

## NEU Guidance for Reps and Local Officers

### Background

GPs use fit notes to provide information on whether you are too ill to work or if you can return to work if certain changes are made. It is then shown to your employer who usually takes a copy and uses it as confirmation of illness for Statutory Sick Pay purposes. The fit note remains the property of the patient to whom it is given and you should keep it.

GPs complete the fit note on their computer and print it off, rather than give out a handwritten note. GPs are able to send the computer-completed fit note electronically (for example by email) to an employer.

The computer-completed fit note also contains a system-generated barcode, which cannot be altered once the fit note is printed by the GP, and contains key information from the fit note that the employer can check.

Handwritten fit notes will still be used by hospital doctors, and on occasion by GPs, for example when they are on a home visit.

### How does the fit note operate?

The fit note either indicates that you are 'not fit for work', or that you 'may be fit for work' under certain circumstances. The doctor is also able to suggest changes that would assist a return to work.

The fit note is completed and stored electronically by your GP rather than handwritten. It is then given to you and you should show it to your school who may take a copy.

The form includes 2 options:

- You are 'not fit for work'
- You 'may be fit for work, taking account of the following advice...'

### Is there an option for my GP to say that I am 'fit for work'?

No - Your doctor will simply not issue a new medical certificate. You will be deemed fit to return to work on expiry of the current certificate *even if this is during a period of school closure.*

### To assist my return to work, what changes may my GP suggest?

Your GP should only recommend a return to work with adjustments, where you are not fully recovered, after discussing it with you and making sure you are fully aware of, and happy with, what is being suggested.

- **Phased return to work**

- *E.g.* If you are suffering from an illness that has left you fatigued, or if you have been away for a long period of time and are not confident about returning full-time.
- *E.g.* If you have an injury where the doctor believes that your strength has to be built up gradually.

Often a phased return to work may be proposed along with other changes such as amended duties.

- **Altered hours**

- *E.g.* You may not be able to travel in rush hour public transport, or need time to build up to a full day's work.

- **Amended duties**

You may not be able to fully fulfil your duties, but may be able to do your job if some duties are temporarily avoided or changed.

- *E.g.* Not attending after school meetings or doing playground duties.

- **Workplace adaptations**

Your GP may believe that some physical adaptations are needed to help you return to work.

- *E.g.* Ensuring that you can work on the ground floor of a building if you have trouble with stairs.

There is space for your GP to provide more information on your condition and how it may affect what you can do. It may be that your GP is not able to say what adjustments are necessary. The NUT believes that in these cases, a referral to Occupational Health should be made before you return to work.

Although there is no box on the medical statement for the GP to tick if they think that a referral to occupational health would be beneficial, there is nothing to prevent a GP from including this suggestion on the statement. You should suggest this if you and your GP are unsure about what adjustments would support your return to work. GPs in England and Wales also have access to a new Government service 'Fit for Work'. Referrals can be made on behalf of an employee, for an occupational health professional to make recommendations which may make the return to work quicker. Further details on this are included later in this document.

### **Who is responsible for seeing the advice is implemented?**

Your head teacher should discuss the proposals with you and agree what changes will be made. If there is disagreement you may not be forced to come back until you feel comfortable with the changes proposed. You should seek Union support, where necessary, in order to implement your GP's recommendations. If it is not possible to implement the recommendations, then you should not be expected to return to work.

### **Does my employer/school management have to accept my GP's advice?**

No - but if it does not do so then the statement should be treated as though your doctor has advised 'not fit for work'.

Your school may try to argue that you are ready to come back and are no longer 'signed off'. The Department for Work and Pensions advice for employers on this is clear: *'If you cannot agree on any changes, you should treat the fit note as if it says that your employee is not fit for work...your employee does not need a new fit note from their doctor to confirm this'*; see: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/400128/fitnote-employers-line\\_managers-jan-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/400128/fitnote-employers-line_managers-jan-2015.pdf)

## **Why would my employer/school management not accept my GP's advice?**

Your employer/school may refuse to make the changes because of cost or because they may not understand the process or be unsure about how to implement the proposals made in the medical statement. If this is the case, you should contact your school rep in the first instance, or the NUT Adviceline in England on 0203 006 6266 or NUT Cymru in Wales on 029 2049 1818.

