

sick note

Statement of Fitness for Work

A guide for employers

to

fit note

This guide has been produced in partnership with the Chartered Institute of Personnel and Development, the Confederation of British Industry, the Federation of Small Businesses, Acas, the Association of British Insurers and EEF, the manufacturers' organisation.

This guide is for all employers and includes information on the changes to the form itself and the effect of these changes on your business and your workforce.

The Statement of Fitness for Work – from sick note to fit note

Summary

From 6 April 2010 the sick note is changing to become a fit note.

Sick notes (or Medical Statements) are the forms issued by doctors to people when they are ill or injured. They provide advice about whether or not an individual with a health condition is fit for work. They are commonly used by employers as evidence that an employee cannot work for sick pay purposes.

Many people with health conditions can, with some basic support from their employer, work as they recover from their condition. This helps the individual because for many people work can help recovery and also benefits the employer by reducing sickness absence.

Under the sick note system, doctors could only advise their patient on whether their health condition meant that they should or should not work. As a result many people who could benefit from support whilst in work, would be advised that they could not work. Their employers would not have had the opportunity to consider how they could help them achieve an earlier return to work.

To help more people get the support they need to get back to work the new fit note system will mean that doctors can advise that your employee is either:

- unfit for work; or
- may be fit for work.

A doctor will give a 'may be fit for work' Statement if they think that their patient's health condition may allow them to work if they get suitable support from their employer.

If an employee is too ill to work the doctor will advise this just like with the sick note.

The changes are not about trying to get people back to work before they are ready, but about removing the challenges to them returning. This is about you and your employee working together and being open and honest. In general, work is good for health and the vast majority of employees place a far greater value on it than just their pay. By working together to find an arrangement that suits both of you, you can provide real benefits to both your employee and your business.

What is changing?

The changes to the form allow a doctor to provide more information on your employee's condition and how they might be able to return to work.

The main changes are:

- 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.

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 7th 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' obligations under the Disability Discrimination Act have not changed.

How can this help my business?

- 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. This will help you have informed discussions with your employee and to do simple things to help them return to work earlier and reduce unnecessary sickness absence; and
- 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.

Why change?

Managing sickness absence is a challenge for many employers – which is why we're making it easier for doctors to provide you and your employee with simple, clear and practical advice about their fitness for work. This means that, where possible, you can help them make an earlier return to the workplace.

From 6 April 2010 we are introducing the new Statement of Fitness for Work or 'fit note'. The fit note will continue to allow doctors to advise that an employee is unfit for work; however, it will also offer a new option, **'may be fit for work taking account of the following advice'**.

The aim of the new fit note is to give you and your employees' greater flexibility in managing sickness absence. A doctor will be able to suggest ways of helping an employee get back to work. This might mean discussing with your employee:

- a phased return to work;
- altered hours;
- amended duties; and/or
- workplace adaptations.

The doctor will also provide written comments on the form offering a more detailed view of the kind of things that may help. For example, how your employee's condition will affect what they do and some of the things that could help your employee return to work.

The changes are not about trying to get people back to work before they are ready, but about removing the challenges to them returning. This is about you and your employee working together and being open and honest. In general, work is good for health and the vast majority of employees place a far greater value on it than just their pay. By working together to find an arrangement that suits both of you, you can provide real benefits to both your employee and your business.

Fit for work? The basics

On the new form doctors will be able to 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 just like on 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.

Turn over for more detailed information on the form and what it means for you.

Statement of Fitness for Work For social security or Statutory Sick Pay

Patient's name 1

I assessed your case on: 2

and, because of the following condition(s): 3

I advise you that: 4 you are not fit for work.

