thoroughly investigated. You may therefore be required to attend an investigatory meeting and I will inform you of a date for this and subsequently the outcome of the investigation at the earliest opportunity.

[Optional: for use in patient complaints] As the allegations against you were raised by/in relation to a patient/client/visitor, I may need to interview the patient as part of the
investigation. Should you have any questions that you would like put to the patient please can you submit them to me, in writing, within 7 calendar days.

During your suspension, please feel free to contact me if you have any queries. Alternatively you may contact ------------ on 020 ------------ for basic support and guidance. The CCG’s Occupational Health Service is also available to provide additional support as is the free and confidential counselling/advisory service, Oasis.

Yours sincerely

Manager's Name
& Job Title

cc: List names of all attendees
4.3 EXAMPLE IMPROVEMENT NOTE

(See Section 3.2 of the Disciplinary Procedure and contact HR for further guidance)

Manager's Address & Telephone Number

18 September 2013

Private & Confidential

NAME & ADDRESS

Dear NAME OF EMPLOYEE

Re: Improvement Note

I am writing to confirm our discussion that took place on date.

At the meeting, I highlighted to you that I had concerns about your describe the unsatisfactory conduct, making it clear what it is that is unsatisfactory. We therefore discussed your perspective on this and you stated that summarise the member of staff’s viewpoint – for example whether they agreed and any response you had to this. We also discussed whether there were any possible contributing factors and you informed me that you did not think there were/describe what they thought these could be and the agreed support that would be put in place as a result.

Summarise any other relevant discussion/s that took place and any other relevant circumstances

I explained that I need to you to achieve the following improvement/s, give details with clear, realistic, measurable objectives. I explained that I would expect these improvements to be achieved by date and that I would monitor your progress over a period of state period – usually between 4 weeks and 3 months depending on circumstances and that I would expect you to sustain the required improvements. To help you in achieving and sustaining these improvements we also agreed the following supportive measures provide details of any that were agreed – e.g. more frequent supervision, training, etc

To help you achieve and sustain these improvements, I will be available to support you and give you feedback during this time and you should highlight to me any difficulties you may be experiencing or any additional support that you may need.

We will also need to meet to more formally review the outcome of the monitoring period on date. You should note that if I do not consider that you have satisfactorily made and sustained the required improvement, I may need to take formal disciplinary action against you in accordance with Barnet CCG’s Disciplinary Procedure, a copy of which I attach for your information.
If you have any queries, please feel free to contact me on the above number.

Yours sincerely

Manager’s Name
& Job Title

Enc. (Disciplinary Procedure)
APPENDIX 5: AUTHORITY TO DISMISS

The following officers will have the authority to dismiss under this procedure:-

1. Directors

2. Associate/Deputy Director level managers

3. Managers who are at Head of Service/Department/Function level
NHS Barnet Clinical Commissioning Group (CCG)
Family Leave Policy

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
|                     | Head of Quality & Organisational Development at Barnet CCG |
| Accountable Director: | Director of Quality & Governance |
| Ratifying Committee(s) and Date: | Previously approved by:  
|                               | NHS NCL PCT Board  
|                               | NHS NCL PCT Senior Leadership Team 16.09.2011  
|                               | NHS NCL PCT Joint Partnership Group 20.09.2011  
|                               | Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet | Website |
| Related Documents: | • All other HR policies  
|                               | • Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updates as and when changes occur |

Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Introduction and Scope</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>Policy Statement</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Relationship to Family Leave Procedure</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Aims of the policy</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>Summary</td>
<td>4</td>
</tr>
</tbody>
</table>
1. **Introduction and Scope**

This Policy applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon).

This Policy sets out Barnet CCG’s commitment to supporting working parents effectively. Barnet CCG is committed to meeting its legislative requirements, entitlements set out in Agenda for Change, as well as operating best practice where practicable.

Generous family leave entitlements assist in helping staff to achieve a work-life balance. Work-life balance is achieved when an individual’s right to a fulfilled life inside and outside paid work is accepted and respected as the norm, to the mutual benefit of the individual, business and society.

The benefits of a work-life balance to the organisation include:

- Increased productivity
- Improved recruitment and retention
- Lower rates of absenteeism
- Reduced overheads
- An improved customer experience
- A more motivated, satisfied and equitable workforce.

This policy covers Maternity, Paternity, Adoption rights and Parental leave.

2. **Policy Statement**

Barnet CCG is committed to supporting staff to successfully combine work with their maternity, paternity, adoption and for parenting responsibilities to create a balance between their work and family commitments.

Barnet CCG recognises the important role of parents at the time of the birth, after birth or adoption of a child and during the first fourteen years of a child’s life to look after the child and to make arrangements for the child’s welfare.

3. **Relationship to the Family Leave Procedure**

This policy should be read in conjunction with the Family Leave Procedure which sets out the maternity rights, paternity rights, adoption rights and parental leave employees are entitled to and the process to be followed for staff wishing to access their rights.

4. **Aims of the policy**

- To ensure equality at work and to put in place family rights that are effective and fair for all employees.
- Support the principles of non-discrimination
- Offer generous entitlements
- Offer working practices that support staff and allow them to combine family and working life
- Provide staff with a clearly defined procedure which sets out their rights and the benefits available to them
- Provide staff with a clearly defined procedure for accessing their entitlements (Family Leave Procedure)
- Provide guidance and training for managers responsible for either implementing the policy
- Create a family friendly organisational culture
- Assist employees to manage their transition out of and back into work by providing clarity around entitlements and expectations
- Assist in attracting and retaining staff, and make staff feel appreciated
- To ensure that all employees are aware of their obligations to Barnet CCG

5. **Summary**

Barnet CCG acknowledges the importance of an employee’s parental and family responsibilities, the purpose of the Family Leave Policy and Procedure is to try to help employees to achieve genuine work-life balance. Best practice employers recognise that employees who feel valued and supported are more likely to remain attached to their workplace and be flexible and committed employees.
### NHS Barnet Clinical Commissioning Group (CCG)

#### Family Leave Procedure

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
|                     | Head of Quality & Organisational Development at Barnet CCG |
| Accountable Director: | Director of Quality & Governance |
| Ratifying Committee(s) and Date: | Previously approved by:  
|                     | NHS NCL PCT Board  
|                     | NHS NCL PCT Senior Leadership Team 16.09.2011  
|                     | NHS NCL PCT Joint Partnership Group 20.09.2011  
|                     | Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet  
|                     | Website |
| Related Documents: | ● All other HR policies  
|                     | ● Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updates as and when changes occur |

#### Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
# Family Leave Procedure

## Contents

1. **Introduction** ............................................................ 4
2. **Procedure Statement** ................................................... 5
3. **Part A: Maternity Leave**
   - 3.1 Roles and Responsibilities ........................................ 5
   - 3.1. Responsibility of member of staff ................................ 5
   - 3.2. Responsibility of Manager .......................................... 5 - 6
   - 3.3 Keeping in Touch ..................................................... 6
4. **Protection against Detriment or Dismissal** .......................... 7
5. **Eligibility Criteria** ..................................................... 7
6. **Employees with Less Than Twelve Months Service** .............. 8
7. **Mat B1** ......................................................................... 8
8. **Maternity Leave (Types)** ................................................... 8
9. **Maternity Pay (Types)** .................................................... 9 - 10
10. **Time off for Ante-Natal Care** .......................................... 10
11. **Commencing Maternity Leave** .......................................... 10
12. **Premature Child Birth** .................................................... 11
13. **Still Birth & Miscarriage** .................................................. 11
14. **Health & Safety** ........................................................... 12
15. **Sickness** ..................................................................... 12
16. **Contractual Issues during Maternity – also see Part D** .......... 13
17. **Returning to Work Maternity** ............................................. 14 - 16
18. **Rights on and after return to work** ..................................... 16
19. **Fixed Term & Training Contracts** ....................................... 16

**Part B: Paternity Leave & Pay** ............................................... 19 - 28

---

**Family Leave Procedure**

**December 2011**

---

2 of 46
<table>
<thead>
<tr>
<th>Part C: Adoption Leave &amp; Pay</th>
<th>Page 29 - 35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part D: Generic contractual terms and conditions for Maternity, Paternity, Adoption Leave and Pay</td>
<td>36</td>
</tr>
<tr>
<td>Appendix A: Form ML1 Application for maternity leave</td>
<td>37 - 38</td>
</tr>
<tr>
<td>Appendix B: Form ML2</td>
<td>39 - 41</td>
</tr>
<tr>
<td>Appendix C: Application for Paternity Leave &amp; Pay</td>
<td>42 - 44</td>
</tr>
<tr>
<td>Appendix D: Application for Adoption Leave &amp; Pay</td>
<td>45 - 46</td>
</tr>
<tr>
<td>Appendix E: Application for Additional Paternity Leave (APL) following the Adoption of a Child (Applicable after 1st April 2011 only)</td>
<td>48</td>
</tr>
<tr>
<td>Appendix F: Application for Additional Paternity Leave (APL) Following Birth of a Child (Applicable after 1st April 2011 only)</td>
<td>49</td>
</tr>
<tr>
<td>Appendix G: Mother declaration in support of an application for Additional Paternity Leave (APL) Following Birth of a Child (1st April 2011 only)</td>
<td>50</td>
</tr>
<tr>
<td>Appendix H: Adopter declaration in support of an application for additional Paternity Leave (APL) Following the Adoption of a Child (1st April 2011 only)</td>
<td>51</td>
</tr>
</tbody>
</table>
1. Introduction and Scope


This Procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon).

This Procedure sets out the key principles of Barnet CCG’s approach to help staff manage their parenting responsibilities in the following three areas:

1) Maternity Leave & Pay Procedure Part A
2) Paternity Leave & Pay Procedure Part B
3) Adoption Leave & Pay Procedure Part C

In addition, it sets out some generic contractual issues during Maternity, Paternity and Adoption Leave in Part D.

This Procedure sets out the key principles of Barnet CCG’s approach to help staff manage their maternity, parenting and adoption responsibilities:

- To provide fair, consistent and effective application of maternity, paternity, and adoption provision.

- To ensure that all employees are informed of their rights with regard to maternity, paternity and adoption leave and pay and their employment.

- To ensure that all employees are aware of their obligations to Barnet CCG.

This Procedure should be read in conjunction with the Family Leave Policy and Flexible Working Guidelines, and relevant policies or initiatives introduced by Barnet CCG.

This Procedure will apply to all staff employed by Barnet CCG including both full time and part time employees. In line with the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 employees who have a part time contract with Barnet CCG shall receive the same entitlements as employees who work full time on a pro rata basis.

This Procedure does not apply to Bank staff; however each case will be assessed individually for statutory maternity, paternity and adoption pay entitlement. Barnet CCG’s obligations relating to Health and Safety will apply.

2. Policy Statement
Barnet CCG is committed to supporting staff to successfully combine work with their maternity, paternity, adoption and for parenting responsibilities to create a balance between their work and family commitments.

Barnet CCG recognises the important role of parents at the time of the birth, after birth or adoption of a child and during the first five years of a child’s life to look after the child and to make arrangements for the child’s welfare.

Part A: Maternity Leave & Pay

3. Roles and Responsibilities

3.1. Responsibilities of the member of staff

- To inform their line manager of their pregnancy as soon as possible, and apply for maternity leave no later than the end of the 15th week before the expected week of childbirth
- To comply with requests to attend Occupational Health
- To provide the original MATB1 form
- To read the guidance in order to complete the application form for maternity leave (Appendix A)
- To contact their manager one month before their expected date of return to agree their return to work details.

3.2 Responsibilities of the Manager

- Advise employees of their rights, obligations and entitlements to maternity leave and pay in line with this Procedure.
- Undertake a risk assessment (your HR Business Partner will be able to provide you with the relevant risk assessment form) as soon as a member of staff advises a manager that she is pregnant or is breast-feeding
- Contact HR for advice if a member of staff gives birth prematurely
- Referral to Occupational Health should only be made when the line manager feels unable to manage a risk identified using the standard management referral form (your HR Business Partner will be able to provide you with an Occupational Health referral form) with a copy of the employee’s job description and a description of the physical and mental nature of the duties involved.
- Keep in touch with the employee when she is on maternity leave to keep them informed of any changes in the organisation.
- Liaise with their member of staff to plan their return to work, this may involve discussion with the Human Resources Department.
• Complete the appropriate forms for the Payroll Department.

• The manager should discuss and agree with the employee:
  
  ❖ Voluntary arrangements that the employee may find helpful to help her keep in touch with developments at work and, nearer the time of her return, to help her facilitate her return to work.
  
  ❖ Keeping the employer in touch with any developments that may affect her intended date of return.

• Managers are also encouraged to prepare a return to work induction programme to support employees returning from maternity leave and undertake a post natal risk assessment.

• Some employees may claim their entitlement to take a period of parental leave immediately after their maternity leave and managers should refer staff to the Part B: Parental Leave Procedure. The relevant notice periods as detailed in the Part B: Parental Leave Procedure should be given.

• Managers should also inform staff of other relevant Barnet CCG policies or initiatives, for example, the Flexible Working Guidelines.

3.3 Keeping in Touch Days - Work During the Maternity Leave Period

To facilitate the process of Keeping in Touch Days (KIT days) it is important that the employer and employee have early discussion to plan and make arrangements for KIT days before the employee’s maternity leave takes place.

An employee may work for up to a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity leave period.

An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.

The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace.

Any such work must be by agreement and neither the employer nor the employee can insist upon it.

The employee will be paid at their basic daily rate, for the hours worked less appropriate maternity leave payment for KIT days worked.

Working for part of any day will count as one KIT day.

Any employee who is breastfeeding must be risk assessed by the line manager and facilities provided in accordance with section 14.

4. Protection against detriment or dismissal
All employees, regardless of length of service, are protected against detriment or dismissal on grounds of pregnancy or childbirth.

All employees are protected against unfair treatment at work for taking or seeking to take ordinary or additional maternity leave. Employees who have been suspended from work for health and safety reasons connected to maternity are also protected against unfair treatment at work.

5. **Eligibility Criteria**

An employee working full-time or part-time will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if:

I. She has twelve months continuous service with one or more NHS employers at the beginning of the eleventh week before the expected week of childbirth; for more information on Continuous Service refer to the Agenda for Change Terms and Conditions Handbook Section 15.

II. She notifies her employer in writing before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter):

   - of her intention to take maternity leave;
   - of the date she wishes to start her maternity leave – this can be any date from the beginning of the 11th week before the baby is born (for any change to this date please refer to section 11 of this Procedure);
   - that she intends to return to work with the same or another NHS employer for a minimum period of three months after her maternity leave has ended;
   - provides a MATB1 (Section 7) form from her midwife or GP giving the expected date of childbirth.

6. **Employees with Less Than Twelve Months Continuous Service**

If an employee does not satisfy the conditions for contractual maternity pay she may be entitled to Statutory Maternity Pay (SMP), the criteria for receiving this is detailed in section 9 of this Procedure. Statutory Maternity Pay will be paid regardless of whether she satisfies the conditions for contractual maternity pay.

If her earnings are too low for her to qualify for Statutory Maternity Pay, or she does not qualify for another reason, she should be advised to claim Maternity Allowance from her local Job Centre Plus or social security office.

All employees will have a right to take 52 weeks of maternity leave whether or not they return to NHS Employment.

7. **MAT B1**
The MatB1 is a Maternity Certificate, confirming details of expected week of confinement, which is obtained from a midwife/doctor around the 26th week of pregnancy. This form must be sent to the Human Resources Department, along with the application for maternity leave plus a completed ML1 form.

Once an employee has fully completed the Maternity Leave Application Form and submitted this with her MATB1 to Human Resources she will receive confirmation of the dates of her commencement of her maternity leave and the date that she is expected to return to work.

8. **Maternity Leave**

There are two types of Maternity Leave:

**Compulsory Maternity Leave**
An employee may not work for two weeks immediately after the date of childbirth.

**Ordinary Maternity Leave**
All pregnant employees are entitled to 52 weeks ordinary maternity leave regardless of length of service.

9. **Maternity Pay**

There are three types of Maternity Pay;

**Statutory Maternity Pay (SMP)**
Employees are entitled to 39 weeks statutory maternity pay if they have completed at least 26 weeks continuous NHS service ending with the qualifying week (the 15th week) before the expected week of childbirth, and her average weekly earnings have been at or above the lower earnings limit for National Insurance contributions.

SMP is calculated for 39 weeks:
- for the first 6 weeks at 90% of average weekly earnings;
- for the remaining 33 weeks at the lesser of the SMP standard rate which is currently £128.73 or 90% of earnings if less than the SMP standard rate. These amounts are subject to revision by the Department of Work and Pensions every April.

**Contractual Maternity Pay (CMP)**
Employees with over 12 months continuous NHS employment with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth and intending to return to work in the NHS for a minimum period of 3 months are entitled to contractual maternity pay.

CMP is calculated:
- for the first 8 weeks of absence the employee will receive full pay less any SMP or MA (including any dependants’ allowances) receivable.
- for the next 18 weeks, the employee will receive half of full pay plus any SMP or MA receivable (including any dependants’ allowances) receivable providing the total receivable does not exceed full pay.
- For the next 13 weeks the employee will receive SMP or MA that they are entitled to receive under the statutory scheme.
The remaining 13 weeks are unpaid. This may be extended by local agreement in exceptional circumstances. For example where employees have sick pre-term babies or multiple births.

