

## **Statement of Fitness for Work or 'Fit Note' - Advice for Managers**

This document applies to all County Council employees including schools.

### **A: Summary of the Main Changes**

The Statement of Fitness for Work (Fit Note) replaces the Medical Statements (Sick Note) from 6 April 2010. The decision to change the system is based on the recognition that many people with health conditions can, with some basic help from their employer work as they recover from their condition. Work can help recovery and it benefits the employer by reducing sickness absence.

The main changes are as follows:

1. To help employees get the support they need to get back to work, the new fit note system means that the doctors can advise you that your employee is either:
  - not fit for work; or
  - may be fit for work
2. A doctor will give a 'may be fit for work' statement if they think their patient's health condition may allow them to work with suitable support from you. If for any reason you cannot make the changes necessary to support your employee's return to work, you should - for sick pay purposes - consider the statement as if the doctor had advised that your employee is 'not fit for work'. Your obligations to pay statutory sick pay and make reasonable adjustments under the Disability Discrimination Act 1995 will not change.
3. The option of 'fit for work' has been removed. Employees cannot therefore provide 'final sick notes'. This removes the misunderstanding that a sick note saying "not fit for work" must be binding to the employer/employee until the date it expires.
4. Doctors have space on the fit note to advise you on how your employee's condition will affect what they do. There are tick boxes for doctors to suggest common ways you may help a return to work (a phased return to work, amended duties, altered hours & workplace adaptations).
5. When your employee presents a fit note stating 'may be fit for work' your role will be; to meet with the employee to consider the doctor's comments and attempt to agree any temporary changes, other support required and for how long, and a return to work date. If you cannot make the adaptations or adjustments to help a return to work discuss this with the employee, agree a review date and use the Statement (fit note) as if the doctor had advised 'not fit for work'. The employee does not need to go back to the doctor for a new Statement confirming this.
6. It will clearly not be possible to routinely obtain advice from occupational health for every case requiring temporary adjustments to hours, conditions or adjustments so a planned return to work should be based on common

sense and agreement with the employee. In exceptional circumstances where the manager has concerns about the GP proposals regarding fitness to work and the suggested restrictions/adjustments, this should be referred to the Council's Occupational Health Provider. The OH professional will liaise with the GP if there is any disparity in making suitable recommendations.

## **B: Statement of Fitness for Work**

On the Statement of Fitness for Work (sample attached in Appendix) doctors will advise one of two options:

### **Not fit for work**

This means that the doctor's assessment of your employee is that they have a health condition that prevents them from working for the stated period of time. This is like the old 'sick note' where the doctor advises your employee to "refrain from work".

### **May be fit for work taking account of the following advice**

This means the doctor's assessment of your employee is that their condition does not necessarily stop them from returning to work. For example, they could return to work but may not be able to complete all of their normal duties, or they could benefit from amended working hours.

If it is not possible for you to provide the support for your employee to return to work, you and your employee should use the Statement as if the doctor had advised 'not fit for work'. Your employee does not need to return to their doctor for a new Statement to confirm this.

Where a doctor has advised that your employee may be fit for work they will include some comments on their patient's condition and, where appropriate, will tick one or more of the four tick boxes on the Statement. These are the common ways to help someone with a health condition return to work

<p><b>Phased return to work</b> A doctor will recommend this where they believe that your employee may benefit from a gradual return to work</p>	<p>For example:</p> <ul style="list-style-type: none"> <li>• An employee following an operation could return to work on reduced hours, gradually increasing to their normal hours over an agreed period of time</li> <li>• An employee with a back or shoulder problem, whose job involves lifting, gradually increases the quantity or intensity of their work. This could help them return to work earlier whilst rebuilding their capacity for manual work.</li> </ul>
<p><b>Altered hours</b> A doctor will recommend this where they believe that your employee will benefit from a change to the hours that they work, in order for them to return to work. This does not necessarily mean working fewer hours.</p>	<p>For example:</p> <ul style="list-style-type: none"> <li>• Providing the option to start (and /or leave) later could support someone who is unable to drive and struggles with rush hour public transport to continue working.</li> <li>• Allowing more flexible hours could support someone who is still receiving treatment to return to work if their duties are amended to take into account their condition.</li> </ul>