5 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

6

Comments, including functional effects of your condition(s):

7

SAMPLE

This will be the case for 8

or from 9 to

10 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 11

Detailed form description

- 1 The name of your employee.
- 2 The date of the doctor's assessment of the employee. An assessment can mean a face to face consultation, a telephone consultation or the consideration of a written report from another doctor or registered healthcare professional.
- 3 The condition or conditions that affect your employee's fitness for work.
- 4 This box will be ticked when the doctor's assessment of your employee is that they have or had a health condition that prevents them from working for the stated period of time. This is strong evidence of your employee's fitness for work for Statutory Sick Pay purposes.
- 5 This box will be ticked when the doctor's assessment of your employee is that their condition does not necessarily stop them from returning to work. However, they may, for example, not be able to complete all of their normal duties or could benefit from amended working hours.
- 6 These four tick boxes represent common ways to aid a return to work. The doctor will tick one or more of these options when they feel they could help your employee return to work. This list is not exhaustive and there may be other ways to help your employee return to work. Further information on each of these is included on page 11.
- 7 Where the 'may be fit for work' box has been ticked, the doctor will add information on the functional effects of your employee's condition and what could help a return to work. Where a doctor feels an assessment by an occupational health professional is required, they will state it here.
- 8 Here, the doctor will state the period the advice covers for a forward period, which during the first 6 months of sickness can be up to a maximum of 3 months. Any period in days

refers to calendar days not working days. In some cases your employee will be able to return, with your agreement, to work or their normal duties before the end of this period. If this happens they will not need to see the doctor again for another Statement.

- 9 The doctor will use this section when they wish to state precise dates for the period during which the advice applies. This will be for one of three reasons:
 - the Statement covers a period based on a previous assessment during which a Statement was not issued (for example because the doctor did not have any forms with them); or
 - the Statement is for less than 14 days and the doctor does not need to see your employee again; or
 - the doctor believes it will be helpful to state a specific date for your employee to return to work as part of their recovery.
- 10 The doctor will state here if they need to assess their patient's fitness for work again at the end of the Statement period. Where the doctor does not need to see the patient again, in most cases you can expect your employee to return to work or their usual duties at the end of the Statement period. If the doctor needs to see the patient again and during the subsequent consultation they feel your employee is able to return to work without any functional limitations, the doctor will not issue your employee with a new Statement.
- 11 The doctor will sign, date and stamp or print their address on the Statement.

Return to work tick boxes

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 common ways to help someone with a health condition return to work. The tick boxes are:

Phased return to work. A doctor will recommend this where they believe that your employee may benefit from a gradual increase in the intensity of their work duties or their working hours.

For example, agreeing that:

- an employee following an operation could return to work on reduced hours, gradually increasing to their normal hours over an agreed period of time; or
- 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.

Altered hours. 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.

For example:

- 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.
- Allowing more flexible hours could support someone who is still receiving treatment to return to work and attend treatment sessions during working hours.

Amended duties. 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.

Examples of amended duties:

- Removing heavy lifting from the job of someone who has a back injury could help them return to work whilst recovering from their injury.
- Reducing or removing a more pressured part of a job role (such as dealing with complaints), could help someone off work with stress return to work.

Workplace adaptations. 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.

Examples of workplace adaptations:

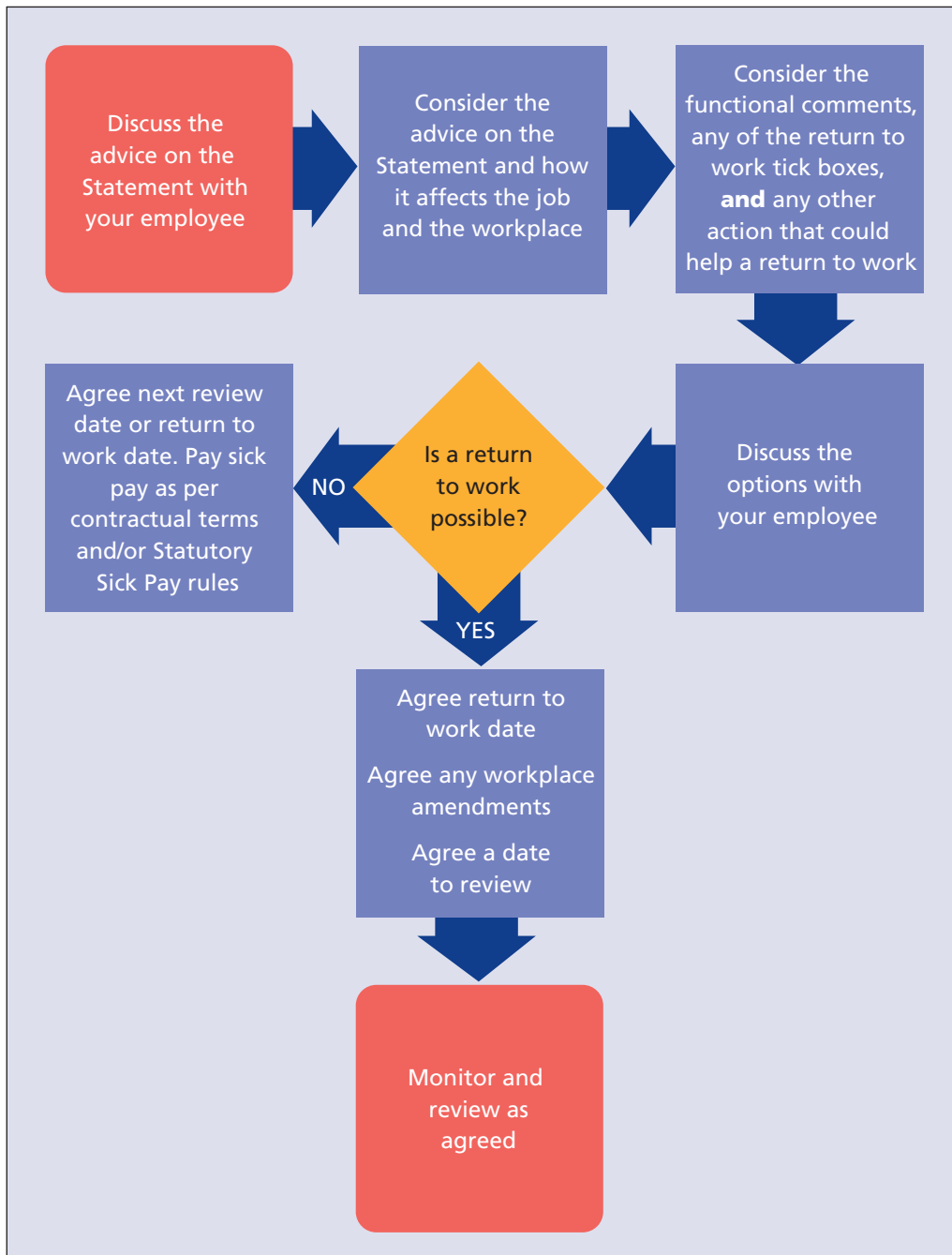
- A ground floor workstation for an individual who has problems going up and down stairs (this may occur in cases of arthritis, for example).
- Arranging for a parking space near the entrance to the workplace, could help someone who has reduced mobility post surgery return to work.

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 to keep it under review. It may be helpful to discuss this process with your employee or their representative.

Read on to see how the Statement will work in practice.

May be fit for work?

This flow chart explains what to do when you receive a 'may be fit for work' Statement.



May be fit for work: Case study 1

Alison is a 35 year old contact centre worker. Her job requires taking customer calls. She has been off work for 6 weeks with mechanical back pain and this is her third episode in the past 12 months.

She goes to her GP for a new Statement and during the consultation they discuss her condition and the circumstances relating to returning to work. Her GP advises that she 'may be fit for work taking account of the following advice':

- Comments, including functional effects of your condition(s):
 - referred for physiotherapy – may need time off to attend;
 - need to avoid static postures by taking more frequent breaks and be able to sit/stand when needs to;
 - review workstation; and
 - consider a referral for occupational health advice.
- Ticked 'a phased return to work', 'amended duties' and 'workplace adaptations'.
- This will be the case for 8 weeks.
- I will need to assess your fitness for work at the end of this period.