By prior agreement with the employer contractual maternity pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

An employee who satisfies the conditions as laid out in eligibility criteria, except that she does not intend to work with the same or another NHS employer for a minimum period of three months after her maternity leave is ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90% of her average weekly earnings for the first six weeks of her maternity leave and to the flat rate sum for the following 33 weeks.

**How Maternity leave is calculated**

Your maternity pay is based on your average pay eight weeks immediately before the 15th week before the EWC.

For employees who are paid monthly this period will be defined as the two paydays received on or before the Saturday of the 15th Week before the baby is due.

For further information on how maternity leave is calculated please refer to the following link on the HMRC website: [http://www.hmrc.gov.uk/helpsheets/e15.pdf](http://www.hmrc.gov.uk/helpsheets/e15.pdf)

**Maternity Allowance**

Employees who do not qualify for either SMP or CMP may be entitled to maternity allowance. Maternity allowance can be claimed directly from the local Jobcentre Plus or Social Security Office.

In order to take advantage of the right to maternity leave and pay an employee **must** notify Barnet CCG before the end of the 15th week before her expected week of childbirth unless this is not reasonably practicable.

**Salary Sacrifice**

Staff should be aware that participation in a salary sacrifice scheme i.e. Childcare Vouchers, at the time of applying for Maternity Leave and Pay, may have an impact on the calculation of maternity pay. Further information should be sought from the payroll department.

10. **Time off for Antenatal Care**

All pregnant employees, regardless of length of service or hours of work, are entitled to paid time off for antenatal care. This includes parent craft and relaxation classes as well as appointments for antenatal care.

Wherever possible employees are encouraged to arrange antenatal appointments outside working hours or to coincide with the beginning or end of the working day.

Except in the case of her first appointment, the employee must be prepared to show their manager a certificate confirming she is pregnant and an appointment card or similar document.
Employees are encouraged to give managers a minimum of one week’s notice of appointments in order to arrange cover.

11. **Commencing Maternity Leave**

The start of maternity leave must be no earlier than the 11th week before the expected week of childbirth.

The expected week of childbirth will be indicated on the MATB1.

An employee may choose to commence her maternity leave at any time between the 11th week before the expected week of childbirth and the expected week of childbirth, provided she gives the required notice.

An employee will be able to change her mind about when she wants to start her maternity leave provided she gives at least 28 days notice. If it not possible to give 28 days notice, for example, due to early childbirth or pregnancy-related illness, then notification should be given as soon as reasonably practicable.

12. **Premature Childbirth**

- Where the baby is born alive prematurely the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.

- Where the baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee’s absence.

- Where the baby is born before the 11th week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth.

- Where the baby is born before the 11th week before the expected week of childbirth and the baby is in hospital the employee may split her maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of her leave following her baby’s discharge from hospital.
13. Stillbirth and Miscarriage

Still Birth
In the unfortunate event that a baby is still born after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

Where a baby is still born before the 24th week of pregnancy any absence will be treated as sick leave and the normal sick leave provisions will apply as necessary.

Miscarriage
Where an employee has a miscarriage before the 25th week of pregnancy normal sick leave provisions will apply as necessary.

14. Health and Safety of Employees Pre and Post Birth

Barnet CCG will ensure that the environment for expectant mothers, mothers who have newly given birth or who are breastfeeding, is safe by ensuring that a risk assessment is undertaken of the workplace. The line manager must ensure that a risk assessment of her working conditions is undertaken. It is also the responsibility of expectant mothers to follow Barnet CCG’s Health and Safety Procedure and inform their line managers of any risk they identify in relation to their work.

If it is found, or a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, the employer should provide suitable alternative work for which the employee will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work the employee should be suspended on full pay.

These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding her child.

If a risk has been identified then reasonable practicable measures should be taken by the manager to prevent exposure to the risk, this will be done in discussion with the employee and advice from Occupational Health Service.

The reduction to exposure of risk could be achieved by:

- temporarily adjusting the working conditions and/or hours of work
- offering suitable and appropriate alternative work on terms and conditions no less favourable than her normal terms and conditions.
- Where neither of these is appropriate and in order to protect the employee

15. Sickness
Prior to childbirth

If an employee is absent with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is later.

If an employee is absent from work during the four weeks before the expected week of childbirth due to illness that is certified as being unrelated to pregnancy, it will be treated as sick leave. The employee can remain on sick leave until the date of the baby’s birth or until the date notified as the commencement of maternity leave.

Absence prior to the last four weeks before the expected week of childbirth, supported by a medical statement of incapacity for work or a self-certificate shall be treated as sick leave in accordance with the normal leave provisions.

Odd days of pregnancy related illness during this period may be disregarded if the employee wishes to continue working till the maternity leave start date previously notified to the employer.

Monitoring pregnancy-related sickness

Pregnancy-related sickness absence should be monitored and recorded in line with Barnet CCG’s Sickness Absence Procedure. However, sickness which occurs during pregnancy or maternity leave should not be included in any existing or future sickness absence issue that is being managed under Barnet CCG’s Sickness Absence Procedure.

Pregnancy-related sickness, which occurs after an employee has returned from maternity leave, can be taken into account in the normal way.

In all circumstances, the employee should notify her manager in writing of the reasons for her absence as soon as is reasonably practicable. On occasions where it is unclear whether absence is pregnancy-related, advice should be sought from the Occupational Health Service.

The employee must submit a self certificate, G.P or in-patient Medical Certificate to cover any period of sickness, and comply with Barnet CCG’s Sickness Absence Procedure.

Sickness during Maternity Leave

Sickness during the maternity leave period will be treated as maternity leave.

Sickness following the end of the Maternity Leave Period

If the employee is unable to attend work at the expected date of return to work due to sickness, the normal sick leave provisions and notification procedures will apply in accordance with the Sickness Absence Procedure.

16. Contractual Issues during Maternity, also see section D for generic contractual issues

The Contract during Maternity Leave

The contract of employment continues during both paid and unpaid maternity leave and the employee retains all of her contractual rights except remuneration.
Increments
Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave.

Accrual of Annual Leave
Annual leave will continue to accrue during maternity leave, whether paid or unpaid.

Where the amount of accrued annual leave exceeds 5 days, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer.

17. Returning to work

Employees are not able to return to work during the period of compulsory maternity leave i.e. within two weeks after childbirth.

Employees who have been in receipt of CMP (contractual maternity pay) must return to work for the NHS within a period of three months. (See page 15 on Failure to return to work)

An employee has the right to return to work and may choose the date on which she intends to return to work within her individual minimum and maximum entitlements, provided she has complied with the required notice detailed below. It is the responsibility of the employee to ensure that they return to work on the agreed date, no reminder will be sent by Barnet CCG.

Employees are encouraged to inform their managers of the date of birth of their child and their intention to return to work.

Prior to their return to work staff must undertake a risk assessment with their line manager.

An employee who intends to return to work at the end of her full maternity leave will not be required to give any further notification to the employer, although if she wishes to return early she must give at least 28 days’ notice.

If an employee intends to return to work before the end of the agreed maternity leave period she must give at least 28 days written notice of her date of return. If this notice is not given then the manager may postpone her return until 28 days have elapsed not going beyond the 52 weeks entitlement.

An employee does not have to give advance notice of her intention to return to work if she intends to return immediately after the end of her agreed maternity leave period. However, employees are encouraged to liaise with their managers if this is their intention in order that their return to work can be planned.

An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
Return to work with another NHS Employer – applicable to Maternity Leave and pay only

An employee may choose to return to work with another NHS employer within 3 months of the end of her maternity leave entitlement and will retain her maternity rights under this scheme. A copy of the letter of appointment must be provided to Barnet CCG.

Failure to return to work
If an employee has notified Barnet CCG that she intends to return to work on her application for maternity leave and then does not return to work for Barnet CCG or a different NHS employer within 15 months of the beginning of her maternity leave, and work for a minimum period of 3 months she will be liable to refund the whole of her maternity pay less any statutory maternity pay received.

In cases where Barnet CCG considers that to enforce this provision would cause undue hardship or distress Barnet CCG will have the discretion to waive their rights to recovery. The employee will retain her entitlement to statutory maternity pay regardless.

An employee who satisfies the conditions as laid out in eligibility criteria, except that she does not intend to work with the same or another NHS employer for a minimum period of three months after her maternity leave is ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90% of her average weekly earnings for the first six weeks of her maternity leave and to a flat rate sum for the following 33 weeks.

Occupational Health Referral
On return to work, managers will undertake a risk assessment of all employees who have recently given birth or who are breastfeeding. If a manager is unable to accommodate an adjustment they must make a referral to Occupational Health.

Following assessment, where an employee is unable to carry out her normal work she will have the right to alternative work or temporary suspension on full pay under the conditions detailed in section 6.

Referral should be made using the standard management referral form (Appendix J) with a copy of the employee’s job description and a description of the physical and mental nature of the duties involved.

Post Natal Care and Breast Feeding Mothers
Women who have recently given birth should have paid time off for post-natal care e.g. attendance at health clinics.

Where practicable managers are encouraged to provide staff with reasonable access to clean, private rest facilities for breastfeeding, expressing and storing of breast milk.

Managers are required to undertake a risk assessment and to provide breastfeeding women with suitable private rest facilities.

The Health and Safety Executive Guidance recommends that employers provide:

- A clean, healthy and safe environment for women who are breast feeding;
- Suitable access to a private room to express and store milk in an appropriate refrigerator.
In line with Barnet CCG’s Flexible Working guidelines managers should consider requests for flexible working arrangements to support mothers who are breast-feeding at work.

Managers are reminded that they should consider requests for flexible working arrangements to support breast feeding women at work.

18. Rights On and After Return to Work

Return to work after ordinary maternity leave
An employee who resumes work after maternity leave is entitled to return to the same job on the same terms and conditions as if she had not been absent, unless a redundancy situation has arisen or change in the needs of the service requiring a service re-organisation.

Redundancy/Service Re-Organisation
Employees who are at risk of redeployment or redundancy during maternity leave, or who are subject to a service re-organisation will be managed in accordance with Barnet CCG’s Staff Affected by Change Procedure.

Flexible Working on Return from Maternity Leave
If, at the end of maternity leave, the employee wishes to return to work on different hours in the same job, Barnet CCG will facilitate this where possible. If it is not possible to support this line managers will write to the employee to provide objectively justifiable reasons for this and the employee should return to the same grade and work of a similar nature and status to that which they held prior to their maternity absence.

If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period in line with Barnet CCG’s Flexible Working Guidelines this will not affect the employee’s right to return to her job under her original contract at the end of the agreed period. The process for this is outlined in the Flexible Working Guidelines.

19. Fixed Term and Training Contracts

Pay/leave entitlement and the effect on the contract
Employees subject to fixed term or training contracts, which expire after the 11th week before the expected week of childbirth and who satisfy the conditions in Section 5 and those detailed below, shall have their contracts extended so as to allow them to receive the 39 weeks paid, contractual, and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave provided that the employee:

- Has 12 months continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth.

- Notifies her line manager in writing before the end of the 15th week before the expected date of childbirth (or as soon as is reasonably practicable) of her intention to take maternity leave, the date she wishes to start her maternity leave

- Provides a MAT B1 form from her midwife or GP giving the expected date of childbirth.
Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred the repayment provisions set out under section “Failure to return to work” will not apply.

Employees on fixed term contracts who do not have 12 months continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth may be entitled to Statutory Maternity Pay.

20 Information About Statutory Maternity Leave and Pay
There are occasions when employees are entitled to other statutory benefits/allowances and Information about all statutory maternity rights can be found using the following links:

http://www.dwp.gov.uk/lifeevent/benefits/statutory_maternity_pay.asp
http://www.jobcentreplus.gov.uk

Information about Health and Safety for new and expectant mothers at work can be found using the following link:  www.hse.gov.uk
Part B: Paternity Leave & Pay

1. Introduction

Adoption/Paternity/Maternity Support leave is designed to allow eligible employees to take paid leave to care for their children or to support the mother following birth or in the case of adoption support their partner following placement of a child.

2. Disciplinary Action relating for misuse of Adoption & Paternity Leave

Employees who take adoption/paternity/maternity leave not connected with the reasons given above will be regarded as acting dishonestly and will be treated under Barnet CCG’s Disciplinary Procedure.

3. Adoption

Employees who adopt a child are entitled to adoption leave and pay, please refer to the Part C: Adoption Leave & Pay. Only one member of a couple can take adoption leave, the partner who hasn’t chosen to take this may be entitled to paternity/maternity support leave and pay.

4. Roles and Responsibilities

4.1 Employees

To inform their line manager of their request to take paternity leave, no later than by the end of the 15th week before the expected week of childbirth, or as soon as practicable.

To complete the application form for paternity leave detailing whether they wish to take one or two weeks' leave.

If the employee meets the criteria for claiming statutory paternity pay, they must complete and sign an SC3.

Comply with the notification timescales as detailed in this Procedure.

4.2 Manager responsibility in line with Part A: section 3.1

The role of the manager is to liaise directly with the employee to check eligibility and explain entitlements to paternity and maternity support leave and pay and help the employee complete the Application Form Appendix C and send to Human Resources.

The manager is responsible for completing Change of Employment Details form confirming the actual start and return to work of the employee and sending these to Human Resources.

The manager may wish to discuss with the employee whether they wish to keep in touch with them whilst on paternity leave.

5. Eligibility Criteria for Paternity Leave

An employee qualifies for Ordinary Paternity Leave (OPL) if they:
• Have or expect to have main responsibility (with the child’s mother, co-adopter or adopter) for the baby’s upbringing.

• Are the biological father of the baby and/or the mother’s husband or partner including same sex partner or civil partner. A partner is defined as someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.

• Are the spouse or partner of someone who has been matched with a child by an adoption agency.

• The intended leave must be for the purpose of caring for the child, or supporting the child’s mother, adopter or co-adopter in caring for the child.

For babies due on or after 3rd April 2011 or for employee’s notified of having been matched for adoption on or after 3rd April 2011, employees are entitled to Additional Paternity Leave (APL) if, in addition to the conditions set out above:

• They remain employed by Barnet CCG until the week before the first week of APL;

• The child’s mother or co-adopter has been entitled to statutory leave:

• In birth cases, the child’s mother has been entitled to maternity leave, statutory maternity pay or maternity allowance in respect of her pregnancy, or

• In adoption cases, the child’s adopter has been entitled to one or both of adoption leave or statutory adoption pay in respect of the child’s adoption; and

• The child’s mother or co-adopter has returned to work.

6. Timing and Length of Paternity Leave

Employees are entitled to two weeks OPL.

• Each eligible employee is entitled to choose whether they take either one week or two consecutive weeks’ paternity/maternity support leave. Leave can only be taken in this way and cannot be taken as odd days or two separate weeks.

• OPL cannot be taken before the birth of the baby and must be taken within 56 days of the actual date of birth of the child/date of the child’s placement. If the child is born earlier than expected the paternity/maternity support leave must finish within 56 days from the actual date of birth.

• Employees can only take one period of OPL even if more than one baby is born as a result of the pregnancy.

• APL must be taken as multiples of complete weeks and as one period. The minimum amount of APL that can be taken in two weeks and the maximum is 26 weeks.

• APL must be taken in the period beginning 20 weeks after the child’s date of birth, or adoption placement, and ending 12 months after that date of birth or adoption.
7. Eligibility Criteria for Pay

There are three types of Paternity Pay (Statutory, Additional Statutory and Occupational)

7.1 Statutory Paternity Pay

Employees are entitled to up to two weeks statutory paternity pay if they meet the following criteria:

- Have or expect to have responsibility for the baby’s upbringing.
- Are the biological father of the baby and/or the mother’s husband or partner including same sex partner or civil partner.
- 26 weeks NHS continuous service leading into the week in which the adopter is notified of being matched with a child.
- 26 weeks NHS continuous service ending with the 15th week before the baby is due. (the qualifying week)
- From the 15th week before the baby is due and up to the date of birth, work continuously for the NHS. If the baby is born earlier than the 14th week before it is due and, but for the birth occurring early, the employee would have been employed continuously for the 26 weeks, then the employee will be deemed to have the necessary length of service.
- Must notify the Trust that they wish to apply for Statutory Paternity Pay (SPP) at least 28 days beforehand. Where an employee is entitled to both pay and leave, the notice given for leave by the fifteenth week before the week the baby is due can count for pay as well.
- Have average weekly earnings at or above the Lower Earnings Limit for National Insurance.

An employee is still entitled to Statutory Paternity Pay (SPP) even if their contract ends after the baby is born, however, if they start work for a new employer they cannot claim SPP for any week working with them, unless the new employer is an NHS employer and NHS service remains continuous.

To be paid SPP the employee must give a signed declaration as detailed on self certificate SC3 Becoming a Parent.

http://www.hmrc.gov.uk/forms/sc3.pdf
Employees who are not entitled to SPP may be entitled to claim Income Support whilst on paternity leave. Further information can be obtained from the local Jobcentre Plus/Social Security Office.

