

What is a Fit Note?

In 2010 regulations were introduced that paved the way for what are now commonly known as “Fit Notes”. They effectively replaced the former “sick note” system, are electronically issued and recorded by an appropriate medical professional and are geared towards identifying what work (if any) an employee **can do** whilst suffering from a medical condition or health related issue. Fit Notes are in contrast with the former sick note system where the only option for a medical professional was to declare an employee “sick” and therefore unfit for work.

What information is contained within a Fit Note?

A Fit Note tells you if the employee's Doctor thinks they are not fit for any work or whether they may be fit to work with adjustments or support from you. It will contain basic information about the employee's medical condition, it will state whether or not the employee is fit for work and will suggest support an employer may consider.

Support options are categorised as follows: -

- A phased return to work
- Altered hours
- Amended duties
- Workplace adaptations

The doctor may also include comments about the condition and how that impacts on the employee's ability to work.

The fit note will also specify an applicable period of time and will include the details of the Doctor who issued the note.

What do I do if my employee produces a Fit Note?

If your employee's fit note says that they are **“not fit for work”** then you should in the first instance, treat this as evidence for your sickness procedure. You can take a copy of the fit note for your records but your employee should keep the original. The fit note will tell you how long the employee will not be fit for work and whether you can expect them to return to work as before once it expires. It is good practice to keep in touch with the employee while they are away and so in the first instance you should write to them acknowledging the fit note content, confirming the dates of absence, leave the door open for them to contact you but say you will contact them to check on their welfare and establish any support needs.

If the employee's fit note says they may be **“fit for work taking into account the following advice”** you should acknowledge receipt of the fit note to the employee, preferably in writing and arrange to discuss the Doctor's advice with them as soon as possible. These early discussions can take place over the phone but there is no reason why these cannot be face to face if that is convenient and realistic.

In the meantime, consider the advice and how it affects the employee's job, the workplace and the other staff and identify possible solutions.

Discuss the advice with the employee, consider the functional effects of the employee's condition, the possibility of making changes and adaptations and then decide whether it is feasible for the employee to return to work.

If a return to work is possible, then agree:

- A return to work date
- What amendments will be made and when eg hours, duties or changes to the working environment
- How long the changes or adaptations will last for
- A monitoring process
- A review date
- Whether or not you need to obtain specialist occupational health advice
- What you will say to the employee's colleagues where relevant

Tip: *Keeping in touch with employees when they are absent is good practice and demonstrates that you are a reasonable and supportive employer who takes your duty of care towards employees seriously. However, contact during absences should not be intrusive and should take into account your sickness and absence policy. For more information and guidance on managing contact with employees during absences contact Davidson HR Associates.*

Tip: - *Adaptations and changes should not be granted for an open ended period as you could inadvertently be making a permanent change to the contract instead. Contact Davidson HR Associates for further guidance on relevant and realistic adaptations, changes and timeframes.*

Tip: - *Remember the employee is entitled to confidentiality during this process so you could not openly tell other employees why hours or duties are being altered unless you have the employee's prior consent.*

What if I can't make any adjustments based on the Fit Note advice?

If you can't make adjustments that will work then don't dismiss them, if an employee wants to return to work and you refuse to consider options it could allow them to mount a constructive dismissal claim. Instead you should discuss the suggested advice and explain why you cannot make adjustments or changes to accommodate eg lack of funds, it would be unsafe or just logistically impossible and confirm the decision and reasons in writing.

If no adjustments can be made, then the employee will stay of work until they have recovered or their fit note expires, whichever comes first.

Can an employee come back to work as normal before their Fit Note expires?

Yes. If an employee wants to return to normal duties before the fit note expires and there's no reason why they shouldn't; you can agree.

Tip: *If an employee returns to full duties before the expiry date of their fit note there is no legal requirement for a Doctor to "sign them back to work". You can insist but any costs incurred must be met by you (the employer). However, it would be sensible to carry out a risk assessment to ensure it is safe for the employee to do so. Especially where driving or handling machinery is an integral part of the work.*

What is the Fit for Work Referral Service?

The fit for work service is a government funded scheme that supports employers to manage sickness and absence in the workplace. If an employee is not fit for work, or is unlikely to be fit for work for a period of 4 weeks or more they can be referred to an independent occupational health assessment under the scheme.

Tip: *You can refer an employee to the Fit for Work scheme providing the employee has been unfit for work for more than for weeks, has not already been referred by their GP and gives you permission to make the referral. The scheme will carry out a free occupational health assessment and put together a "Return to Work Plan" with the employee. For more information on this service and return to work plans you can visit www.fitforwork.org or contact us a Davidson HR Associates.*

This factsheet provides you with some of the basics around Fit Notes and the Fit for Work Scheme and was correct at time of issue, however at Davidson HR Associates we recognise that each case is individual and you may require more bespoke advice in relation to managing Fit Notes and sickness & absence in general. For further support and answers to some of the common problems for employers around Fit Notes, contact us at Davidson HR Associates.



For more information and support
contact us:

debbie@davidson-hr.co.uk

(01228) 541 279