

PERSONNEL SERVICES

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 Director of Personnel and Administrative Services



To: heads of department and institutions, faculty board chairmen,
 departmental administrators

31 March 2010

Copies: heads of division, divisional secretaries, faculty board
 secretaries, Dr Brown, Dr Gambles, Mrs Kinahan, Mr Morgan,
 Mr Shaw, Principal Administrator of the Conference of Colleges

Introduction of Statements of Fitness for Work ('Fit notes')

With effect from 6 April 2010, the current Medical Statement (the so-called 'Sick Note') will be replaced with a new Statement of Fitness for Work ('Fit Note') for Social Security and Statutory Sick Pay purposes.

Currently, GPs can only advise the patient as to whether their health condition means they should or should not work. As a result, many people who might be able to return to work with appropriate support are advised that they should not work. The new Fit Note offers GPs the option to indicate either that the employee is unfit for work, or that s/he might be able to return to work with some support; and to suggest ways to facilitate a return to work, i.e. a phased return to work, altered hours, amended duties, or workplace adaptations. GPs can also provide further information about the employee's condition and how it might affect the work s/he is able to do.

In many cases, the advice provided on the Fit Note will be straightforward. In others, further discussion with the employee may be necessary to facilitate a return to work, or specific advice may be required from Personnel Services and/or the University Occupational Health Service, as now, before a return to work can be agreed by the department. The Fit Note is not binding on the employer: unless and until the department has agreed that the employee may return, and any necessary support is in place, the employee will remain on sick leave.

Guidance on the operation of Fit Notes and the role of the Occupational Health Service is set out in this circular.

The Personnel Services web pages on managing employee absence are being updated to reflect these changes.

1. Action required by departments

- To note that from 6 April 2010, sick notes will be replaced by the Statement of Fitness for Work (see sample statement at Annexe A).
- To seek advice from Personnel Services and/or the Occupational Health Service in cases of doubt or difficulty.
- To refer to the advice provided by the Occupational Health Service in Annexe B.

2. Background

The Government carried out a review of the current 'sick note' scheme. In so doing, it drew on studies which show that work is generally good for health, and that prolonged sickness absence can produce its own problems, including isolation, loss of confidence, mental health issues, de-skilling, and social exclusion. It also concluded that many people with health conditions could work as they recover from ill-health or injury, if they were provided with some basic support from their employer.

Under current arrangements, doctors only have the option to advise patients to refrain from work altogether, or that they are fully fit for work. As a result many people who might have benefited from support in the workplace whilst recovering from illness or injury are advised that they cannot work, and their employers do not have the opportunity to help them achieve an earlier return to work.

As a result, from 6 April 2010, the Department of Work and Pensions is introducing a new Statement of Fitness for Work. This will allow GPs to indicate that an individual may be fit for some work with support, and to indicate what form that support might take.

The changes to the scheme are not intended to encourage people back into the workplace who should more properly remain on sick leave but rather, where appropriate, to remove any particular barriers to returning to work. The scheme also encourages partnership working between the employee, their GP, and their employer. In light of this, the University's Occupational Health Service (UOHS) will be writing to GP practices in the local area to remind them that the University has occupational health expertise, and to encourage dialogue in appropriate cases.

2. Summary of the new scheme

- The following information and advice is based on the guidance issued by the Department of Work and Pensions (<http://www.dwp.gov.uk/fitnote/>)
- An example of the new Fit Note is annexed at A. A Fit Note can be issued by a GP on the basis of a face-to-face or a telephone consultation, or a report from another healthcare professional. During the first six months of sickness, a Fit Note can be issued for a maximum of three months.
- The Fit Note contains two options
 - unfit for work
 - may be fit for work taking account of the advice given

The form will indicate the period of time for which this assessment is valid, and whether or not the GP needs to assess the employee's fitness again at the end of this period. If the statement does not refer to a subsequent consultation date, the employee will normally be expected to resume their usual full duties at the end of the statement period. In either case, fitness to resume normal duties will usually be signalled by the absence of further statement since there will no longer be the option for GPs to provide a statement that an individual is 'fit for work'. If the employee is returning to a role that has specific hazards, for example work at heights, driving or heavy manual handling (this list is not exhaustive), and the department is concerned that health issues might still affect their ability to return safely to their full duties, advice should be sought from the UOHS.