**Statutory Paternity Pay is: (SPP)**

Equivalent of standard rate Statutory Maternity Pay (SMP), currently £128.73 per week or 90% of average weekly earnings if this is less than £128.73 per week.

To qualify for receipt of SPP, an employee must notify BARNET CCG that they want to receive SPP at least 28 days beforehand. Where an employee is entitled to both pay and leave, the notice given for leave by the fifteenth week before the week the baby is due can count for pay as well.

To get SPP the employee must give a signed declaration that they:

- Are taking leave either to care for their child or to support the mother or both;
- Has, or expects to have responsibility for the upbringing of the child.
- Is the father of the child and/or the partner or husband of the mother.

This declaration is included on self certificate SC3 Becoming a Parent [http://www.hmrc.gov.uk/forms/sc3.pdf](http://www.hmrc.gov.uk/forms/sc3.pdf) 7.2 Additional Statutory Paternity Pay

Employee who take APL may be entitled to Additional Statutory Paternity Pay (ASPP). Whether and, if so, for how long you may be entitled to ASPP will depend on:

- The employee’s average earnings being not less that the lower earnings limit set by the government during the relevant period *(the 8 week period ending immediately before the 14th week before the Expected Week of Childbirth or ending immediately before the week in which the employee’s spouse or partner being notified that they have been matched with a child)*;

- The child’s mother or co-adopter having returned to work without having taken at least two weeks of their maternity allowance, maternity pay or adoption pay period. The employee’s entitlement to ASPP will equate to the number of weeks of unexpired maternity allowance, maternity pay or adoption pay that remained when the child’s mother or co-adopter returned to work.

### 7.3 Occupational Paternity Pay

Employees are entitled to up to two weeks Occupational paternity pay if in addition to meeting the entitlement to Statutory Paternity Pay criteria as detailed above an employee must have:

- One year continuous NHS service at the expected week of childbirth/week of placement to qualify for Occupational Paternity/Maternity Support Pay.
- Be taking paternity/maternity support leave to either support the mother or care for the new baby or child who has been adopted.
A partner is defined as someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.

- Have or expect to have responsibility for the baby’s upbringing.
- Are the biological father of the baby and/or the mother’s husband or partner including same sex partner or civil partner.

**Occupational Paternity Pay (OPP)**

Two weeks occupational pay. Full pay will be calculated on the basis of the average weekly earnings rules used for calculating occupational maternity pay entitlements. The employee will receive full pay less any statutory paternity pay receivable.

### 7.4 Stillbirth

In the unfortunate event that a baby is still born they may still be entitled to OPL. Employees whose babies are still born after 24 weeks of pregnancy will be entitled to paternity pay and leave under the procedure as if the birth had been live.

If the baby is born alive but later dies, the employee will be entitled to paid paternity leave in the usual way.

### 7.5 Applying for Paternity Leave and Pay

In order to take advantage of the right to OPL and pay an employee must notify the Trust by the end of the 14th week before the expected week of childbirth or if this isn’t possible as soon as is reasonably practicable.

Employees who wish to take up their entitlement to OPL and pay following the placement of a child for adoption are required to inform BARNET CCG within 7 days of the adopter being notified by the adoption agency that they have been matched with a child, unless this is not reasonably practicable.

However all staff are encouraged to tell their managers as soon as they know that they wish to take paternity leave.

Applications must be made by submitting a Paternity Leave Application Form (Appendix C) and an SC3 form.

The SC3 form can be downloaded from the following internet link: [http://www.hmrc.gov.uk/forms/sc3.pdf](http://www.hmrc.gov.uk/forms/sc3.pdf)

An employee can change their mind about the date they want their OPL to start as long as the following notice is given:

- If they want to change their leave so it starts on the date of birth/date of child’s placement, at least 28 days before the first day of the week the baby is due/date of placement.
If they want to change their leave so it starts a specified number of days after the birth/placement, at least 28 days before the date falling the same number of days after the first day of the week the baby is due/date of placement.

If they want to change their leave so it starts on a particular date, 28 days before that date.

If employees change the date they want their OPL to start they should complete a new Application for Paternity Leave form and SC3.

If it is not possible to give the above notice then notification should be given as soon as is reasonably practicable.

OPL must be taken within 56 days of the actual birth/placement.

In order to take advantage of the right to APL in relation to a child’s birth, an employee must provide the Trust with the following at least eight weeks before the date on which the employee wishes to start their leave:

- A written “leave notice” (Appendix E) stating:
  - The Expected Week of Childbirth;
  - The child’s date of birth; and
  - The dates on which the employee wishes their APL to start and finish

- A signed “employee declaration” (Appendix E) confirming that:
  - The employee is either the child’s father or that you are the spouse or partner of the child’s mother;
  - Apart from the child’s mother, the employee has or expect to have the main responsibility for the upbringing of the child; and
  - The employee wishes to take APL in order to care for the child

- A written “mother declaration” (Appendix F) from the child’s mother stating:
  - Her name, address and National Insurance number;
  - The date she intends to return to work;
  - The employee’s relationship with the child
  - That, to her knowledge, the employee is the only person exercising an entitlement to APL in respect of the child; and
  - That she consents to BARNET CCG processing the information she has provided.

BARNET CCG may require the employee to provide a copy of the child’s birth certificate and the name and address of the mother’s employer or, if she is self-employed, her business address.

In order to take advantage of the right to APL in relation to a child’s adoption, an employee must provide BARNET CCG with the following at least eight weeks before the date on which the employee wishes to start their leave:

- A written “leave notice” (Appendix E) stating:
- The date on which you were notified that you had been matched with the child;
- The date on which the child was placed with you; and
- The dates on which the employee wishes their APL to start and finish

- A signed “employee declaration” (Appendix E) confirming that:
  - The employee has been matched for adoption with the child;
  - The employee is either the spouse or partner of the child’s co-adopter;
  - The employee wishes to take APL in order to care for the child

- A written “adopter declaration” (Appendix H) from the child’s adopter stating:
  - their name, address and National Insurance number;
  - The date they intend to return to work;
  - That the employee is their spouse or partner; and
  - That they consent to Barnet CCG processing the information she has provided.

Barnet CCG may require the employee to provide the following:

- The name and address of the adopter’s employer or, if they are self-employed, their business address.

- Documentary evidence issued by the adoption agency that matched the employee with the child which confirms:
  - The name and address of the adoption agency;
  - The date on which you were notified that you had been matched with the child; and
  - The date of which the agency expected to place the child with you.

Barnet CCG will write to the employee to confirm the start and finish dates of their APL within 28 days of receiving the leave notice, the employee declaration and the child’s mother’s/adopters declaration.

An employee may cancel or vary the dates of their APL but must do so with a minimum of six week’s notice from the date on which the APL was expected to start or the date on which the employee now wants it to start, whichever is earlier.

If an employee is unable to give six week’s notice they should provide written notice of their wishes as soon as possible. However, in these circumstances, if BARNET CCG is unable to accommodate the employee’s request it may require the employee to take a period of APL of up to six weeks starting on either the original or revised start date.

8. Returning to work - Paternity

Notification for Returning to work - Paternity
An employee should return to work on the date agreed with their line manager and detailed on their application form.

**Non Returners - Paternity**

If an employee decides not to return to work after a period of paternity leave they are required to comply with their contractual notice requirements which can be waived at the written request of the employee and agreement from the manager.

Employees do not have to pay back SPP even if they do not return to work.

An employee has the right to return from both OPL and APL to the same position which they held prior to commencing leave. The employees terms of employment will be as they would have been had they not been absent.

However, if the employee has combined their OPL or APL with a period of

   a. Additional maternity leave;
   b. Additional adoption leave; or
   c. Parental leave of more than four weeks

And it is not reasonably practicable for the employee to return to the same job, NHS NC: will offer the employee a suitable and appropriate alternative position.

9. **Commencing Paternity Leave**

The leave can start on any day of the week provided the required notice has been given as stated above. Employees can choose to start their leave either:

On the date of the baby’s birth/date of placement, or a date falling a certain number of days after the date on which the child is born/date of placement which has been notified to Barnet CCG. A date as notified to Barnet CCG which falls after the first day of the expected week of childbirth/date of placement.

If an employee specifies the date of birth or date of placement as the day they wish to start paternity/maternity support leave and they are at work on that day then the leave will start the next day.

Employees must tell their line manager when the baby was actually born as soon as is reasonably practicable after the birth or in the case of adoption the date of placement.

**Late Childbirth/Placement**

Paternity/maternity support leave cannot start until the birth of the baby/date of placement. If the baby hasn’t been born or placed by the date paternity leave was due to start then the employee must change the date or choose to take leave from the actual date of birth/placement or a specified number of days after the birth/placement.

**Early Childbirth/Placement**

If the baby is born or placed earlier than expected the employee may not be able to give Barnet CCG the required amount of notice. In these circumstances the employee should complete the Paternity Leave Application form and SC3 as soon as is reasonably practical and leave can be taken at any time between the birth and 56 days after the first day of the week the baby was due or date the child was placed.
10. **Ante Natal Classes**

Employees are entitled to reasonable paid time off to attend antenatal classes with their partner.
11. **Sickness Absence**

11.1 **During Paternity/Maternity Support Leave**

An employee cannot be paid SPP and Statutory Sick Pay at the same time. If an employee is off sick before starting their period of paternity leave then their paternity leave should be postponed. However, the 56 day period within which the leave can be taken is not extended in these circumstances.

11.2 **After Paternity Leave**

Where an employee is absent due to sickness after their intended date of return to work, they will be entitled to sick leave in accordance with normal sick leave provisions under Barnet CCG Sickness Absence Procedure. The employee should notify their line manager in accordance with the Sickness Absence Procedure and they will then be managed in line with this Procedure.

12. **Contractual Issues during Paternity Leave**

See Part D of this Procedure
Part C: Adoption Leave & Pay

1. Introduction

The adoption leave procedure has been designed to ensure that all staff going through the adoption process are clear about their entitlements and to detail the responsibilities of staff and managers within a clear framework. This procedure applies to employees whose children are placed with them on or after 1st April 2007.

1.1 The aim of this procedure is to:

- Provide fair, consistent and effective application of adoption leave and pay provision.
- To recognise the wide range diversity of the people who may wish to adopt a child.
- Ensure that all employees are informed of their rights with regard to adoption leave and their employment.
- Ensure that all employees are aware of their obligations to Barnet CCG.
- To enable an employee to take a period of leave to help the child settle into the family and adjust to new circumstances.
- This Procedure should be read in conjunction with Flexible Working Guidelines and initiatives introduced by Barnet CCG.

2 Roles and Responsibilities

2.1 Responsibilities of the employee

In order to take advantage of the right to adoption leave and pay, an employee must notify Barnet CCG of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption. All staff considering adoption are encouraged to write to their line manager on a confidential basis as soon as they are accepted by an Adoption Agency to enable their manager to plan cover of the service.

Staff should submit their Application for Adoption Leave Form (Appendix D) with their matching certificate notifying Barnet CCG of the following information:

- expected date of placement
- the date intended to commence adoption leave
- if they intend to return to work for a minimum period of three months
- intended date of return

If it is not possible to give 7 days notice, for example, due to early placement, then notification should be given as soon as is reasonably practicable.

2.2 Responsibilities of the manager

The role of the manager is to liaise directly with the employee to explain
entitlements to adoption leave and pay and help complete the Application Form Appendix D and send to Human Resources.

The manager is responsible for completing Change of Employment Details forms confirming the actual start and return date and sending these to Human Resources.

The manager is also responsible for keeping in touch with the employee during their adoption leave, arranging their return to work and supporting their return by planning an induction programme.

The manager is responsible for keeping the employee in touch with any developments which may affect their intended date of return.

3. Definition of Terms

There are a number of terms used to describe adoption leave within this procedure therefore it is important to give a brief description of the main terms and the eligibility criteria.

**Date of Placement**
The date of placement is the date when a child is placed by an external agency into a family home prior to formal adoption.

**Qualifying Week**
The qualifying week is the week in which the employee is notified of being matched with a child for adoption by the Adoption Agency and runs from Sunday to Saturday.

**Matching Certificate**
This certificate is provided by the adoption agency as evidence of the employee’s entitlement for Statutory Adoption Pay. Employees should ask their adoption agency for a matching certificate which will include basic information on matching and expected placement dates. Barnet CCG will also ask for this certificate as proof of entitlement to adoption leave.

4. Entitlement to Adoption Leave and Pay

There will be entitlement to paid occupational adoption leave for employees wishing to adopt a child who is newly placed for adoption.

It will be available to people wishing to adopt a child who have primary carer responsibilities for that child.

Where the child is below the age of 18, adoption leave and pay will be in line with the maternity leave and pay provisions as detailed below.

Reasonable time off to attend official meetings in the adoption process should also be given.

Employees with less service will be entitled to unpaid leave subject to local agreement.
In order to qualify for adoption leave and pay an employee must:

- be newly matched with a child for adoption by an approved adoption agency
- have continuous NHS service for 26 weeks leading into the week in which they are notified of being matched with a child for adoption which is known as the qualifying week be the only partner taking adoption leave.

This Procedure does not cover carers responsibilities under ‘Special Guardianship Regulations 2005’.

4.1 Adoption Leave

There are two types of adoption leave:

**Ordinary Adoption Leave**
Employees who have continuous NHS service for 26 weeks leading into the week in which they are notified of being matched with a child for adoption (qualifying week) are entitled to up to 26 weeks ordinary adoption leave. Continuous service includes employment with Barnet CCG and previous health service employment where breaks in service have been less than 3 months.

**Additional Adoption Leave**
Employees who qualify for ordinary adoption leave automatically qualify for additional adoption leave. Additional adoption leave starts immediately after ordinary adoption leave and continues for a further 26 weeks. Additional adoption leave is part unpaid.

4.2 Adoption Pay

There are two types of adoption pay:

**Statutory Adoption Pay (SAP)**
Employees are entitled to 39 weeks statutory adoption pay if they have continuous NHS service of 26 weeks leading into the week in which they are notified of being matched with a child for adoption (qualifying week) and their average weekly earnings in the 8 weeks up to and including the qualifying week have been at least equal to the lower earnings limit for National Insurance contributions.

SAP is calculated for 39 weeks:
£128.73 or 90% of your average gross weekly earnings if this is less than £128.73.

**Occupational Adoption Pay (OAP)**
Employees with over 12 months continuous health service employment ending with the week in which they are notified of being matched with the child for adoption will be eligible for OAP. This will cover the circumstances where employees are newly matched with the child by an adoption agency.

OAP is calculated for 26 weeks:
- for the first 8 weeks at full pay to include SAP
• for the following 18 weeks at half pay plus SAP standard rate (which is currently £128.73 per week) or 90% of earnings if less than SAP standard rate not to exceed the value of full pay.
• The next 13 weeks at SAP standard rate.
• The final 13 weeks are unpaid.

Employees who are not entitled to SAP may be entitled to claim Income Support whilst on adoption leave. Further information can be obtained from the local Jobcentre Plus/Social Security Office. Staff may also wish to contact their adoption agency as they may be able to receive financial support in relation to their adoption payment.

4.3 Salary Sacrifice
Staff should be aware that participation in a salary sacrifice scheme, i.e. Childcare Vouchers, at the time of applying for Adoption Leave and Pay, may have an impact on the calculation of adoption pay. Further information may be sought from the payroll department.

5 Other elements of Adoption leave
If there is an established relationship with the child, such as fostering (see 5.1 for guidelines) or when a step parent is adopting a partner's children, there is scope for local arrangements on the amount of leave and pay in addition to time off for official meetings.

If the same employer employs both parents, the period of leave and pay may be shared. One parent should be identified as the primary carer and be entitled to the majority of leave. The partner of the primary carer is entitled to Occupational Paternity Leave and Pay.

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement is unsuccessful and ends during the adoption leave period, the adopter will be able to continue adoption leave for up to 8 weeks after the end of the placement.

5.1 Fostering
Foster leave is available to enable an employee who is a registered foster carer to foster a baby or child. The leave will be used to help a child/baby settle and adjust to new circumstances. Fostering can vary in length and for the purpose of this Procedure fostering will be split into three areas; respite fostering, short-term fostering that will be classified as periods between 1 to 13 weeks; and long-term that will be for periods of 3 months or more.

Respite fostering
Barnet CCG will support employees who participate in respite foster care. Due to the nature of the programme, carers can be expected to care for children from between just a few hours to a few weeks per time. Barnet CCG will therefore cover the 1st episode, however any episode thereafter will be subject to the Special Leave Procedure. For the purposes of this Procedure employees will be entitled to take time off if approved under the Special Leave Procedure for up to 4 times per annum to support them in their duties of a respite foster carer.
Short-term fostering
Due to the length of this period it would be more appropriate to process time-off under the provisions of the statutory parental leave or carer leave which falls under the Flexible Working Guidelines. For the purposes of this Procedure, employees will be entitled to take up to 13 weeks per annum in blocks between 1 to 4 weeks at a time in line with the parental leave provisions, to support them in their duties of short-term foster caring.