<b>Amended duties</b> A doctor will recommend this where they believe your employee may be able to return to work if their duties are amended to take into account their condition.	For example: <ul style="list-style-type: none"> <li>• Removing heavy lifting from the job of someone who has a back injury could help them to return to work whilst recovering from their injury</li> <li>• Reducing or removing a more pressured part of a job role (such as dealing with complaints), could help someone off work with stress to return to work.</li> </ul>
<b>Workplace adaptations</b> A doctor will recommend this where they believe your employee may be able to return to work if their workplace is adapted to take into account their condition.	For example: <ul style="list-style-type: none"> <li>• A ground floor workstation for an individual who has problems going up and down stairs (this may occur in cases of arthritis for example).</li> <li>• Arranging for a parking space near the entrance to the workplace, could help someone who has reduced mobility post surgery return to work.</li> </ul>

In determining what action you are able to take as a result of advice given on a fit note, you will need to consider whether a revised workplace risk assessment is required and keep it under review. It will be helpful to discuss the problem with your employee or their representative.

## C: Frequently Asked Questions

### 1. What are the main changes?

- The removal of the 'fit for work' option;
- A new option for a doctor to advise if an employee may be fit for work with some support;
- More space for a doctor to provide information on how your employee's condition will affect what they do; and
- Helpful tick boxes for doctors to use to suggest common ways to help a return to work.

### 2. What stays the same?

- The form can still be used as evidence for why an employee cannot work due to an illness or injury;
- The Statement is still not required until after the 7<sup>th</sup> calendar day of sickness;
- The information on the form is still advice to your employee. It is not binding on you;
- The requirements for the payment of Statutory Sick pay have not changed; and
- Employers' obligation under the Disability Discrimination Act has not changed.

### 3. How are these changes of benefit?

The new option of 'may be fit for work' means fewer employees will be 'signed off' work when they could possibly do some or all of their job with some support.

More information on how your employee's condition will affect what they do will help you have informed discussions with your employee and enable you to help them return to work earlier and reduce unnecessary sickness absence.

You will have fewer forms to deal with. In the past you may have received the (white) Med 3 form and the (pink) Med 5 form from an employee off work. From 6 April these will be streamlined into one form. The (yellow) Med 10 form, which states a period an individual has spent as a hospital in-patient, has not changed and will continue to be issued for this purpose.

#### **4. What should I do if the doctor has indicated 'may be fit for work'?**

The Statement has been designed to give you the information needed to begin a discussion with the employee on whether they can return to work despite their illness or injury. You should consider the doctor's comments and discuss this with your employee. If a return to work is possible you should agree any temporary changes to their job or hours and what support you will provide and for how long.

#### **5. Is the advice on the Statement binding?**

No, the advice is about giving you greater flexibility and better information to manage sickness absence. As the line manager, it is your choice after discussing the Statement with your employee, how to act on the doctor's advice. However, you may decide to discuss it with the County Council's Occupational Health Advisors too.

If the doctor has advised that your employee 'may be fit for work', and you cannot make the adaptations or adjustments to help a return to work, you should explain the reasons for this to your employee and then use the Statement as if the doctor had advised 'not fit for work'. Your employee does not need to go back to their doctor for a new Statement to confirm this.

#### **6. How do I record a phased return to work?**

Where a phased return to work is desirable, you should meet with your employee to establish a pattern of return to work and anticipated timescales, subject to frequent and agreed reviews, which are mutually acceptable. Each case must be considered in the light of the individual circumstances.

Options may include:

- Short term modification of workload so that they are not "thrown in at the deep end" and have time to settle in.
- Adjustment to working hours with the agreement of the individual, if possible within the constraints of service requirement.
- Mid week return, so that two or three days back at work is followed by a weekend of rest.

In terms of administering these arrangements, you should record the employee as absent through illness for those parts of the week that the employee does not work. Normal pay will apply for normal hours worked and the 'sick' hours will be covered by statutory and or/contractual sick pay as appropriate.

It will be necessary for the employee to complete a self-certification form for the parts of the week when they are not at work as part of the phased return to work arrangements. As an alternative or where sick pay entitlement is insufficient, the employee may cover non-working days with other leave, e.g. annual leave, flex leave or toil.

All agreements reached to allow for an early return to work on a reduced hours basis should be for a limited period (normally for up to 1 month but exceptionally up to 2 months).

## **7. Will the employers' liability compulsory insurance be affected?**

The Council's employers liability insurance does not prevent employees who 'may be fit for work' returning to or remaining in work. Also you do not need a Medical Statement stating fitness for work for your employee to return. An employee does not necessarily need to be 100% fit to return to work. However, you will need to continue to manage your employees appropriately and carry out a workplace health and safety risk assessment based on the evidence from the doctor, your knowledge of the work and workplace and further support where necessary.