A GP can indicate in the 'comments' box that an occupational health referral would be beneficial, e.g. where the GP considered the issues to be particularly complex or where they felt there may be a work-related element to the causation or aggravation of the condition. Your employer will have in place its own referral mechanisms to access such services, and the GP may also make a referral to the 'Fit for Work' service detailed below.

## **What is the 'Fit for Work' service?**

Fit for Work is a service run by the Government, which has been available since 2015. Fit for Work involves assessments carried out by occupational health professionals, with the aim of helping the employee return to work sooner. It is available to employees who have reached or are likely to reach four weeks sickness absence; at this point their GP is able to make a referral, and if they do not, an employer can also make a referral once the four weeks have passed.

The employee must consent to the initial referral and to taking part in Fit for Work, and it should be made clear to them at the start of the process, that they can withdraw at any time, should they wish to.

The process involves an occupational health professional acting as a 'case manager' for the employee, and undertaking assessments (usually via the telephone) to establish what is preventing the person returning to work, and what could be done to assist them in returning sooner. The occupational health professional will prepare a 'Return to Work Plan', which they will discuss with the employee. The plan contains recommendations which could be for the worker, their GP and/or their employer. Recommendations may include adjustments, such as amended duties or equipment, and may include therapies or treatments.

It is important to note that the Return to Work Plan does not automatically mean the employee is ready to return to work; the plan includes recommendations, which if followed should help the employee return sooner than otherwise. The plan will detail if the employee is fit for work, may be fit for work (if the employer undertakes the recommendations), or is not fit for work. If the employer is unwilling to implement the recommendations, the employee should inform their case manager and their union representative.

Participation in the Fit for Work service should not impact upon sick pay. If someone does not receive an assessment, does not want to take part, or continues to be unfit for work at the end of the plan, the GP should continue to provide a note as necessary and based upon their professional judgement. Employers should not refuse sick pay to someone who refuses to take part in Fit for Work, and if this happens, you should inform your union representative or NUT Adviceline/NUT Cymru as soon as possible.

Whilst Fit for Work may help individuals return to work sooner, the NUT has some concerns. It may be that employees feel pressured to return to work before they feel well enough to do so, or employers ignore the plan's recommendations as they are not compulsory. Where there is an existing occupational health service provided by the employer, this service should not be reduced or removed due to the introduction of Fit for Work, as the existing service is

likely to be more thorough and tailored to the workplace in question. **NUT members are advised not to consent to a referral to Fit for Work where they are covered by their employers occupational health service.**

Detailed guidance is available in the TUC guide on Fit for Work, available at: [https://www.tuc.org.uk/sites/default/files/Fit%20for%20Work%20Guide%202015%20pdf\\_0.pdf](https://www.tuc.org.uk/sites/default/files/Fit%20for%20Work%20Guide%202015%20pdf_0.pdf) and the Fit for Work website is <http://www.fitforwork.org/>.

### **What if I am disabled and covered by the Equality Act 2010?**

The 'fit note' procedures do not alter the duty on your employer to make reasonable adjustments under the Equality Act regardless of what a GP recommends.

### **What happens if the employer/school suggests changes but I do not agree with what is proposed?**

You may be happy with what your GP recommends but disagree with how this is interpreted by your employer. An example may be that your GP recommends temporarily removing certain aspects of your teaching role, but that only a few duties are removed, leaving others intact. You should seek Union support in negotiating the full 'package' as recommended by your GP. In such cases the involvement of occupational health services could prove beneficial. You do not have to return to work until you are satisfied that the recommendations have been fully implemented.

### **What happens if my employer takes action with which I am happy, but after a while the illness or injury is getting worse?**

You should go back to your GP and explain that your condition has got worse, even with the changes which were recommended. Your GP may then either issue a new statement saying you are 'not fit for work', or may revise the recommendations on the statement by possibly recommending further changes.

### **Further information**

The DWP has published guidance for employees on use of fit notes at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/400123/fitnote-patients-employees-guidance-jan-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/400123/fitnote-patients-employees-guidance-jan-2015.pdf)

NEU Health and Safety briefing  
August 2016