Long-term fostering
This can be over a varied period of time and in these situations the manager can consider providing time-off in line with the arrangements under the Adoption Procedure. Foster carers will need to show evidence of their foster care responsibilities and could be entitled to up to 52 weeks unpaid leave to care for their foster child or baby. For the purposes of this Procedure it will be recognised that foster carers will not be entitled to statutory or contractual adoption pay as they are not recognised as legal guardians for the baby or child. The employee will also only be entitled to one long-term foster care per annum.

Foster carers can go on to become adopters and may then be entitled to adoption or paternity leave if eligibility criteria is satisfied. Foster carers can also request flexible working as per the statutory and contractual flexible working Procedure. If foster carers need to take time off for specific training in order to meet the requirements of becoming a foster carer, time off may be considered under the Flexible Working Guidelines.

6. Commencing Adoption Leave
Employees can choose to start their adoption leave either:

- From the date of the child’s placement (whether this is earlier or later than the date expected), or from a fixed date which can be up to 14 days before the expected date of placement.
- Adoption leave can start on any day of the week.

An employee will be able to change their mind about when they want to start their adoption leave provide they give at least 28 days notice, unless this is not reasonably practicable.

Once an employee has fully completed the Adoption Leave Application Form with their line manager and submitted this to Human Resources they will receive confirmation within 28 days of the start date of their adoption leave and the date that they are expected to return to work.

7. Contractual Issues during Adoption Leave
See Part D of this Procedure

8. Keeping in Touch
As covered in Part A: Section 3.3. Employees will be paid equivalent to full pay for actual KIT hours or days worked. Any applicable SAP paid will be off-set against this figure in order that the employee will not be paid more than the equivalent full pay.

9. Notification for Returning to work
An employee has the right to return to work and may choose the date on which they intend to return to work within their maximum entitlement provided they have complied with the required notice detailed below.

Employees are encouraged to liaise with their managers and give as much notice as possible regarding their intention to return to work.

9.1 Return to work at the end of Full Adoption Leave Entitlement

An employee does not have to give advance notice of their intention to return to work if they intend to return immediately at the end of their full adoption leave entitlement. However, employees are encouraged to liaise with their managers if this is their intention in order that their return to work can be planned.

9.2 Return to work before the end of Full Adoption Leave Entitlement

If an employee wishes to return before the end of their full adoption leave entitlement they must give Barnet CCG at least 56 days written notice of their date of return. If this is not given then the manager may postpone their return to work until 56 days have elapsed not going beyond their full entitlement.

9.3 Non Returners – Adoption

Any employee who fails to return to work for 3 months if they had originally advised that they would within 15 months of the beginning of their adoption leave, will be liable subject to exceptional circumstances to refund the whole of their NHS contractual adoption pay less any SAP received.

9.4 Sickness Absence after Adoption Leave

Where an employee is absent due to sickness after their intended date of return to work, or if no date has been agreed, the first day following the maximum period of adoption leave to which they are entitled, they will be entitled to sick leave in accordance with normal sick leave provisions under Barnet CCG’s Sickness Absence Procedure. The employee will then be managed under the Sickness Absence Procedure.

10. Flexible Working on Return from Adoption Leave

Managers are encouraged to discuss with their staff how to facilitate the return from adoption leave. This can take the form of coming back to work part time or working more flexible hours on a temporary or permanent basis which can be agreed according to the needs of the service.

Managers are also encouraged to prepare a return to work induction programme to support employees returning from adoption leave.

It is likely that some employees will claim their entitlement to take a period of parental leave immediately after their adoption leave and managers should refer the Part B: Section 8 of this Procedure.

Managers should also inform staff of other relevant Barnet CCG policies or initiatives, for example, the Flexible Working Guidelines.
Part D: Generic Contractual Terms and Conditions of Service

This section of the Procedure applies to the generic contractual terms and conditions of service which apply to Maternity, Paternity and Adoption leave and pay.

1. Role of Occupational Health Service

The role of the Occupational Health Service is to give advice to managers and employees on an individual’s health and ability to work.

2. Role of the Human Resources Department

- The Human Resources Department is responsible for providing advice and clarification on all aspects of the Procedure and procedures.
- Applications for maternity leave; paternity leave, and adoption leave will be checked by the Human Resources Department to ensure that an employee is receiving the correct entitlements and communicated to the payroll department.

3. Bank Holidays

Employees are not entitled to accrue bank holidays during any period of maternity, paternity or adoption leave.

4. Continuous Service

Any period of maternity, paternity, adoption leave does not constitute a break in service when calculating continuous employment for contractual purposes.

5. Annual Pay Awards

Staff on maternity leave will have their salary uplifted in line with the annual pay/increments awards.

6. NHS Pension Scheme

Pension rights and contributions are dealt with in accordance with the NHS Superannuation regulations. The Payroll Department can advise on financial implications for members of the Pension Scheme.

7. Regular Car Users Allowance

Full allowance will continue to be paid for 3 months from the start of maternity, paternity, adoption leave and half the normal allowance is payable for the following 3 months.

8. Car Loans and Car Lease Scheme

The car loans and car lease scheme remain unaffected by any period of paid maternity, paternity, adoption leave. The period of the loans will be extended to cover any period of unpaid leave.

Appendix A
Form ML1: Application for Maternity Leave and Pay

This form should be read in conjunction with this Procedure and completed by all employees wishing to take maternity leave by the end of the 15th week before the expected week of childbirth. The completed form should be passed to your manager together with your MAT B1.

Name: ........................................................................... Start Date: ...........................................................................

Department/Base: .................................................Job Title ...........................................................................

Manager: ...........................................................................

If you have been employed by Barnet CCG for less than 12 months, please give details of previous continuous NHS employment.

<table>
<thead>
<tr>
<th>Employer</th>
<th>From</th>
<th>TO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

My expected date of confinement is: ...........................................................................

I have attached my original MAT B1: ☐ YES ☐ NO

I wish to take Annual leave prior to commencing maternity leave (please refer to Section 16 of this Procedure) From ................. To ...........................................

I wish to give notice of my intention to take up my entitlement to maternity leave commencing on .................................................................

I intend to return to work: ☐ YES ☐ NO .................................................................

For employees intending to return to work please fill in section below:

I intend to return to work on date: ...........................................................................

Employees wishing to apply for Contractual Maternity Pay must undertake to return to work for a minimum period of 3 months.

I understand that if I fail to return to work or fail to remain in work for three months following my return, I will lose my entitlement to enhanced Maternity Pay and may be required to refund part of this pay.

Signed: ................................................................. Date: .................................................................

Print Name: .................................................................................................

To be completed by Line Manager

I can confirm that I have advised this employee of her entitlements to maternity leave and pay and any other entitlements under this Procedure.
Signed:…………………………………………………..Date:  …………………………

Manager Name   Printed …………………………………………………………..

Please send this completed form to the Human Resources Department. The Human Resources Business Partner will check the employee's entitlement and confirm this to you in writing.

To be completed by Human Resources

MAT B1 received and checked  □ YES  □ NO

Expected Date of Childbirth: ....................................................................................

Expected Week of Childbirth : ..................................................................................

Employee’s service confirmed:..................................................................................

Fifteenth week before Expected Week of Childbirth: .............................................

More than 26 weeks health service employment at the beginning of the 15th week before Expected Week of Childbirth (for Statutory Maternity Pay)

□ YES  □ NO

Eleventh week before Expected Week of Childbirth: ............................................

More than 12 months continuous health service employment at the 11th week before Expected Week of Childbirth (Contractual Maternity Pay and S.M.P.)

□ YES  □ NO

Intended date of commencement: ............................................................................

The start of maternity leave must be no earlier than the 11th week before the expected week of childbirth.

Entitled to Statutory Maternity Pay: □ YES  □ NO

Entitled to Contractual Maternity Pay: □ YES  □ NO

End of maternity leave: .............................................................................................
Appendix B
Appendix B - Form ML2

To be returned at least 28 days before the expiration of your maternity leave in specific circumstances.

Full Name _________________________________________________________________

Address (during pregnancy)
________________________________________________________________________

Telephone Number
________________________________________________________________________

Job Title
________________________________________________________________________

Unit/Dept
________________________________________________________________________

Location
________________________________________________________________________

Payroll Number
________________________________________________________________________

I hereby give the CCG 28 days notice of my intention to return from maternity leave on: ___/___/___, working ___________ hours, over ___________ days per week.

indicate number of hours  indicate number of days

* tick as appropriate

☒ These are the same working hours that I previously worked

☒ This is a change in my working hours, which I have agreed with my manager
(I have attached from FW/B)

Signature ____________________________ Date ______________________

Return to: Human Resources Department,
5th Floor
Clifton House
75-77 Worship Street
London
EC2A 2DU

Appendix C
Application for Paternity/Maternity Support Leave and Pay
This form should be completed by all employees wishing to take paternity/maternity support leave by the end of the 14th week before the expected week of childbirth or within 7 days of the adopter being notified by the adoption agency that they have been matched with a child. The completed form should be passed to your manager, along with completed form SC3. http://www.hmrc.gov.uk/forms/sc3.pdf Also see Appendix E for Additional Paternity Leave applicable after 1st April 2011

Name: .................................................................  Job Title: .................................................................

Department/Base: .................................................................................................................................

Manager: ..............................................................................................................................................

Start Date: ...............................................................................................................................................

If you have been employed by Barnet CCG for less than 12 months, please give details of previous continuous NHS employment.

<table>
<thead>
<tr>
<th>Employer</th>
<th>From</th>
<th>TO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The expected date of childbirth is: ......................... OR... The Adoption Agency has told the person adopting the child that they had been matched with the child on ......................... ................

The child is expected to be placed on: .........................

If the baby has already been born/placed please insert actual date of childbirth/placement: ............

I wish to give notice of my intention to take up my entitlement to paternity/maternity support leave and pay commencing on:

The date the baby is due/date of placement

......... days after the date the baby is born/placed (please insert number of days) on ................. (please insert date which must be after the date the baby is due/date of placement)

Please note that if you have chosen a predetermined date and the baby is not born or placed on or before that date, you will need to change the date to either a later date, or from the actual date of birth/placement or a specified number of days after the birth/placement.

I intend to take:  □ 1 weeks leave

□ 2 consecutive weeks leave

National Insurance Number: ......................................................................................................................

In order to claim your entitlements you must be able to tick all three boxes below:

I declare that:

Family Leave Procedure

December 2011

38 of 46
I am:  - the baby’s biological father, or  
- the mother’s husband or partner or  
- married to the person adopting the child, or  
- living with the mother/the person adopting the child in an enduring family relationship, but am not an immediate relative.

I have responsibility for the child’s upbringing

I will take time off work to support the mother/the person adopting the child or to care for the child

You must tick this box if you are adopting a child with your partner:

I declare that I am adopting the child with my partner and I want to receive Statutory Paternity Pay and paternity/maternity support leave not Statutory Adoption Pay and adoption leave.

Signed: .................................................................Date: ..............................................................

Full name: ........................................................................................................................................

To be completed by Line Manager

I can confirm that I have advised this employee of their entitlements to paternity/maternity support leave and pay.

Signed: .................................................................Date: ......................................................

Please send this completed form to the Human Resources Department. After the start of the employee’s paternity/maternity support leave please send a completed Change of Employment details form confirming actual start of paternity leave.

To be completed by Human Resources

Expected Date of Childbirth/Placement: ............................................................................................

Employee’s service confirmed: ...........................................................................................................

More than 26 weeks health service employment ending with the 15th week before the baby is due or leading into the week in which the adopter is notified of being matched with a child:

☐ YES ☐ NO

More than 12 months continuous health service employment: ☐ YES ☐ NO

Entitled to Statutory Paternity Pay: ☐ YES ☐ NO
Entitled to Occupational Paternity/Maternity Support Pay: ☐ YES  ☐ NO

Appendix D

Application for Adoption Leave and Pay

This form should be completed by all employees wishing to take adoption leave. The completed form should be passed to your manager with the matching certificate.

Name: ……………………………… Job Title …………………………………………………

Department/Base: ……………………………… Start Date with NHS …………………

Managers Name: 

Family Leave Procedure

December 2011

40 of 46
If you have been employed by Barnet CCG for less than 12 months, please give details of previous continuous NHS employment.

<table>
<thead>
<tr>
<th>Employer</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The qualifying week (this is the week in which you are notified of your match with a child and runs Sunday to Saturday) is the week beginning:

Sunday ................. The date placement expected is: .........................

I wish to give notice of my intention to take up my entitlement to adoption leave commencing on: .........................

I have attached the matching certificate: □ YES □ NO I intend to return to work: □ YES □ NO

For employees intending to return to work please fill in section below:

I intend to return to work on: Date: .........................

Employees wishing to apply for Occupational Adoption Leave and Pay must undertake to return to work for a minimum period of 3 months.

I understand that if I fail to return to work or fail to remain in work for three months following my return, I will lose my entitlement to Occupational Adoption Pay and may be required to refund this pay.

Signed: ........................................... Date: ..............................................

Print Name ..........................................................-------------------------------

To be completed by Line Manager

I can confirm that I have advised this employee of their entitlements to adoption leave and pay and any other entitlements under this Procedure.

Signed: .......................................................... Date: ................................

Print Name ..........................................................-------------------------------

Please send this completed form to the Human Resources Department. The Human Resources Business Partner will check the employee’s entitlement and confirm this to you in writing.

To be completed by Human Resources

Family Leave Procedure December 2011

41 of 46
Date placement expected: ..............................................................................................................................

Qualifying Week (week in which employee is notified of their match with a child and runs from Sunday to Saturday): ...........................................................................................................................................

Employee’s service confirmed: ...........................................................................................................................

At least 26 weeks continuous NHS employment by the end of the qualifying week:

☐ YES  ☐ NO

At least 12 months continuous NHS employment at the week placement expected?

☐ YES  ☐ NO

Intended date of commencement: ...........................................................................................................................

Entitled to Ordinary and Additional Adoption Leave: ☐ YES  ☐ NO

Entitled to Statutory Adoption Pay: ☐ YES  ☐ NO

Entitled to Occupational Adoption Pay ☐ YES  ☐ NO

End of full entitlement to Adoption Leave: ........................................................................................................

Appendix E

APPLICATION FOR ADDITIONAL PATERNITY LEAVE (APL) FOLLOWING THE ADOPTION OF A CHILD

To be completed [using clear capital letters] and returned to: [IDENTIFY POST FOR SUBMISSION OF APPLICATION]

I, .................... [NAME OF EMPLOYEE], ............................................................. [JOB TITLE AND DEPARTMENT], wish to apply to take APL to care for ...... [NAME OF CHILD].

I confirm that:

• I was notified that I had been matched for adoption with ................. [NAME OF CHILD] on ................. [INSERT DATE].
• ................. [NAME OF CHILD] was placed for adoption with me on ...................
  [INSERT DATE].

• I would like my APL to start on .................... [INSERT DATE] (note that this date must be
  at least eight weeks after you submit your request to us) and finish on ....................
  [INSERT DATE] (note that you are entitled to take one period of APL which must be taken in
  multiples of complete weeks and must be no less than two and no more than 26 weeks long).

• I am the spouse/partner/civil partner [DELETE AS APPROPRIATE] of ....................'s
  [NAME OF CHILD] adopter. (Note that [, as stated in Part B: Paternity of Procedure,] you are
  the partner of the child's adopter if you live in an enduring family relationship with them and
  they are not your parent, grandparent, sister, brother, aunt or uncle.)

Signed ........................................

[PRINT NAME] ........................................

Date ........................................
APPLICATION FOR ADDITIONAL PATERNITY LEAVE (APL)
FOLLOWING THE BIRTH OF A CHILD

To be completed [using clear capital letters] and returned to: [IDENTIFY POST FOR SUBMISSION OF APPLICATION]

I, .................. [NAME OF EMPLOYEE], ……[JOB TITLE AND DEPARTMENT], wish to apply to take APL care for ................. [NAME OF CHILD].

I confirm that:

- ......................'s [NAME OF CHILD] Expected Week of Childbirth began on ..................... [INSERT DATE].

- ........ [NAME OF CHILD] was born on ..................... [INSERT DATE].

- I would like my APL to start on ..................... [INSERT DATE] (note that this date must be at least eight weeks after you submit your request to us) and finish on ..................... [INSERT DATE] (note that you are entitled to take one period of APL which must be taken in multiples of complete weeks and must be no less than two and no more than 26 weeks long).

- Apart from his/her mother, I have or expect to have the main responsibility for ......................'s [NAME OF CHILD] upbringing.

- I am EITHER ......................'s [NAME OF CHILD] father OR the spouse/partner/civil partner of ......................'s [NAME OF CHILD] mother. [PLEASE COMPLETE AS APPROPRIATE] (Note that you are the partner of the child's mother if you live in an enduring family relationship with them and they are not your parent, grandparent, sister, brother, aunt or uncle.)

Signed ........................................

[PRINT NAME] ........................................

Date ........................................
MOTHER DECLARATION IN SUPPORT OF AN APPLICATION FOR ADDITIONAL PATERNITY LEAVE (APL) FOLLOWING THE BIRTH OF A CHILD

To [IDENTIFY POST FOR SUBMISSION OF DECLARATION]

I, ………………… [FULL NAME], am the mother of ………………… [NAME OF CHILD] and am making this declaration in support of the application for additional paternity leave (APL) and pay made by ………………… [FULL NAME OF EMPLOYEE APPLYING FOR APL] in respect of ………………… [NAME OF CHILD].

