

MANAGING ABSENCE AND MAKING THE MOST OF FIT NOTES

Since April 2010, GPs have issued 'statements of fitness for work' (fit notes) rather than medical certificates. These statements allow two options for the GP:

1. Not fit for work, or
2. May be fit for work, taking account of advice specified by the GP.

The objective of the fit note is to facilitate employees' return to work from sickness absence as soon as possible in circumstances where they may be capable of doing some work, e.g. lighter duties, if their employer is willing and able to make certain adjustments as recommended by the GP.

The fit note includes tick boxes for the GP to suggest, where appropriate, common ways in which you could support the employee's return to work. These include a phased return to work, amended duties, altered hours and/or workplace adaptations. The fit note also includes space for the GP to give general advice about the effects of the employee's condition.

Employers are not under any legal obligation to comply with the recommendations made on a fit note. The decision as to whether it is possible to make any of the recommended changes rests with you in consultation with the employee.

Best Practice

- Take the recommendations given on fit notes seriously and always give them fair consideration in consultation with the employee. Look objectively at the question of whether any of the changes recommended by the GP can be accommodated.
- Discuss any recommendations directly with the employee and, where changes are considered feasible, try to get the employee's agreement to them. Do not make any changes without the employee's agreement.
- Where adjustments to the employee's job duties, hours or other contractual terms are agreed, record this in writing, making it clear whether the changes are temporary or permanent, and if temporary, for how long.
- Irrespective of a GP's recommendations, do not permit an employee to return to work from a period of sickness absence if there is any evidence that it would be harmful to the employee's health, or unsafe. At the same time, recognise that an employee need not be fully fit in order to return to work provided it is safe for them to do so – they may still be covered by a medical certificate when they attempt to return to work; this is perfectly acceptable, as long as you are happy with this.
- Recognise that it may be possible to reduce the length of employees' periods of sickness absence by making adjustments to support their return to work.

NB

If you are unable or unwilling to put in place the changes recommended by a GP, this means that the employee will remain unfit for work.

If an employee's condition amounts to a disability in law, a refusal to consider an adjustment recommended by a GP could give rise to a complaint of disability discrimination on the grounds that you have failed to make reasonable adjustments.