- The Fit Note will continue to be used as evidence as to why an employee cannot attend for work owing to illness or injury for Social Security and Statutory Sick Pay purposes. As now, a statement is not required until after the seventh calendar day of sickness.
- If the GP indicates that the individual 'may be fit for work taking account of the following advice', tick boxes on the Fit Note will indicate the nature of that support, e.g. phased return to work, flexible working, amended duties, and/or workplace adaptations. The GP may also indicate how the employee's condition might affect their ability at work (i.e. the 'functional effects' of the condition).
- Further information on adjustments to facilitate a return to work may be found on the Occupational Health web site: <http://www.admin.ox.ac.uk/uohs/at-work/a-z/fitnoteguidance/>. This is reproduced at Annexe B for ease of reference.
- The Fit Note constitutes **advice** from a doctor to his or her patient. In many cases, such advice is not informed by detailed knowledge of the work undertaken by the employee, or his or her work environment. The advice is **not** binding to the employer, who has responsibility for deciding whether or not to accommodate any changes suggested to facilitate a return to work. The employing department should discuss the doctor's comments with the employee, and seek advice from Personnel Services and/ or Occupational Health where necessary. Any adaptations or adjustments required should be reasonable and proportionate, and decisions about what can be accommodated should include a risk assessment of the effect of the changes on the employee and others in the workplace. If a return to work is possible, the department should agree any temporary changes to the job or hours and what support will be provided and for how long. This should be recorded in writing. An optional pro forma for recording discussions in 'return to work' interviews is provided at Annexe C.
- There may be occasions where it is not practicable to accommodate the adjustments, in which case the Fit Note should be used as if it had advised 'not fit for work'. In such cases, and in all cases where the ill-health may have a work-related cause, it will be particularly important to seek advice from Occupational Health and/or Personnel Services before reaching a final decision and discussing this with the employee.
- Fit Notes will not affect the University's current obligations in relation to the Disability Discrimination Act.

4. Insurance

Where the GP has certified that the employee is not fit for work, as at present, individuals will not be covered by the University's insurance and should not be permitted to carry out work for the University. Where a doctor has certified that an individual "may be fit for work taking account of the following advice", the individual will be covered for insurance purposes as long as the medical (GP or UOHS) advice is followed. In cases where an individual's recovery allows them to return to full duties earlier than indicated by the GP it will be important that clear agreement is reached with the individual, and that this is recorded.

5. Sick Pay and record-keeping

The University's occupational sick pay scheme (outlined in Section 4.1.2 of the staff handbooks) gives guidance as to appropriate periods of full and half pay during sick leave, but leaves some discretion to department in relation to the management of individual cases.

It is essential to maintain **accurate records** of sickness absence for the purposes of calculating entitlement to occupational and/or statutory sick pay. Any arrangements for a phased return to work (RTW) should be recorded and monitored. In order that comprehensive records can be maintained, any time that the individual is absent from work should be accurately recorded as sickness absence on the individual's personal record (so, for example, a full-time employee working mornings only while they were not fully fit would be recorded as taking 2.5 days' sick leave over the week).

As general guidance, in straightforward cases (for example, a phased return to work following a short illness, or minor operation), those engaged on a phased return to work should be paid at their normal rate of pay during the phased return period or four weeks, whichever is the shorter. In respect of any further agreed extension of phased return beyond four weeks, salary will be pro rata to the hours worked with the remaining time counting against normal sick pay entitlement. Extended or repeated phased RTW programmes should not be undertaken without discussion with Occupational Health Service and/or Personnel Services.

6. Return to work interviews

Many departments already carry out return to work interviews for members of staff returning after sickness absence. Where an employee is returning under the terms of a Fit Note, a return to work interview/meeting should be held, and a record of the meeting kept. A return to work meeting record pro forma is provided at Annexe C and is available to download from <http://www.admin.ox.ac.uk/ps/managers/sickpay/managing/index.shtml>.

7. Further information

A summary of actions to be taken on receipt of a Fit Note is given as Annexe D.

The Occupational Health Service and Personnel Services are intending to run briefing sessions on the Fit Note scheme and details will be circulated shortly. As this is a new scheme, I encourage you to seek advice at an early stage from the Personnel Services team in case of any questions or problems arising in individual cases.

JEREMY WHITELEY

JDW/KAB

Replaces existing circular: No

Copy for notice boards: Yes

Web site: www.admin.ox.ac.uk/ps/managers/circular

Statement of fitness for work For social security or Statutory Sick Pay

Patient's name

I assessed your case on:

and, because of the following condition(s):

I advise you that: you are not fit for work.
 you may be fit for work taking account of the following advice:

If available, and with your employer's agreement, you may benefit from:

- a phased return to work amended duties
 altered hours 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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OHS M1/10
March 2010

The 'Fit Note' - what it means for an employer

University of Oxford Occupational Health Service Guidance

This guidance should be read in conjunction with Personnel Services Circular: Introduction of Statements of Fitness for Work ('Fit Notes'). It is intended to be read as a web page which is available at:

<http://www.admin.ox.ac.uk/uohs/at-work/a-z/fitnoteguidance/>

From 6 April 2010, general practitioners (GPs) will start to use the new Statement of Fitness for Work for Social Security and Statutory Sick Pay purposes. This 'Fit Note' replaces the Med 3 and Med 5 'Sick Notes'. GPs will be able to sign that the employee 'may be fit for work' and suggest adjustments that might assist the individual to return to work e.g. phased return to work, amended duties or hours, workplace adaptations. The advice on the statement is not binding on the employer. Its purpose is to suggest ways of facilitating an earlier safe return to work, if appropriate, to the benefit of employee and employer. Employers continue to have duties under the Disability Discrimination Act (DDA) to make all reasonable adjustments for disabled employees.

What steps should a line manager take if adjustments are suggested?

Many common adjustments (see below, e.g. shorter hours, reduced workload, and minor alteration of duties) do not require equipment but may have an impact on the operation of the department. As a manager, you have a duty under the Health and Safety at Work Act to ensure that any adjustments comply with university policies on safety and health. You must therefore balance the proposed adjustments against the operational needs of the department as a whole, the needs of the other team members, and health and safety considerations. The UOHS can advise managers at any stage of this process.

What if a manager cannot accommodate the employee's needs for adjustments?

If you cannot reasonably make the adaptations or adjustments to help a return to work, you should explain the reasons for this to the employee. You should use the statement as if the doctor had advised 'not fit for work'. The reasons should be recorded in writing, and might include, but are not limited to:

- unlikely to enable the individual to undertake useful work

- disruptive to the operation of the department
- costly in the context of the role
- potentially a risk to the health and safety of the individual or other staff
- not able to be implemented before the employee regains full health

The UOHS is available to advise managers experiencing any difficulty accommodating suggested adjustments.

How long should these be adjustments be in place?

Any adjustments to facilitate a return to work after short-term ill-health should be temporary and should normally last no longer than twelve weeks. (For individuals with a disability the Disability Discrimination Act applies - see [University guidance](#))

What about the cost implications?

The cost of temporary adjustments should normally be offset by the benefit to the department of the early return of the employee. For long term adjustments under the DDA alternative sources of funding (such as [Access to Work](#)) may be available.

What confidentiality issues may need to be considered?

Personal data related to the need to implement adjustments should be stored and accessed according to the department's procedures for complying with the Data Protection Act 1988 ([link to University Guidance](#)).

What if the health problem is work-related?

If the 'Fit Note' indicates that ill-health may have been caused or been exacerbated by work, or working arrangements (including, for example, conditions such as musculoskeletal disorders or stress-related illnesses), please refer the individual to the UOHS using the [management referral form](#). Any incident giving rise to work-related ill-health should be reported to the Safety Office using an accident/ incident form.

Examples of adjustments

The following examples are possible temporary adjustments that GPs or UOHS might advise while the employee regains strength, mobility or capacity to work. The practicability of introducing such adjustments, if requested, should be considered on a case-by-case basis and may vary depending on local facilities.

- Phased return to work, building up from part-time to full-time hours over an agreed and appropriate period of time (see below)
- Changes to individuals' working hours to allow travel at quieter times
- Help with transport to and from work, for example organising lifts to work
- Home working (providing a safe working environment can be maintained and the work can be carried out this way see <http://www.admin.ox.ac.uk/ps/staff/family/flexible/homeworking.shtml>)
- Time off during working hours for rehabilitation assessment or treatment
- Moving tasks to more accessible areas, e.g. closer to toilet facilities

- New or modified equipment and tools, including IT, modified keyboards, etc. The OHS has a [lending library of simple ergonomic equipment](#).
- Modified workstations, furniture, and office movement patterns e.g. allowing the employee to use a footstool/have the post brought to them
- Additional training for workers to do their job
- Modified work patterns or management systems to reduce pressures
- Telephone conferences to reduce travel
- Buddies, mentors or supervision for workers while they regain confidence
- Reallocating work within the person's team

What is a 'Phased Return to Work Programme' (Phased RTW)?

Employees who have been off sick for longer than 6 weeks or who have had a significant period of ill-health (e.g. a major operation) may feel concerned about how they will cope on return to full duties. A structured, gradual return to full duties over a period of time may be beneficial in some cases.

A phased RTW programme usually takes place over no more than 4-6 weeks. Managers should aim to reduce, not postpone, hours or duties to avoid development of a backlog. To achieve this, some duties may need to be temporarily re-assigned to someone else. The line manager and the employee should agree a timetable, duties, and working arrangements that will allow them to gradually increase the hours or duties until they have returned to their full role. The staff member's progress should be monitored on a weekly basis. As individual progress can be variable, some flexibility may be necessary.