## **8. How does this affect the Disability Discrimination Act?**

If your employee has a condition covered under the Disability Discrimination Act (DDA), your obligations under the law have not changed.

## **9. How long do any amended duties or workplace adaptations have to last for?**

On the Statement a doctor will state the period their advice is for. When agreeing a return to work plan you should always be clear on the length of time any temporary amended duties or support is for. Temporary amended duties should normally be limited to a maximum of 1 month and in exceptional circumstances 2 months. If the employee cannot then return to their normal duties, you will need to have a discussion on the long-term effects of their health condition on their job, taking into account your responsibilities under the DDA. You are advised to seek the advice of the Council's Occupational Health Advisors in these circumstances.

## **10. Can I request a Medical Statement advising that my employee is 'fit for work'?**

Unlike the sick note, the Statement of Fitness for Work does not include the option for doctors to advise someone that they are fully fit for work. You do not need to be fully fit to return to work and it is a myth that an employee needs to be 'signed back' to work by a doctor. In some cases, there are existing procedures to ensure someone is fit to carry out their role safely and these should be followed. For example, with DVLA rules for LGV/PCV drivers.

If you feel that your need a medical opinion stating your employee is fit for work, contact the Council's Occupational Health Advisors.

**11. What should I do if an employee wants to return to work before the end of a 'not fit for work' Statement?**

Sometimes your employee will be able to return to work before the end of a Statement period where a doctor has advised that they are not fit for work. This may be because the employee has recovered faster than the doctor expected, or the doctor did not know of ways in which you could support your employee to return.

If you agree with your employee that it is appropriate for them to return to work, you do not need to wait until the end of the Statement period for them to do so.

**12. What should I do if I offer support to an employee to aid them to return to work and they disagree?**

If you believe that on the basis of the advice from the doctor and your knowledge of the workplace, you can support your employee to return to work and they disagree with your proposal, your first option should always be to discuss the issues with your employee to find out why they believe they cannot return to work. There may be an aspect of their condition or the workplace that you have not considered.

If no agreement on your employee's fitness for work can be reached, you may want to consult the Council's Occupational Health Advisors. Your aim should be to ensure that both you and your employee are comfortable with the support that is being offered. If there is disagreement you may wish to suggest that the employee seeks advice from their trade union or representative.

**13. What should I do if I do not understand the advice on the Statement?**

If you do not understand or are unsure on how to act on the advice on the Statement your first option is to discuss the advice with your employee. They may be able to provide more information on the context of the advice. Alternatively request that the employees asks the doctor for further clarification. If you are still unsure you may want to consider advice from the Council's Occupational Health Advisors.

**14. What do I need to do if the doctor has recommended an occupational health referral for my employee?**

A doctor will recommend an occupational health assessment where they feel your employee's condition is complex and/or work may be a contributory factor. It is your decision as a line manager whether to act on this advice and in some cases you may be able to provide simple and practical support to your employee without needing additional expertise. However, for complex and work-related conditions support should be sought from the Council's Occupational Health Advisors.

## **15. How does this affect Statutory Sick Pay (SSP)?**

The Council's responsibility to pay SSP has not changed. SSP is payable under the current rules for any sickness absence of 4 days or more where the employee meets the qualifying conditions. Where a doctor has advised that an employee may be fit for work, but the employee remains off work because you are not able to provide the necessary support, you should consider the advice on the Statement as you would a 'not fit for work' Statement. The Council's responsibilities to pay SSP in these cases remains.

## Appendix : Sample Statement of Fitness for Work

Statement of Fitness for Work For social security or Statutory Sick Pay	
Patient's name	Mr, Mrs, Miss, Ms
I assessed your case on:	/ /
and, because of the following condition(s):	
I advise you that:	<input type="checkbox"/> you are not fit for work. <input type="checkbox"/> you may be fit for work taking account of the following advice:
If available, and with your employer's agreement, you may benefit from:	
<input type="checkbox"/> a phased return to work	<input type="checkbox"/> amended duties
<input type="checkbox"/> altered hours	<input type="checkbox"/> workplace adaptations
Comments, including functional effects of your condition(s):	
Sample	
This will be the case for	
or from	/ / to / /
I will/will not need to assess your fitness for work again at the end of this period. (Please delete as applicable)	
Doctor's signature	
Date of statement	/ /
Doctor's address	

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