- My full address is: ………………………………………

- My National Insurance number is: ………………………………………

- I was entitled to maternity allowance/statutory maternity pay as a result of becoming pregnant with ………………… [NAME OF CHILD].

- I started my maternity leave on ………………… [INSERT DATE].

- I have given notice to my employer that I will be returning to work and am intending to return to work on ………………… [INSERT DATE].

- ………………… [NAME OF EMPLOYEE APPLYING FOR APL] is EITHER …………………'s [NAME OF CHILD] father OR my spouse/partner/civil partner. [PLEASE COMPLETE AS APPROPRIATE] (Note that, for these purposes, our employee is your partner if they live in an enduring family relationship with you and you are not their parent, grandparent, sister, brother, aunt or uncle.)

- To my knowledge, ………………… [NAME OF EMPLOYEE APPLYING FOR APL] is the only person exercising an entitlement to APL in respect of ………………… [NAME OF CHILD].

- I consent to you processing the information I have provided.

Signed ………………………………………

[PRINT NAME] ………………………………………

Date ………………………………………
ADOPTER DECLARATION IN SUPPORT OF AN APPLICATION FOR ADDITIONAL PATERNITY LEAVE (APL) FOLLOWING THE ADOPTION OF A CHILD

To [IDENTIFY POST FOR SUBMISSION OF DECLARATION]

I, ……………………… [FULL NAME], am the adopter of ……………………… [NAME OF CHILD] and am making this declaration in support of the application for additional paternity leave made by ……………………… [FULL NAME OF EMPLOYEE APPLYING FOR APL] in respect of ……………………… [NAME OF CHILD].

- My full address is: …………………………………….
- My National Insurance number is: ………………………………………
- I am intending to return to work on ………………… [INSERT DATE].
- ……………………… [NAME OF EMPLOYEE APPLYING FOR APL] is my spouse/partner/civil partner. [PLEASE DELETE AS APPROPRIATE] (Note that, for these purposes, our employee is your partner if they live in an enduring family relationship with you and you are not their parent, grandparent, sister, brother, aunt or uncle.)

- I consent to you processing the information I have provided.

Signed ………………………………………

[PRINT NAME] ………………………………………

Date ………………………………………
NHS Barnet Clinical Commissioning Group (CCG)
Grievance Procedure

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountable Director:</td>
<td>Director of Quality &amp; Governance</td>
</tr>
</tbody>
</table>
| Ratifying Committee(s) and Date: | Previously approved by:  
NHS NCL PCT Board  
NHS NCL PCT Senior Leadership Team 16.09.2011  
NHS NCL PCT Joint Partnership Group 20.09.2011  
Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet | Website |
| Related Documents: | All other HR policies  
Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updates as and when changes occur |

Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
<tr>
<td>CONTENTS</td>
<td>Page</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.0 Introduction</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.0 Scope of Procedure</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.0 Definitions used in the Procedure</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.0 Grievance Procedure Stages</td>
<td>4-7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 Informal Stage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.2 Formal Stages</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.3 Formal Stage 1 Mediation Investigation Stage 1 Grievance Meeting</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.4 Grievance Outcomes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.5 Formal Stage 2 (Appeal)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.0 Witnesses</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.0 Status Quo</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.0 Vexatious Grievances</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.0 Findings of Formal Stages</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appendix 1 Stage 2 Grievance Meeting Procedure</td>
<td>9-10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appendix 2 Grievance Pro-forma</td>
<td>11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Introduction

1.1. This policy and procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred to as Barnet CCG from hereon). Other workers will be subject to the procedures laid out in any written agreement that exists between Barnet CCG and/or the worker and/or the agency through which they work. This procedure will not apply to agency workers and independent contractors, including Bank workers.

1.2. Barnet CCG considers that it is best practice to have a fair, clear and consistent policy for dealing with employee grievances.

1.3. Barnet CCG recognises that management, employees and their representatives share a common interest in the quick settlement of issues causing dissatisfaction, either to an individual or to a group of employees.

1.4. Wherever possible, Barnet CCG encourages and expects that grievances will be raised and resolved informally and as locally as possible.

1.5. Barnet CCG is mindful nonetheless, that informal resolution may not always be achievable. In such circumstances it expects the formal stages of this procedure to be followed.

1.6. The grievance procedure sets out various timescales and any steps under this procedure will be taken promptly. However, the time limits in this procedure may be extended if it is reasonable to do so. Where this is necessary, the employee will be informed of the delay and the reasons for it.

1.7. If an employee has difficulty at any stage of the grievance procedure because of a disability, they should approach the manager dealing with the grievance for assistance.

2. **Scope of Procedure**

2.1. The procedure does not apply to the following issues or concerns:

2.1.1. Misconduct or poor performance.

These matters will be dealt with in accordance with Barnet CCG's Disciplinary Procedure including, in particular, through the appeal process set out therein.

If, in the course of a disciplinary process, a grievance is raised that relates to the case, consideration will be given to either suspending the disciplinary process for a short time whilst the grievance is dealt with under this procedure or dealing with the complaint through the disciplinary appeal process.

Alternatively, Barnet CCG may appoint an alternative, neutral manager (or take the view that the already appointed manager is sufficiently neutral) to consider either the grievance alone (concurrent with the disciplinary process)
or both the grievance and disciplinary matters as part of the same disciplinary investigation and process.

2.1.2. Any terms and conditions of employment that are either set nationally or by local collective bargaining procedures.

2.1.3. Grading appeals or KSF framework and gateway appeals.

2.1.4. Complaints in relation to discrimination, harassment, victimisation or bullying, which will be dealt with under Barnet CCG's Policy and Procedure for Dealing with Discrimination, Harassment, Victimisation and Bullying.

2.1.5. Reports of illegal activities, wrongdoing and/or malpractice within Barnet CCG, which will be dealt with under the Raising Concerns at Work (Whistleblowing) Policy and Procedure. However, where the employee is aggrieved about their personal position and would like the matter dealt with as a grievance, the employee should use this grievance procedure or Barnet CCG's Policy and Procedure for Dealing with Discrimination, Harassment, Victimisation and Bullying.

2.1.6. Any other matter for which a separate local procedure exists.

3. Definitions used in this procedure

3.1. **Aggrieved employee(s) or the aggrieved:** The staff member or members who have lodged the grievance.

3.2. **Vexatious grievance:** A vexatious grievance is one that:

   3.2.1. Is based on deliberate misrepresentations or untruths;

   3.2.2. Lacks a serious value or purpose;

   3.2.3. Is not made in good faith, for example, it is designed to cause annoyance and disruptions; or

   3.2.4. Can otherwise fairly be characterised as manifestly unreasonable. For example, where an individual continues to raise the same issues that have previously been the subject of formal management and appeal processes.
4. Grievance procedure

4.1. Informal Stage

4.1.1. Most grievances can be resolved quickly and informally through discussion between the individual and their manager. Consequently, the individual should raise any grievance initially with their immediate supervisor or manager and endeavour to resolve such concerns informally.

4.1.2. The employee can seek advice from their union representative to help with having this conversation. However, the main emphasis of this stage is for a direct and open conversation to occur between the employee and the manager.

4.1.3. A file note of this conversation should be made by the manager.

4.1.4. If the employee remains dissatisfied, they should follow the formal procedure set out below.

4.2. Formal Stages

4.2.1. Right to be accompanied

During the formal stages involved in dealing with the grievance, the aggrieved employee has the right to be accompanied by a union representative or a work colleague to meetings held as a part of the process. The employee’s companion may make representations and ask questions for the employee but they should not answer questions on the employee’s behalf. Legal representatives, whether solicitors, barristers or otherwise, are not permitted to take part in the proceedings in any capacity.

If the employee wishes to be accompanied to a meeting under this procedure, they should notify the manager holding the meeting in advance, giving the name of the employee’s chosen companion.

4.2.2. Meeting arrangements

The aggrieved employee must take all reasonable steps to attend any meetings arranged under the grievance procedure.

In the event that a meeting relating to one of the formal stages is arranged for a time that is inconvenient for the aggrieved employee or their Union representative, the employee must immediately notify the manager holding the meeting and should suggest an alternative time and date that is not more than 7 calendar days after the initial meeting date.

Where the Union representative is known, effort will be made to set any meeting dates and times in consultation.
4.3 **Formal Stage 1**

If the employee’s grievance has not been resolved informally, the employee should outline the nature of their concerns in writing using the standard pro-forma (attached to this grievance procedure), and send this to their next-in-line manager within 21 calendar days of the outcome of the informal stage.

The pro-forma from the aggrieved employee should be sufficiently detailed to allow the manager dealing with the grievance to understand the basis of the grievance.

On receipt of the pro-forma, the next-in-line manager (or their nominated alternative) will take the most appropriate of the following actions, within 28 calendar days:

4.3.1 **Mediation**

Where there is scope for the grievance to be mediated and the parties are in agreement, the manager will arrange for a neutral person to meet with both parties to facilitate discussion to resolve the grievance. If this proves to be unsuccessful or where the matter is not considered to be suitable for mediation, the most appropriate of the remaining Stage 1 actions will then be taken.

4.3.2 **Investigation**

Where there is dispute in regard to material facts involved with the grievance, there is a need for the manager to confirm facts or the nature of the complaint and/or its background facts require it, an investigation into the employee’s grievance will be commenced.

In order to establish the facts, it may be necessary for the manager to hold interviews with the parties to the grievance as well as any relevant third parties. A Human Resources Advisor may assist the investigating manager at such interviews by providing HR advice.

Once this investigation is completed, a Stage 1 grievance meeting will be arranged.

4.3.3 **Stage 1 grievance meeting**

Arrange a Stage 1 grievance meeting. At this meeting, the manager (or, if required, an alternative nominated manager) will facilitate a discussion about the employee’s grievance with the aim of exploring and resolving any difficulties or concerns as expeditiously as possible. There may be situations where an employee’s grievance requires further investigations following the Stage 1 meeting. If this is the case, the investigations will take place, and once completed the Stage 1 meeting will be reconvened.

The manager will ultimately have the responsibility to make a final decision in regard to the grievance and the manager will inform the employee of the outcome of the Stage 1 meeting in writing within 7 calendar days of the
meeting or as soon as possible thereafter. The employee will also be notified of their right to appeal against the Stage 1 grievance decision.

A Human Resources Advisor will also be present at the meeting.

4.4 Grievance Outcomes

Except where successfully mediated, the following outcomes may be reached by the manager at the conclusion of Stage 1:

4.4.1 To uphold the grievance

If such a finding is made it will normally be appropriate for the manager to also recommend actions to remedy the situation.

4.4.2 Not to uphold the grievance

It may also be appropriate with such a finding to recommend actions, although it may be the case that no further action is required.

4.4.3 To find that the grievance is vexatious

If it is found that the grievance is vexatious, the manager should decide whether it is appropriate to instigate disciplinary proceedings.

4.5 Formal Stage 2 (Appeal)

If the employee remains aggrieved after the Stage 1 decision, they may refer their grievance to Stage 2 by completing the standard pro-forma (see Appendix 2) and forwarding it to the Head of HR and People Development within 21 calendar days of the issue of the written outcome of Stage 1.

The hearing of a grievance at Stage 2 shall take place as soon as possible and, wherever possible, within 8 weeks of receipt of the pro-forma. This timeframe may be extended in exceptional circumstances or by agreement between the parties.

The Stage 2 grievance panel shall normally consist of the Head of HR and People Development (or nominated representative) and 2 panel members (including a minimum of one Barnet CCG Director). If relevant, one member of the panel should have knowledge of the field of work of the employee.

The members of the grievance panel shall not include anyone who has been involved in the circumstances leading to the grievance.

Anyone that has been involved at an earlier stage of the grievance will not be present at the grievance hearing in any capacity, other than as a witness or as the management side or staff side representative.

The pro-forma from the aggrieved should be sufficiently detailed to enable the appeal panel to understand the basis of the appeal.
This pro-forma will be available to the employee’s manager, who will submit a written statement setting out their response to the employee’s grievance and the referral to Stage 2.

All written evidence/statements produced by either party should be exchanged before the Stage 2 hearing. This should take place a minimum of 7 calendar days before the hearing.

Only evidence heard/presented during previous stages is admissible at Stage 2 unless new information has come to light since the previous stages. In these circumstances the appeal panel will decide whether to pursue the new evidence. Appendix 1 sets out the procedure of a Stage 2 meeting. The Panel may exercise discretion in determining the most appropriate procedure for the circumstances.

A member of the appeal panel will inform the employee of the outcome of the Stage 2 meeting in writing within 7 calendar days of the appeal meeting or as soon as possible thereafter.

5. Witnesses

If either party proposes to call witnesses to formal meetings, they shall only remain in the hearing whilst giving evidence or being questioned. Only one witness should be present at a time. If desired, witnesses may be represented by their appropriate trade union/professional organisation.

Other conditions that apply to the calling of witnesses shall be as outlined in Barnet CCG’s disciplinary procedures.

6. Status Quo

Where management seeks to change a term or condition of employment that is either agreed or is customarily applicable to employees or an individual employee's conditions, the existing conditions shall be maintained until agreement has been reached or the above procedure exhausted.

7. Vexatious Grievances

7.1. Barnet CCG is confident that the majority of grievances raised by staff are not vexatious and would not deter any individuals from raising a grievance that is genuine and made in good faith.

7.2. In the event that a grievance is found to be vexatious, consideration will be given to taking disciplinary action.

8. Findings of Formal Stages

Written grievances will be placed on an employee’s personnel file along with a minimum of the records of any decisions taken, any appeal notices and the outcome of any appeals.
APPENDIX 1: STAGE 2 GRIEVANCE MEETING PROCEDURE

1. The aggrieved employee or his/her representative shall put his or her case in the presence of Barnet CCG’s representative and may call witnesses.

2. Barnet CCG’s representative shall have the opportunity to ask questions of the aggrieved employee and his or her representative.

3. The members of the panel shall have the opportunity to ask questions of the aggrieved employee, and his or her representative.

4. Barnet CCG’s representative shall state Barnet CCG’s case in the presence of the aggrieved employee and his or her representative.

5. The aggrieved employee or his or her representative shall have the opportunity to ask questions of Barnet CCG.

6. The members of the panel shall have the opportunity to ask questions of Barnet CCG’s representative.

7. The aggrieved employee or his/her representative and Barnet CCG’s representative shall have the opportunity to sum up their cases if they so wish. Barnet CCG’s representative shall have the right to speak last. In summing up, neither party may introduce any new material.

9. Nothing in the foregoing procedure shall prevent the panel from questioning management side and staff side as appropriate to clarify issues or seek supplementary information.

10. The panel may, at its discretion, adjourn the hearing in order that further evidence may be produced by either party or for any other reason.

11. Once the evidence has been heard, the aggrieved employee, his or her representative and Barnet CCG’s representative shall withdraw.

12. The panel, together with the officer appointed as secretary to the panel and where appropriate the assessor, shall deliberate in private, only recalling both parties and the representative to clear points of uncertainty on any evidence already given. If recall is necessary, both parties shall return notwithstanding only one party is concerned, with the point giving rise to doubt.

13. The decision of the Chair of the panel on questions of order, relevancy, regularity and his/her interpretation of the procedure shall be final.

14. All questions shall be put formally through the Chair.

15. The final decision will be notified to the aggrieved employee, his or her representative and Barnet CCG’s representative by the Chair within 7 calendar days of the hearing.
Note: This form is meant for use at both formal stages of the grievance procedure.

Important: You are required to complete this form and send it to Head of Human Resources and People Development within 21 calendar days of the date of the letter confirming the outcome of the informal/Stage 1 Grievance Hearing.

Please indicate the stage at which you are using the pro-forma and state the grounds of your grievance, including, where possible, a description of your reasons for your complaint, the relevant facts, dates and names of individuals involved and, for Stage 2 referrals, your grounds for moving to Stage 2.

☐ Stage 1  ☐ Stage 2

(Continue on a separate sheet if necessary.)
APPENDIX 2: GRIEVANCE PRO-FORMA

Barnet CCG
Grievance Pro-forma

Please state your name, address and telephone number (BLOCK CAPITALS)

Name: ________________________________________________________________

Address: _______________________________________________________________

_____________________________________________________________________

Telephone No. Work: ___________ Home: _________________________________

Please state your job title, grade and your department (BLOCK CAPITALS)

Job title and grade: ______________________________________________________

Department: ___________________________________________________________

If a representative or work colleague has agreed to accompany you at meetings relating to this matter, please give his or her name and address below (BLOCK CAPITALS)

Name of representative/
work colleague: _______________________________________________________

Union or organisation: _________________________________________________

Address: _____________________________________________________________

_____________________________________________________________________

Telephone No: _______________________________________________________

You are advised to consult your representative before submitting this completed form.