During the first 4 weeks of a phased RTW, a staff member will be on full pay. In respect of any further agreed extension of phased return beyond four weeks', salary will be pro rata to hours worked with the remaining time counting against normal sick pay entitlement. Extended or repeated phased RTW programmes should not be undertaken without discussion with the UOHS.

Further Guidance:

[Managing Employee Absence Guidelines for Departments](#)

[Occupational Health Service Ergonomic Lending Library](#)

[Adjustments for individuals with depression](#)

[Adjustments for individuals with back pain](#)

[Adjustments for individuals with disability](#)

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Notes for line managers:

A return to work discussion gives you the chance to:

- welcome your employee back to work and update them on matters that have arisen during their absence
- confirm with them that their record of absence is correct
- offer them the opportunity to raise any health or other issues that may need addressing with your support
- discuss any concerns you may have about the amount, or any patterns of sick leave they have taken over the past 12 months and the effect that this is having on the workplace
- consider any information given on a 'Fit Note' where an employee's doctor has indicated that they 'may be fit for work' in a temporarily reduced capacity, and the adjustments that the doctor has suggested.

Location: if the employee has returned to work the discussion will normally be a face-to-face meeting. If the employee has sent you a Fit Note indicating that they may return to work if certain adjustments can be accommodated, the discussion may take place over the phone.

Before the discussion takes place, check the employee's recent sickness absence record so that any underlying issues can be discussed if the absence has been lengthy, is recurrent, or where there is a pattern of absence.

Be prepared to discuss any trends but remember that this is not a disciplinary hearing, but an opportunity to establish facts. If the employee has a Fit Note indicating 'may be fit for some work' ensure you are familiar with the guidance on fit notes on the Occupational Health website at <http://www.admin.ox.ac.uk/uohs/at-work/a-z/fitnoteguidance/>

REASONS FOR ABSENCE CODE LIST

ALL:	Allergy
DENT:	Dental
EYES:	Eyes
HBP:	Heart & Blood Pressure
HMH:	Headache/Migraine/Head pain
INF:	Infections – colds/flu/dv/etc
MAT:	Maternity related
MHNS:	Mental health (not stress)
MHS:	Mental health (stress)
MSB:	Musculoskeletal (back)
MSNB:	Musculoskeletal (not back)
NS:	Not specified
OTH:	Other
SKIN:	Skin
SURG:	Surgery/convalescence

SUMMARY OF GUIDANCE ON DEALING WITH FIT NOTES INDICATING 'MAY BE FIT FOR SOME WORK'

Consider the advice on the statement and how it affects the individual, the operation of the workplace, and other employees: can the advice be accommodated?

Yes

- discuss with the employee in person or by phone
- agree what adjustments can be accommodated and for how long (normally no more than 4-6 weeks for phased RTW, or 12 weeks for other adjustments – if a longer period is required, refer to Personnel Services and/or Occupational Health before agreeing that the employee may return to work)
- ensure individual and line manager understand that agreed arrangements are followed so that insurance cover is not affected
- discuss what will happen if the individual is unable to return to full duties at the end of agreed period (i.e. referral to Occupational Health)
- agree review dates (normally weekly)
- make note of any meetings/discussions and follow up in writing
- meet to review, as agreed, and make file note of discussions
- if employee does not make progress as expected, meet with individual, identify the issues and liaise with Occupational Health if necessary
- at end of agreed period, if individual returns to normal working, no further medical certification is required.

N.B. if the individual indicates they would like to return to full duties before the end of the statement period, this can be agreed (in writing): no further medical statement is required.

No

- Seek advice from Personnel Service, and if necessary make referral to Occupational Health
- Consider advice from PS/UOHS (and arrange case conference if appropriate)

Can the adjustments be accommodated?

- If **Yes** follow procedure on left
- If **No**, meet/discuss by phone with the employee
- Explain to employee why you are unable to accommodate the advised course of action, and advise the individual re: sick pay provision (contractual or SSP as appropriate, depending on length of period of absence)
- Agree at what stages progress will be reviewed (e.g. in cases where it may be possible to accommodate changes at later date) and in all cases agree to keep in touch regularly (normally weekly)
- make note of any meetings/discussions and follow up with individual in writing
- review, as agreed, and consider further referral to UOHS if circumstances change

NB –in all cases where individual has a disability covered by the DDA or sickness absence is more than 4-6 weeks, and/or recovery is likely to be prolonged, seek advice from your sector personnel officer