Signed: __________________________ Date: ____________________________

Note: Once you have formally lodged your grievance, it will be acknowledged in writing.
# Health and Wellbeing Policy

**NHS Barnet Clinical Commissioning Group (CCG)**

**Health and Wellbeing Policy**

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
|                     | Head of Quality & Organisational Development at Barnet CCG |
| Accountable Director: | Director of Quality & Governance |
| Ratifying Committee(s) and Date: | Previously approved by:  
|                             | NHS NCL PCT Board  
|                             | NHS NCL PCT Senior Leadership Team 16.09.2011  
|                             | NHS NCL PCT Joint Partnership Group 20.09.2011  
|                             | Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet  
|                             | Website |
| Related Documents: | • All other HR policies  
|                             | • Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updates as and when changes occur |

## Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Introduction</td>
</tr>
<tr>
<td>2</td>
<td>Policy statement</td>
</tr>
<tr>
<td>3</td>
<td>Responsibility of the organisation</td>
</tr>
<tr>
<td>4</td>
<td>Responsibility of the senior management team</td>
</tr>
<tr>
<td>5</td>
<td>Line managers</td>
</tr>
<tr>
<td>6</td>
<td>Responsibility of staff</td>
</tr>
<tr>
<td>7</td>
<td>Confidentiality</td>
</tr>
<tr>
<td>8</td>
<td>Key indicators</td>
</tr>
<tr>
<td>9</td>
<td>Definition and terminology</td>
</tr>
<tr>
<td>10</td>
<td>Other related policies</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

This policy and procedure applies to all employees of NHS Barnet Clinical Commissioning Group (to be referred as Barnet CCG from hereon). Barnet CCG's Health and Wellbeing at Work Policy has been developed to promote and encourage health and wellbeing at work.

In accordance with our Vision and Values, it is acknowledged that staff wellbeing is of paramount importance. Wellbeing is an important factor in the job satisfaction of our staff and is therefore a management issue for the organisation. This policy is designed to bring existing staff wellbeing issues to the fore, whilst seeking to create an organisational culture where negative wellbeing issues are identified, minimised and managed before they affect the wellbeing of staff. We have a clear aim to promote the positive aspects and ideas associated with health and wellbeing at work.

The issue of staff health and wellbeing at work is recognised as part of a broader approach to health promotion that involves all stakeholders associated with our organisation.

Barnet CCG has a unique set of features including its organisational culture, structures, system of operation, management practices and workplace environment, which together with staff personal lifestyle factors play a key role in the health and wellbeing of individuals and that of the organisation.

2. POLICY STATEMENT

Barnet CCG recognises that mental health is as important as physical health. This policy applies to all staff employed here and includes those working in a voluntary capacity. This policy aims to ensure that all staff feel supported in their work.

The purpose of the Policy:

- To support the effectiveness of our staff in their duties which contributes to achieving the organisation’s objectives
- To seek to enhance the ability of staff to benefit from health and wellbeing solutions

It is the policy of Barnet CCG to:

a) promote health and wellbeing through its management policies, support services, information networks and health promotions, including alcohol awareness, diet, exercise, self management, and by liaising with external agencies

b) prevent, so far as is practicable, those circumstances detrimental to mental health and wellbeing

BARNET CCG AIMS TO:

- Promote good practice in both physical and mental health and wellbeing activities and share successes across the organisation
- Provide training for all managers and supervisory staff in good management practices appropriate to this policy
• Ensure all necessary resources are provided to enable managers to implement the policy
• Identify those circumstances that may contribute to inappropriate levels of work-related stress and conduct risk assessments to eliminate or control the risks from such stress. These circumstances and risk assessments will be kept under regular review
• Consult with relevant trade union representatives and other stakeholders, where appropriate, on all proposed action relating to staff wellbeing and the prevention of workplace stress
• Provide confidential counselling for staff whose wellbeing is affected by either work or external factors

3. RESPONSIBILITY OF THE ORGANISATION

Barnet CCG has a responsibility to:

• Promote an emphasis toward good physical and mental health and wellbeing
• Provide central support, resources and advisory services
• Provide training to staff
• Monitor the effectiveness of this policy

4. RESPONSIBILITY OF THE SENIOR MANAGEMENT TEAM

Our Senior Managers will:

• Establish effective monitoring processes so as to be able evaluate the impact of the policy
• Ensure the promotion of the policy throughout the organisation
• Provide support and guidance for individuals
• Allocate resources necessary to allow managers to make health referrals for expert opinion
• Review and reflect on how we operate the policy with a view to continually improving staff well being.

In addition to the general duties of all managers, Senior Managers influence the culture in their part of the organisation.

Their specific responsibilities include:

• Setting an example as role model by adopting and adhering to this policy
• Actively promote the principles and behaviours contributing to positive staff wellbeing
• Vigilance to employees’ personal circumstances and offering additional support where appropriate to members of staff experiencing risks to their wellbeing derived from outside work, e.g. bereavement or separation
• Ensuring effective communication between management and staff, particularly where there are organisational and procedural changes
• Ensuring that bullying, harassment and discrimination are not tolerated
• Referring employees to Occupational Health Service or counselling services
• Working with managers to initiate staff wellbeing focus groups where appropriate
• Conducting any investigation necessary to protect staff wellbeing – with input from the most appropriate line manager in the circumstances.

5. LINE MANAGERS

All line managers are required to:

• Facilitate risk assessments relating to staff wellbeing and work related stress, and implement agreed findings
• Ensure staff are fully trained to discharge their duties
• Ensure staff are aware of the stress management guidelines
• Ensure staff are provided with meaningful developmental opportunities
• Monitor workloads to ensure staff are not overloaded
• Monitor working hours to ensure staff are not overworking, and monitor holidays to ensure staff are taking their full entitlement
• Attend relevant training as required, including management, and health and safety training
• Ensure any staff wellbeing issues are communicated to a member of the Senior Management Team as soon as possible in order to secure advice and support
• Ensure effective measures are in place for monitoring all sickness absences for stress-related absence
• Ensure absence patterns are monitored, and anomalies reported to Senior Management.

6. RESPONSIBILITY OF STAFF

All staff are expected to:

• Treat each member of staff with dignity and respect as an individual
• Take advantage of training and information sources
• Uphold confidentiality (wherever safety is not at risk)
• Recognise the limits to what they can do and seek advice at the earliest opportunity
• Share ideas for promoting health and wellbeing in the workplace
• Raise issues of concern with their line manager, their Health and Safety Representative or member of the Senior Management Team
• Accept opportunities for occupational health review or counselling when recommended.

7. CONFIDENTIALITY

While all dealings with staff are subject to Barnet CCG’s policy on confidentiality it must be emphasised that this is often of paramount importance with regard to those experiencing mental health difficulties. However, it must also be emphasised that confidentiality may be necessarily breached in certain circumstances where the individual is deemed to be a risk either to him/herself or to other people. If there is a conflict between these two statements
then it should be stressed that the safety of the individual and or the safety of other members of our community takes precedence over confidentiality.

8. KEY INDICATORS

Experience demonstrates that organisations which adopt a positive approach to improving health and wellbeing across the organisation, may achieve substantially reduced costs associated with:

- Absenteeism
- Staff turnover
- Risk management
- Increased staff moral, job enrichment, quality of work life
- Continuous improvement of achievement
- Improved productivity and overall organisational performance

Studies have shown that regular, daily light or moderate exercise is beneficial for the prevention of heart disease and other life threatening diseases. The provision of opportunities for physical activity is one way that workplaces can contribute to promoting health and preventing illness.

There are many psycho-social factors which influence personal health and wellbeing. Mental health promotion in the workplace can prevent stress as well as promoting an understanding of mental illness.

Harmonious working relationships created by effective leadership and staff and involvement in decision making, together with effective administration systems, are important contributors to staff health and wellbeing. Effective administrative and professional support can assist staff to undertake their designated role with organisational purpose and direction.

9. DEFINITION AND TERMINOLOGY

The term “mental health” is one which encompasses a wide range of experiences which affect an individual’s ability to balance his/her life. The difficulties can range from stress and anxiety through to serious mental health conditions diagnosed and treated by the health services.

Barnet CCG’s duty of care towards its staff is determined externally by legislation such as:

- Health and Safety at Work Act (1974)
- Data Protection Act (1988)
- Disability Act (2001)
- Disability Discrimination Act (2005)
- Equalities Act 2010

10. OTHER RELATED POLICIES
Barnet CCG exercises that duty of care through this Policy and through the following related polices and notes for guidance:

Health and Safety Policy
Equalities Policy
Prevention of Bullying and Harassment Policy
Grievance Procedure
Sickness Absence Policy
Capability Procedure
Stress Management Guidance
Job Share Guidelines
Disciplinary Procedures
Whistleblowing Policy
# NHS Barnet Clinical Commissioning Group (CCG)
## Bullying and Harassment Policy

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountable Director:</td>
<td>Director of Quality &amp; Governance</td>
</tr>
</tbody>
</table>
| Ratifying Committee(s) and Date: | Previously approved by:  
NHS NCL PCT Board  
NHS NCL PCT Senior Leadership Team 16.09.2011  
NHS NCL PCT Joint Partnership Group 20.09.2011  
Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet | Website |
| Related Documents: |  
• All other HR policies  
• Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updated as and when changes occur |

### Document Control

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>3</td>
</tr>
<tr>
<td>2. Who this policy applies to</td>
<td>3</td>
</tr>
<tr>
<td>3. Definitions</td>
<td>4</td>
</tr>
<tr>
<td>4. Relationship with the disciplinary procedure</td>
<td>4</td>
</tr>
<tr>
<td>5. Examples of discrimination, harassment, victimisation and bullying</td>
<td>5</td>
</tr>
<tr>
<td>6. Responsibilities under this process</td>
<td>6</td>
</tr>
<tr>
<td>7. When this policy and procedure should be used</td>
<td>7</td>
</tr>
<tr>
<td>8. Advice and Support</td>
<td>7</td>
</tr>
<tr>
<td><strong>Raising a concern under the prevention of bullying and harassment</strong></td>
<td>8</td>
</tr>
<tr>
<td><strong>policy and procedure</strong></td>
<td></td>
</tr>
<tr>
<td>1. Keeping a record</td>
<td>9</td>
</tr>
<tr>
<td>2. Stage 1: Informal Resolution</td>
<td>9</td>
</tr>
<tr>
<td>3. Stage 2: Making a formal Complaint</td>
<td>11</td>
</tr>
<tr>
<td>4. Police involvement</td>
<td>11</td>
</tr>
<tr>
<td>5. Privacy/Confidentiality</td>
<td>11</td>
</tr>
<tr>
<td>6. Investigating a complaint under this procedure</td>
<td>12</td>
</tr>
<tr>
<td>7. How the complaint will be investigated</td>
<td>12</td>
</tr>
<tr>
<td>8. Action when the complaint is dissatisfied</td>
<td>15</td>
</tr>
<tr>
<td>9. The disciplinary process</td>
<td>15</td>
</tr>
<tr>
<td>10. Redeployment consideration</td>
<td>16</td>
</tr>
</tbody>
</table>
STATEMENT OF INTENT

This policy applies to all employees of Barnet Clinical Commissioning Group (to be referred to as Barnet CCG from hereon).

Barnet CCG is committed to the belief that all staff have the right to be treated with dignity and respect at work and not to be subject to any form of unacceptable behaviour from colleagues, including harassment and bullying. Such behaviour will not be tolerated by Barnet CCG in any form, whether this is at the workplace or at work related events. Barnet CCG will view such behaviour as a serious disciplinary offence that may lead to dismissal.

Barnet CCG is an equal opportunities employer. It is the policy of Barnet CCG to ensure that no user of the service, employee, or job applicant, receives less favourable treatment on grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, nor is disadvantaged by any conditions or requirements which cannot be shown to be justified in line with the Equality Act 2010. Barnet CCG views discrimination, harassment, victimisation and bullying as serious matters, which contravene Barnet CCG's Equalities Policy. Barnet CCG is fully committed to the elimination of all forms of discrimination, harassment, victimisation and bullying, and considers it essential that all Barnet CCG employees are also committed to the implementation of policies in this area in order for them to be effective.

1. INTRODUCTION

1.1. Barnet CCG recognises that discrimination, harassment, victimisation and bullying can create a threatening and intimidating work environment, which can adversely affect the job performance, health and well being of employees.

1.2 The purpose of this policy is to provide proper redress for individuals facing discrimination, harassment, victimisation and bullying, and to assist in identifying and dealing with these issues, in line with Barnet CCG’s Equalities Policy. This procedure will help to promote fair treatment and good working relations within Barnet CCG’s workforce.

1.3. This policy and procedure will be made available to all employees and managers in Barnet CCG. All employees and managers are required to comply with it. Barnet CCG will not tolerate acts of discrimination, harassment, victimisation and bullying.

2. WHO THE POLICY APPLIES TO

2.1 This code of practice and complaints procedure is designed to support all staff who feel they have suffered from discrimination, harassment, victimisation or bullying. It has been drawn up as part of Barnet CCG’s Equalities policy and applies particularly to the groups identified in the policy; i.e. discrimination, harassment, victimisation and bullying on the grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, nor is disadvantaged by any conditions or requirements which cannot be shown to be justified in line with
the Equality Act 2010. Barnet CCG also recognises that part-time workers and those employed on fixed term contracts should not be treated less favourably than a full time or permanent worker. This policy also applies to non-discriminatory bullying.

2.2 This policy applies in relation to discrimination, harassment, victimisation and bullying by an employee/employees against another employee/employees. If an employee experiences discrimination, harassment, victimisation and bullying while carrying out Barnet CCG work, from patients/service users or other people in contact with them, they should discuss this with their line manager in the first instance, and may raise a formal complaint in accordance with Barnet CCG’s Complaints Procedure.

3. DEFINITIONS

For the purposes of this code of practice:

3.1 "Discrimination" is defined as an act which has the effect of treating a person less favourably than another on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. Barnet CCG also recognises that part-time workers and those employed on fixed term contracts should not be treated less favourably than a full time or permanent worker.

3.2 "Harassment" is defined as unwanted conduct related to a relevant protected characteristic such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, which is unreciprocated or unwanted or affects an individual's dignity at work or creates an intimidating, hostile, degrading, humiliating or offensive environment for an individual. It could also include any personal characteristic of the individual, and may be persistent or an isolated incident.

3.3 "Victimisation" is defined as an act of discrimination or harassment against a person because it is suspected or known that the person has made an allegation on any of the grounds stated in paragraph 2.1 or given evidence or information regarding the allegation.

3.4 “Bullying” may be characterised as persistent offensive, abusive, intimidating, malicious or insulting behaviours, which may amount to an abuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It does not include the legitimate and appropriate exercise of management responsibility where this is exercised in a reasonable manner.

4. RELATIONSHIP WITH THE DISCIPLINARY PROCEDURE

4.1 This policy is separate from the disciplinary process. It is to be used in all cases described above and an investigation will normally be carried out into a complaint made under this procedure, if appropriate. (Guidance on this is given in the procedure). The disciplinary procedure may then be used, following the results of the investigation under this procedure. Alternatively, an incident may be so serious, or may have been witnessed personally by the manager, or
there may be sufficient evidence that she/he may wish to go straight to the disciplinary process.

4.2 Where an individual makes a complaint in good faith, regardless of whether or not the complaint is upheld, the person raising the complaint, or any person giving evidence in respect of a complaint, must not be treated less favourably as a result of this. If, however, there is reasonable cause to believe that the complainant, or other, acted maliciously, or the allegation was vexatious, then where the complainant is a member of staff the matter may be investigated under Barnet CCG's disciplinary procedures.

5. EXAMPLES OF DISCRIMINATION, HARASSMENT, VICTIMISATION AND BULLYING

This list is neither exclusive nor exhaustive, and other forms of behaviour can also constitute discrimination, harassment, victimisation or bullying.

5.1 Discrimination

This can occur with or without the individual's awareness that it is taking place, and would include: giving unequal consideration or treatment to people in areas such as recruitment, training or promotion; attitudes which ostracise or encourage others to ostracise; inducing or attempting to induce other employees to treat a person unfairly.

5.2 Harassment

Examples of harassment include:

5.2.1 Verbal Harassment

Statements, remarks, jokes, banter or innuendoes which are derogatory, or which ridicule or insult a person on the grounds stated; the use of threatening or obscene language; making verbal sexual advances; attempts to stir up hatred or discontent against particular groups.

5.2.2 Physical Harassment

Physical contact – ranging from touching to serious assault, gestures, intimidation or aggressive behaviour which are intimidatory or which ridicule, discomfort or embarrass individuals e.g. invasion of personal space, making sexual advances in a physical manner.

5.2.3 Non-verbal

Displaying or distributing materials which degrade or offend or the writing/painting of insults, including pornographic pictures and magazines; badges or other insignia whose purpose is to create hatred or discontent; graffiti; the defacing of notices referring to the promotion of equal opportunities or related issues.
5.3 Victimisation

Any type of unacceptable behaviour, which is directly in retaliation against the party or parties to a complaint, is victimisation. The examples listed in paragraph 5.1 and 5.2 would be included, as would complaints under Barnet CCG’s Whistle-Blowing policy.

5.4 Bullying

Examples of bullying include:

5.4.1 Physical conduct

Intimidatory, threatening behaviour, shouting and uncontrolled anger, abuse and humiliation in public or in private, blocking promotion possibilities.

5.4.2 Verbal conduct

Persistent negative attacks on personal or professional performance, unreasonably criticising a colleague in the presence of others, spreading malicious rumours or making malicious allegations, refusal of reasonable work requests.

5.4.3 Non-verbal conduct

Exclusion from work information with the intent of deliberately affecting a colleague’s performance, setting objectives with impossible targets or deadlines, unreasonably taking credit for ideas and work, over-monitoring a colleague’s performance without good reason, isolation or exclusion. “Cyber bullying” i.e. bullying via email.

5.5 Knowledge of offence

Employees will be notified of the definition and forms of discrimination, harassment, victimisation and bullying through training and through the distribution of this policy. New employees will be informed through the induction process.

6. RESPONSIBILITIES UNDER THIS PROCESS

6.1 Barnet CCG has a legal obligation to ensure that harassment on the grounds of someone’s race, sex, disability, sexual orientation, gender identity (including reassignment), marriage and civil partnership, pregnancy and maternity, religion or belief, age or harassment on any other grounds does not take place at work, as this is discrimination in line with the Equalities Act 2010.

6.2 Barnet CCG also has a duty of care towards its staff under the Health and Safety at Work Act 1974. Every member of staff is also personally liable under the legislation.
In addition Barnet CCG has a moral obligation to ensure fair treatment in all areas of its responsibilities, and aims to achieve this through the Equalities Policy.

6.2 **All managers** have a particular responsibility to maintain a working environment free from discrimination, harassment, victimisation and bullying and will be responsible for ensuring that they do not occur in work areas for which they are responsible. Managers are also responsible for ensuring that all employees and third parties are informed about the Prevention of Bullying and Harassment policy and procedure, and that discrimination, harassment, victimisation and bullying are disciplinary offences. All managers should take prompt action to stop discrimination, harassment, victimisation and bullying as soon as it is identified.

6.3 **All employees** of Barnet CCG have a personal responsibility to ensure a working environment free from discrimination, harassment, victimisation and bullying, and to ensure that they do not breach this code.

7. **WHEN THIS POLICY AND PROCEDURE SHOULD BE USED**

7.1 This policy and procedure should be used by all individuals or groups who are suffering from any acts of discrimination, harassment, victimisation or bullying or who are offended by acts which may not be personally directed towards them e.g. pin-ups (see section 5.4). This also includes all forms of discrimination in recruitment, training and promotion, salaries, wages and other conditions of employment. (However, employees are urged to seek early advice from their trade union or elsewhere on all of these issues, since they may also wish to consider taking legal or other action).

7.2 If a manager witnesses an incident of discrimination, harassment, victimisation or bullying, they should challenge the individuals concerned as soon as possible after the event and then follow the disciplinary procedure. (See Section 5.4)

7.3 This procedure is intended for use by employees suffering discrimination, harassment, victimisation and bullying in the workplace from other employees of Barnet CCG. It is not intended for use in relation to complaints from members of the public concerning service delivery and related matters. Neither does it apply to discrimination, harassment, victimisation or bullying of employees by patients/service users, where Barnet CCG’s Complaints Procedure should be used. However, if an employee felt that they had suffered from discrimination, harassment, victimisation or bullying in relation to the implementation of any other internal policy or procedure, they should use this procedure to make a complaint.

8. **ADVICE AND SUPPORT**

8.1 It is recognised that being the subject of discrimination, harassment, victimisation and bullying and making a complaint can both be an extremely distressing experience. No employee needs to suffer in silence and all employees are urged to seek help, support and advice available within Barnet CCG.
8.2 Employees are recommended to seek advice from their line manager, Human Resources, or their trade union in the first instance.

8.3 Support and advice is also available from the Occupational Health Service or Staff Welfare Service (Oasis).

8.4 Copies of this policy should be made freely available to employees and can be obtained from their Human Resources department or the intranet.
RAISING A CONCERN UNDER THE PREVENTION OF BULLYING AND HARASSMENT POLICY AND PROCEDURE

When an employee has suffered an incident or incidents of discrimination, harassment, victimisation or bullying, they should follow the procedure outlined below.

It is recommended that cases are dealt with as soon as possible after an incident takes place.

1. KEEPING A RECORD

1.1 To make sure that it is possible to be accurate later on, it is important that anyone who feels they have suffered from discrimination, harassment, victimisation or bullying should keep note of the details outlined below for each incident. These notes should be made as soon as possible after an incident.

1.1.1 date of incident
1.1.2 time of incident
1.1.3 place of incident
1.1.4 name of person who is harassing them
1.1.5 what actually happened
1.1.6 how person being harassed felt at the time
1.1.7 name of anyone else present at the time, including witnesses
1.1.8 record should be made of action taken, including whether the matter was reported to management.
1.1.9 any correspondence relating to incidents/subsequent complaints.

2. STAGE 1: INFORMAL RESOLUTION

2.1 Every effort will be made to resolve the issue informally in the first instance if this is appropriate.

2.2 As soon as possible after an employee considers that an incident of discrimination/harassment/victimisation/bullying has occurred, the employee should make it clear to the person(s) against whom the complaint has been made that s/he does not like the behaviour and if possible ask the individual(s) to stop behaving in this way. This should be done verbally or, if the employee feels too embarrassed or upset to speak to the individual, it could be done in writing. Alternatively, s/he could arrange for a friend or colleague to be present when the matter is discussed if s/he does not wish to be alone with the individual. A note should be kept of the action taken and a copy of any letter(s).

2.3 If an employee being harassed or discriminated against
• feels unable to take action personally or
• wishes to consider making a formal complaint immediately or
• has asked the individual to stop their behaviour yet it continues.

He or she is advised to contact either their Trade Union representative or a member of the Human Resources department.

2.4 If the employee has not already done so s/he should then contact her/his human resources department or line manager (if appropriate) for advice on the next stage. If the complainant's line manager is the person alleged to have carried out the discrimination, harassment, victimisation or bullying, the matter should be reported to the next-in-line manager above her/him. Where the employee indicates that s/he would prefer to discuss the matter with a person of the same sex/race etc., this should be arranged whenever possible.

2.5 Where the employee seeks the advice of their human resources department, the matter remains at the informal stage. The discussion will be confidential and no further action will be taken without consent of the employee concerned unless a criminal act has occurred.

2.6 The employee may have a friend (not acting in a professional capacity), colleague/trade union representative present at this and at all stages of the procedure.

2.7 The employee should be given a copy of this procedure and it should be explained to her/him.

2.8 The employee will then be advised of appropriate courses of action, which will generally be one of the following:

2.8.1 To take no further action at this stage but to record any further incidents as recommended in paragraph 1.1 and to keep the situation under review, enabling the employee to seek further advice in the future if necessary.

2.8.2 If this has not already been attempted, either the employee, or someone acting on her/his behalf (e.g. a colleague or friend), should ask the person against whom the complaint has been made to stop the offending behaviour and to keep the situation under review, enabling her/him to seek further advice in the future if necessary.

2.8.3 To make a formal complaint.
3. STAGE TWO: MAKING A FORMAL COMPLAINT

3.1 Any individual suffering discrimination, harassment, victimisation or bullying is entitled to request managers to institute formal investigation/proceedings where appropriate.

3.2 If the individual wishes to make a formal complaint, this should be put in writing to his/her line manager. (If the line manager is involved in any of the incidents, then the complaint should be given to the next-in-line manager. Alternatively, the complainant can raise the issue with their Human Resources Business Partner who will advise the individual on what steps should be taken next.)

3.3 The letter should make it clear that it is a formal complaint under this procedure and should be fully explicit stating dates, times etc, of incidents. The letter should be marked “confidential” and preferably be delivered by hand to either the relevant manager or member of the human resources department. The employee is advised to seek early contact with her/his trade union or human resources department to obtain advice and support in presenting a formal complaint.

3.4 The individual making the complaint should be made aware of the process of investigation and their role in disciplinary proceedings, if instituted.

3.5 Employees need to be advised that, once a formal complaint is made, management will investigate the circumstances and take appropriate action. In general, proceedings based on the individual's complaint will not be instituted unless s/he wishes. However, in certain circumstances, the manager may wish to proceed with action against the person against whom the complaint has been made even where the complainant does not give evidence if the situation is of a serious nature (e.g. physical assault). In such cases, the manager will need to take into account any other evidence/witnesses in deciding whether or not they have sufficient evidence to proceed.

3.6 In relation to some professions, the professional head might wish to consider reporting the incident to a professional body.

4. POLICE INVOLVEMENT

4.1 In cases of alleged assault or alleged behaviour that is considered to be a criminal offence, Barnet CCG will contact the Police for their appropriate action if the complainant so wishes and/or if the incident is considered to be a serious criminal matter.

5. PRIVACY/CONFIDENTIALITY

At all times both parties’ right to privacy will be respected and no information about the complainant will be imparted unless absolutely necessary, and will always be discussed with the parties involved prior to the release of information. It is recognised that confidentiality is essential, and those
investigating complaints will make arrangements to ensure secure storage of papers etc. However, should action have to be taken as a result of the complaint then the papers, including notes of meetings, will be available to all relevant parties.

6. INVESTIGATING A COMPLAINT UNDER THIS PROCEDURE

6.1 In general

6.1.1 A complaint under this procedure presents a particularly sensitive problem for those responsible for investigating the allegations. The investigator is required to protect the rights of the person against whom the complaint has been made as well as protecting the rights of the individual making the allegations. Both employees are entitled to a full and fair opportunity to put their version of the events.

6.1.2 All departments/Directorates are expected to co-operate in releasing staff from their normal duties to participate in the investigation as required.

6.2 Time limits

The investigation should normally be completed within twenty-eight days of the complaint being made where practicable. On occasions it will not be possible to keep within the timescale. In such cases the complainant and the person against whom the complaint has been made must both be kept informed of any need for an extension and the likely timescale for completion.

7. HOW THE COMPLAINT WILL BE INVESTIGATED

7.1 Step one: initial response

7.1.1 Having received a formal complaint from an individual, the manager will arrange for the matter to be investigated. This will normally be carried out by the manager, or an officer nominated by her/him and a member of the relevant human resources department. Those investigating the complaint should not be connected with the allegation in any way. The manager will ensure that those people carrying out the investigation should reflect the nature of the complaint in terms of race, sex, disability etc. as far as possible. This may require a request to another department for an officer to be made available to investigate the case.

7.1.2 The person against whom the complaint is made should be informed at the outset of the complaint against them and given a copy of the letter of complaint.

7.2 Step two: possible suspension or redeployment during the investigation

7.2.1 The relevant manager should give consideration as to whether or not action needs to be taken for the duration of the investigation to relieve
the stress and pressure on one or both parties to prevent the risk of further incidents occurring. The manager must also take steps to prevent any victimisation of the complainant or the person against whom the complaint has been made. Such action should be taken following advice from the relevant human resources department and can include the following:

7.2.2. Suspension of the person against whom the complaint has been made may be considered where a manager feels that it is in the interest of either the individual or the organisation or both. It may be appropriate in some cases for both parties to be suspended. It will be made clear at all times that suspension under this procedure does not constitute part of Barnet CCG's disciplinary procedure. Suspension will be on full pay.

7.2.3. Temporary redeployment of one or both parties can also be considered. In normal circumstances, it is appropriate that the person against whom the complaint has been made should be redeployed rather than the complainant. The complainant could, however, be offered the option of redeployment where appropriate. In some circumstances both parties may be redeployed.

7.2.4. Granting of compassionate leave in appropriate circumstances.

7.3 Step three: meeting with the complainant

7.3.1 The manager or designated investigating officer and HR Business Partner will meet with the complainant and will take a detailed written statement of the incident. The complainant may be assisted by their trade union representative or a friend not acting in an official capacity. The complainant should be given the opportunity to nominate witnesses whom they wish to be interviewed.

7.4 Step four: meeting with the person against whom the complaint has been made

7.4.1 The manager or designated investigating officer and Human Resources Business Partner will then meet the person against whom the complaint has been made and hear what she/he has to say about the alleged incident(s) - having been previously informed of the allegation against them. They may be assisted by a trade union representative or by a friend not acting in an official capacity. Notes will be taken of the meeting. The person against whom the complaint has been made should be given the opportunity to nominate any witnesses whom they wish to be interviewed.

7.5 Step five: meeting with anyone present during incident(s)

7.5.1 The manager or designated investigating officer and HR Business Partner will meet anyone else who was present when the alleged incident(s) took place. Employees will be able to be assisted by their
trade union representative or a friend not acting in an official capacity. Notes will be taken of the meeting.

7.6 Step six: further clarification

7.6.1 The manager or designated investigating officer and HR Business Partner may then wish to meet any of those in steps 3-5 again to clarify or gain further information. They will also need to ensure that they have collected any relevant written materials. This may include asking for additional written statements form relevant parties.

7.7 Important notes

7.7.1 Note 1 - The purpose of the meetings is to establish the facts. They are not a disciplinary hearing of any sort. All those giving information to the manager or designated investigating officer will do so privately and not in the presence of any other person involved in or present during the alleged incident(s).

7.7.2 Note 2 - Whilst the manager or designated investigating officer will seek to resolve the matter as quickly as possible, the meetings with all those involved will not necessarily follow immediately after each other and the manager or designated investigating officer may at any time adjourn.

7.7.3 Note 3 - Notes taken at any of the meetings will be available to those involved in their particular meeting and comments can be made if appropriate.

7.8 Step seven: consideration of information

7.8.1 Having obtained all the information possible, the manager or designated investigating officer and Human Resources Business Partner, will review this information. The manager and Human Resources Business Partner will decide whether the complaint is substantiated. In cases of sexual harassment, in no circumstances will evidence of the complainant's experience, sexual attitudes or behaviour be taken as relevant information.

7.8.2 In some cases there will not be any witnesses and it will be one person's word against another's. In these cases the manager and Human Resources Business Partner will consider whether on the balance of probabilities the incidents/actions occurred.

7.9 Step eight: further action

7.9.1 The manager or designated investigating officer and Human Resources Business Partner will consider the facts and will decide either:

7.9.1.1 To take no action, that is the allegation has not been substantiated.

or
7.9.1.2 To initiate Barnet CCG’s agreed disciplinary procedure. (The acts may be considered to be acts of gross misconduct; however, the manager should consider all the facts and adopt the usual process outlined in the disciplinary procedure).

or

7.9.1.3 To take management action other than to initiate Barnet CCG’s agreed disciplinary procedure. This could include:

7.9.1.3.1 A recommendation for redeployment of one or both parties, either on a temporary or permanent basis;

7.9.1.3.2 Setting up arrangements to monitor the situation;

7.9.1.3.3 Required attendance on training courses (e.g. equal opportunities, or awareness courses).

7.9.1.3.4 Making arrangements for the complainant and the person against whom the complaint has been made to work as separately as possible within the same workplace with regular monitoring from the line manager

7.9.1.3.5 A (further) period of special leave.

7.10 Step nine: keeping management records

7.10.1 The arrangements for storing information after a complaint should be as follows: Where the matter proceeds to a disciplinary hearing, the disciplinary policy should be followed for keeping a record and subsequently removing the record from the file. Where a complaint has been made and not substantiated by an investigation, no record will be kept on the file of the person against whom the complaint has been made. If a person raises an incident with their manager/human resources department but does not wish to proceed with a formal complaint at that stage, no record will be kept on the file of the person against whom the complaint has been made. It is recommended that the manager advises the complainant to make a note of their meeting.

8. ACTION WHEN THE COMPLAINANT IS DISSATISFIED

8.1 If the complainant disagrees with the decision taken above, they have the right to raise this matter under Barnet CCG’s grievance procedure, which would normally be heard at Stage 2 of the Grievance procedure, before a panel of Barnet CCG Directors.

9. THE DISCIPLINARY PROCESS

9.1 If the manager has decided that a disciplinary hearing is necessary, s/he should consider how to deal with this matter sensitively knowing the nature of the
allegations. Managers should follow the normal disciplinary procedures but take the following points into account.

9.2 The complainant will normally be required to attend the disciplinary hearing as a witness.

9.3 If it is necessary to call the complainant as a witness to the hearing, s/he should be allowed to bring along her/his trade union representative or a friend not acting in an official capacity.

10. REDEPLOYMENT CONSIDERATION

10.1 Redeployment if disciplinary action is taken

10.1.1 If disciplinary action is taken, management must consider whether contact between the two parties is likely to occur during the course of their job and whether this is acceptable. Management will consult the complainant. In cases where contact is considered unacceptable, every effort should be made in the first instance to redeploy the person against whom the complaint has been made. However, it will be for the manager and Human Resources Advisor to consider which party may be most appropriately redeployed having fully considered the views of the complainant.

10.2 Redeployment when disciplinary action is not taken

10.2.1 Where disciplinary action is not taken following a full investigation, then the person who alleged the act or act(s) of discrimination, harassment, victimisation or bullying may request redeployment. In this case the manager, in consultation with the human resources department, will try to accommodate this request.

This procedure does not apply to settling differences related to:

1. dismissal or disciplinary matters
2. disputes appropriate to resolution in accordance with arrangements determined by collective agreements
3. organisational change
4. any matters for which procedures determined by reference to specific CCG Handbook or CCG procedures apply.
**NHS Barnet Clinical Commissioning Group (CCG)**  
**Special Leave Policy**

| Responsible Person: | Head of HR Support at North and East London Commissioning Support Unit (NEL CSU)  
Head of Quality & Organisational Development at Barnet CCG |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountable Director:</td>
<td>Director of Quality &amp; Governance</td>
</tr>
</tbody>
</table>
| Ratifying Committee(s) and Date: | Previously approved by:  
NHS NCL PCT Board  
NHS NCL PCT Senior Leadership Team 16.09.2011  
NHS NCL PCT Joint Partnership Group 20.09.2011  
Barnet CCG Governing Body – Sept 2013 |
| Version: | V 1.0 |
| Available On: | Intranet  
Website |
| Related Documents: | • All other HR policies  
• Barnet CCG’s Risk Management Strategy |
| Applies / Disseminated To: | All staff |
| Date Of Final Approval: | |
| Date Of Implementation: | |
| Date Of Next Formal Review: | BCP to be updated as and when changes occur |

**Document Control**

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Action</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Mar 13</td>
<td>1.0</td>
<td>Adoption of NCL PCT Policy</td>
<td>Roles and responsibilities amended to reflect Barnet CCG’s structure</td>
</tr>
</tbody>
</table>


## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>10</td>
<td>9</td>
</tr>
<tr>
<td>11</td>
<td>9</td>
</tr>
<tr>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>16</td>
<td>10</td>
</tr>
<tr>
<td>17</td>
<td>11</td>
</tr>
<tr>
<td>18</td>
<td>11</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

1.1 The Special Leave Policy has been formulated by Barnet CCG in recognition of the fact that its employees are may be faced with domestic, personal and family matters, which require immediate attention. This necessitates a degree of flexibility by the Barnet CCG in providing scope for extra paid or unpaid leave in order for the employee to be able to deal with any problem or situation.

1.2 The Agenda for Change: NHS Terms and Conditions of Service Handbook (January 2005), section 35: ‘Balancing Work and Personal Life’ states that NHS employers should provide employees with access to leave arrangements that support them in balancing their work responsibilities with their personal commitments. The Handbook does not, however, state a specific level of provision or extent of paid/unpaid leave. The Employment Relations Act 1999, introduced statutory entitlements to time off to care for dependants and parental leave. The policy is updated in accordance with any further advanced letters received and any changes in statutory requirements.

1.3 This policy will give clear guidance in defining, managing and applying for special leave. This policy specifically covers the following areas: Compassionate Leave which includes leave for bereavement and leave for urgent domestic distress, Time Off For Dependants, Extended Carer Leave, Paternity Leave, Parental Leave, Maternity Leave, Adoption Leave, Fostering Leave, Religious and Cultural Observance Leave, Disability Leave, Leave to Visit Relatives Abroad and other ‘Special Leave’ circumstances as outlined below. Staff are encouraged to check the Maternity and Adoption Leave Policy and Flexible Working Guidance and Information Pack for other benefits that may be available.

1.4 Additional guidance for managers on implementing this policy is available from Human Resources. Human Resources advice should be sought if unclear on the implementation of any section of this policy.

1.5 Managers have the discretion to view each employee’s case individually and according to circumstance.

1.6 Special Leave will not affect the employee’s annual leave or sick leave entitlements.

2. BENEFITS OF SPECIAL LEAVE

The Special Leave Policy, as well as being beneficial to the employee, provides a number of financial and management benefits.

2.1 The employee will not take sick leave to care for others and thus jeopardise their own employment prospects. As a consequence absence can be controlled more effectively by formalising caring arrangements:

2.2 It is good management practice to grant special leave as staff are less likely to make mistakes and are more likely to work safely if they are not anxious about a personal problem.
2.3 Barnet CCG will reduce a major area of disadvantage against women. Traditionally women have adopted the carer role which has resulted in an interruption or even a cessation to career progression. It is hoped that the Special Leave Policy will assist in removing this obstacle.

2.4 The Policy provides clear guidance to staff and managers regarding the procedures to be followed and reduces the level of inconsistencies and queries.

2.5 The Policy is an effective recruitment and retention strategy in respect to women and carers in particular.

2.6 This policy can help to promote employment relations and staff morale by demonstrating that the Barnet CCG is a caring employer aware of employee’s needs.

2.6 Provisions under this policy

The total amount of paid Special Leave available, irrespective of whether this is taken under Compassionate, Time off for Dependents or Parental Leave, should not exceed six days in a 12-month rolling period.

3. COMPASSIONATE LEAVE

A manager shall grant compassionate leave where a degree of understanding and sympathy for the employee is required. This would include:

3.1 Bereavement Leave

For employees needing time off as a result of a death of a close relative. This is defined as but is not exclusively a spouse, partner, parent, son, daughter, brother, or sister). Managers have the discretion to grant paid leave of initially a maximum of three days but in exceptional circumstances a maximum of six days in any 12-month rolling period may be granted. If a longer time period is required by the employee they may, at the manager’s discretion, and within the exigencies of the service, take annual leave or unpaid leave.

3.2 Leave for Urgent Domestic Distress

Employees can request leave in order to deal with urgent domestic distress such as burglary, fire or flooding. Managers would normally grant one days paid leave but this can be extended under exceptional circumstances at the manager’s discretion and within the exigencies of the service.

3.3 Procedure

Employees should apply to their managers when the incident occurs. If they are at home, employees should ring their manager as soon as possible, and before 10am, to request leave.

3.4 Compassionate Leave is available to all employees of Barnet CCG regardless of length of service. The policy does not apply to agency staff or bank staff and for part-
time employees and job sharers the extent of the leave entitlement granted will be on a pro-rata basis.

4. TIME OFF FOR DEPENDANTS

4.1 This includes employees who have caring responsibilities for dependants.

4.2 Carers are people who have the responsibility of looking after partners, children, close relations and close friends. If such personal commitments are likely to make demands of the employee within their working hours, they must let their manager know.

4.3 A caring situation may arise when an individual from any of the groups identified above is dependent on the employee. This may include:

4.3.1 Illness of a dependent.

4.3.2 Unforeseeable breakdown of normal caring arrangements, (e.g. sick childminder, closure of school or any other regular form of provision). Employees are responsible for ensuring that they have adequate childcare to fulfil their contractual obligations.

4.3.3 Accompaniment of any of the dependants to a GP, dentist, clinic or hospital. If a time outside working hours is not possible, managers may wish this time to be made up in lieu rather than grant carer leave.

4.3.4 This list is not exhaustive and carer leave may be granted for other purposes which fall under the spirit of this agreement.

4.4 Employees have the right to take reasonable time off to care for a dependant. Employees are entitled to initially a maximum of three days paid leave and in exceptional circumstances a maximum of six days carers’ leave in a 12 months (rolling) period. This is at the manager’s discretion and within the exigencies of the service. If a longer period is required annual leave or unpaid leave may be taken.

4.5 Employees with caring responsibilities may have to leave work at short notice in order to attend to the crisis and, as such, advance notice may not be possible. In such cases the employee should follow the arrangements for sick leave, i.e. contacting the manager as soon as possible, informing them of the situation and requesting special leave and authorisation to leave work.

5. EXTENDED CARER LEAVE

Employees may require extended carer leave where a dependent is recovering from a serious illness, is terminally ill or has become disabled. Unpaid leave may be granted in such circumstances, initially for six months but for a maximum of a year at the manager’s discretion and in accordance with the exigencies of the service. Other options should also be examined in such circumstances, for example reducing hours temporarily or permanently or entering a job share. Managers should aim to be as flexible as possible in order to avoid staff having to give up their job completely.
5.1 **Length of Service Requirement**

Employees must have a minimum of one year’s service within the BARNET CCG to qualify for extended carer leave. If an employee has less than this, managers’ may grant unpaid leave at their discretion, according to the particular circumstance.

5.2 **Procedure**

Employees should apply in writing to their manager and will be asked to obtain a medical certificate from the dependant's doctor.

6. **Paternity / Maternity Support Leave**

Around the time of a birth it is very important for the father or partner to be present to maintain domestic or other arrangements, and to provide general support.

6.2 Entitlement to paternity leave applies to biological and adoptive fathers, nominated carers, and same sex partners.

6.3 Regardless of length of service, employees are entitled to two weeks’ Paternity Leave. This leave can be taken at any time from 1 month before the date of confinement to 1 month after the date of confinement. This entitlement can be taken as a single block or on separate days, depending on needs.

6.4 Occupational Paternity Pay is payable if the employee has 12 months’ continuous service with one or more NHS employers at the beginning of the week in which the baby is due. Statutory paternity pay is payable if an employee has worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due or the end of the week in which the child's adopter is notified of being matched with the child Occupational Paternity Pay will include an element of Statutory Paternity Pay, if the employee is eligible for Statutory Paternity Pay.

6.5 Occupational Paternity Pay will include an element of Statutory Paternity Pay, if the employee is eligible for Statutory Paternity Pay.

6.6 To be eligible for Occupational Paternity Pay, Statutory Paternity Pay and paternity leave, employees should complete form SC3 “Becoming a Parent” and provide this to their manager 28 days before they intend to start their leave. This form can be accessed via the following website address:

http://www.hmrc.gov.uk/forms/sc3.pdf

6.7 Employees can change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable). Paternity leave can start on any day of the week.
6.8 Employees must produce the birth certificate or documentation relating to the adoption within eight weeks of the birth or adoption. Failure to do this will result in leave being classed as paid annual leave.

6.9 Paid time off can be granted for fathers, nominated carers and same sex partners to attend antenatal classes.

6.10 In addition to these Paternity Leave provisions, employees are entitled to additional unpaid parental leave in accordance with the Employment Relations Act 1999. Details are contained in Section 7 of this policy.

7. PARENTAL LEAVE

7.1 The Employment Relations Act 1999 gives the right to unpaid parental leave to employees (male and female) with parental responsibility as defined in the Children Act 1989. Parental Leave entitlements also extend to those who acquire parental responsibility under the Children Act, including guardians and adoptive parents who are not related to the child.

7.2 These leave entitlements are separate from the already established Barnet CCG paternity leave provisions contained in the Special Leave Policy. Exercising your right to parental leave under this Act does not render you ineligible for other leave arrangements under the Special Leave Policy.

7.3 Employees are entitled to a total of thirteen weeks parental leave for each child born (or adopted) after 15 December 1999 (or 18 weeks for parents with a disabled child).

7.4 Leave may be taken from the date of expected childbirth up to the child’s 14th birthday (or for five years from the date of adoption, up to the age of eighteen). However, where the child concerned is entitled to a disability living allowance, leave may be taken up to the child’s eighteenth birthday.

7.5 Up to four weeks leave can be taken each year.

7.6 Leave is to be taken in blocks of between one and four weeks in any year. Periods of leave of less than one week (for say one or two days) will count as one week.

7.7 Employees must have a minimum of one year’s service within the Barnet CCG to qualify for parental leave.

7.8 Employees are required to give at least 21 days notice of their intention to take parental leave, in writing to their manager. Proof of parental responsibility will have to be provided in the form of a birth or adoption certificate, or in the case of the unborn child or expected adoption placement, a copy of the mother’s maternity certificate or a letter from the adoption agency.

7.9 Requests by employees to exercise their right to parental leave shall not be refused unless the employee’s absence would mean that business would be unduly disrupted. Requests for parental leave sought to coincide with the actual birth or adoption of a child shall not be refused.
8. MATERNITY & ADOPTION LEAVE

8.1 Eligible staff will be entitled to eight weeks at full pay, plus 18 weeks at half pay (plus Statutory Maternity Pay), followed by thirteen weeks of Statutory Maternity Pay. In addition staff may take additional unpaid maternity leave to take their total period of leave to 52 weeks.

8.2 For full details, please refer to the Maternity and Adoption Leave Policy.

9. FOSTERING LEAVE

9.1 The Barnet CCG recognises that long-term fostering (minimum of one year) a child is an important service.

9.2 To be eligible, the employee must be approved as the main foster carer by the Fostering Agency and have 12 months’ continuous service with the Barnet CCG at the date fostering commences. In order for leave to be authorised, a letter of agreement from the Fostering Agency or Local Authority must be provided to the employee’s line manager together with the proposed leave dates at least 28 days before the leave commences, or as soon as is reasonably practicable. Any request to change these dates should be notified to the line manager at least 28 days in advance of the change.

9.3 The relevant HR Administration Officer must also be informed of the proposed dates of fostering leave and provided a copy of the letter from the Fostering Agency/Local Authority.

9.4 Provided that the conditions contained within this policy are, the provisions for fostering leave are as follows:

<table>
<thead>
<tr>
<th>AGE OF CHILD</th>
<th>FOSTERING LEAVE &amp; PAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below school age (up to 5 years old)</td>
<td>Up to 18 weeks paid leave (8 weeks full pay, 10 weeks half pay).</td>
</tr>
<tr>
<td>5 to 6 years old</td>
<td>Up to 6 weeks paid leave at full pay.</td>
</tr>
<tr>
<td>6 years old and over</td>
<td>Up to 2 weeks paid leave at full pay plus 11 weeks unpaid leave.</td>
</tr>
</tbody>
</table>

9.5 Paid time off may be taken during and after the fostering process for official meetings, such as legal, medical or social services appointments. An appointment card or letter will be required as proof of attendance, along with adequate notice and management authorisation for the leave. This is comparable to antenatal appointments under the Maternity & Adoption Leave Policy.
9.6 Employees will be limited to one application for Fostering leave within a two-year (rolling) period. Leave will be granted on condition that the employee returns to work for the Barnet CCG or any other NHS employer for a minimum of three months. After taking fostering leave, the employee has the right to return to their post or a similar post on no less favourable terms and conditions.

10. RELIGIOUS CULTURAL OBSERVANCE

10.1 There may be employees who request a day off or an early finishing time for a particular religious, belief or cultural occasion.

10.2 All employees who need time off for religious, belief or cultural observance will be entitled to request the following, subject to the exigencies of the services:
   a) general flexibility in arrangement of shifts, rotas and working hours, or
   b) annual Leave, flexi-days or unpaid leave.

10.3 Employees may take time to pray or observe their religion or belief during working hours, provided they have discussed and agreed the time with their manager.

10.4 All managers should be sympathetic to requests and should accommodate them wherever it is reasonably practicable to do so.

10.5 If reasonable notice for such requests is not given or the request cannot be accommodated due to service needs, the manager may have no choice but to refuse time off.

11. DISABILITY LEAVE

11.1 Disability Leave is a period of unpaid leave required by a newly disabled member of staff or a disabled person whose condition has deteriorated. This can be initially for six months to a maximum of one year. During this period the individual’s job is protected and allows time for the disabled employee and employer to seek professional help to adapt to the new circumstances. It allows the employee to return to work gradually. It differs from sick leave in that, although sickness may precede the disability, the employee is fit for work but needs assistance through rehabilitation in light of their new circumstance.

11.2 Barnet CCG aims to be as flexible as possible in order to retain our existing or newly disabled employees. Advice should be sought from Occupational Health and counselling through Oasis if appropriate.

12. LEAVE TO VISIT RELATIVES ABROAD
Many employees may have close relatives abroad whom they wish to visit for an extended period. In such cases employees may apply to take an extended period of leave for a maximum of six weeks subject to the exigencies of the service. If the employee does not have sufficient annual leave it can be extended with unpaid leave at the manager's discretion. A maximum of five days may be carried over from one annual leave period to another with the agreement of the manager.

13. OTHER RELEVANT LEAVE

Employees of the Barnet CCG may also make use of the following types of leave which are detailed in the Flexible Working Policy:

- Specialist Appointments
- Time Off for Trade Union Duties and Activities
- Time-Off for Public Duties
- Unpaid Leave
- Phased Return To Work
- Study Leave
- Career Break.

14. MANAGER’S RIGHT TO INVOKE SPECIAL LEAVE

In such circumstances as deemed appropriate, for example in the best interests of the service, managers can insist on staff taking paid Special Leave. This may include an occasion where the manager considers the employee unfit to perform duties due to particular circumstances although the employee may consider themselves fit. Where appropriate managers should also refer the individual to Oasis or Occupational Health for advice and support.

15. NOTIFICATION

In all cases, requests for Special Leave should be made at the earliest opportunity. This will assist in ensuring adequate cover for service provision.

16. EXEMPTION FROM WORKING WHILST ON SPECIAL LEAVE

Please note that unless otherwise notified, you are not permitted to work in the Barnet CCG or elsewhere whilst on special leave. This is because you would be deemed to be falsely claiming pay and/or leave from the Barnet CCG, which is a serious enough issue to be deemed gross misconduct. This could result in a referral to the Local Counter Fraud Service and the Disciplinary Procedure being invoked.

17. FAILURE TO FOLLOW PROCEDURE
Any leave taken without following the stated procedure and not authorised by the manager will be considered as unauthorised absence. Pay will be suspended pending a full investigation that may result in formal disciplinary action being taken.

18. APPEAL

Managers should be advised that decisions regarding special leave should be applied as consistently as possible. Any employee, who believes that this policy is not being fairly applied, may seek redress through the Grievance Procedure.