Alison takes the latest Statement to her manager and they discuss the advice on the Statement and how her health condition affects her ability to do her usual job. They agree a phased return to work with more frequent breaks during her shifts. Alison returns to work immediately and after 4 weeks is back to her normal hours. Her manager has also organised for an occupational health assessment to identify any action that may help prevent future episodes.

May be fit for work: Case study 2

Kareena is 52 and works in a department store. She has chronic anxiety and has been off work for 3 weeks. Her job involves working on the customer complaints desk as well as general shop floor duties such as stocking shelves and working on the till.

She visits her GP for a new Statement and they discuss whether she can return to work. She would like to return but has concerns about coping with customer complaints that accounts for about a quarter of her duties. Her GP advises she 'may be fit for work taking account of the following advice':

- Comments, including functional effects of your condition(s):
 - phased return to work;
 - avoid customer-facing duties; and
 - consider creating a support network at work.
- Ticked 'a phased return to work', 'amended duties'.
- This will be the case for 3 weeks.
- I will need to assess your fitness for work at the end of this period.

Kareena takes the Statement to her employer and they discuss the advice. They agree that Kareena should return to work on a phased return to non-complaints, non-customer facing duties before gradually returning to the complaints desk for shorter then longer periods. An experienced member of the team is nominated as a 'buddy' to support her and advise on techniques to deal with handling difficult customer issues. Kareena returns to work immediately and after 3 weeks returns to her normal duties.

May be fit for work: Case study 3

Dave is 30 years old and works in a warehouse of a small building merchant. His job requires lifting. He hurt his dominant (right) shoulder through sport two weeks ago and has been off work since.

He goes to see his GP, is referred for specialist opinion and is given a new Statement. His GP advises that he 'may be fit for work taking account of the following advice':

- Comments, including functional effects of your condition(s):
 - avoid lifting or working above shoulder height.
- Ticked 'amended duties'.
- This will be the case for 6 weeks.
- I will need to assess your fitness for work at the end of this period.

Dave takes the Statement to his manager and they discuss which parts of his job are affected by his injury. Dave's normal duties involve the activities that the GP advised to avoid on the Statement. The manager investigates if there are any other suitable duties that Dave could do whilst he recovers, however there are currently none. As Dave's employer cannot offer any appropriate work Dave remains off work. Dave and his employer use the Statement as if the GP had advised 'not fit for work', Dave does not return to his GP for a new Statement. While Dave is off work, he and his manager keep in regular contact to identify the point at which a (phased) return to work could begin. Dave returns to his GP at the end of the Statement period.

Frequently asked questions

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 an 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. If you have access to an occupational health provider you may want to discuss it with them too.

If you have a sickness absence policy, you should consider whether it needs amending to reflect the introduction of the Statement of Fitness for Work. This may involve consultation with your employees or their representatives.

Is the advice on the Statement binding?

No. This is about giving you greater flexibility and better information to manage sickness absence. It's your choice after discussing the Statement with your employee, how to act on the doctor's advice. When considering the doctor's advice, you should always consider if the advice is consistent with any industry or sector specific safety guidelines or regulations that the doctor may not be aware of.

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.

Will I still be covered by my Employers' Liability Compulsory Insurance (ELCI)?

Your liability insurance should not prevent employees who 'may be fit for work', return to or remain in work. Also, you do not need a Medical Statement stating fitness for work for an employee to return to work. 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 risk assessment – based on the evidence from the doctor, your knowledge of the work and workplace and further support where necessary. If you have any concerns about the coverage of your insurance, you should contact your insurer.

Is it going to cost me more?

An earlier return to work can result in savings from a reduction in sick pay and other costs of sickness absence such as turnover costs, loss of skills base, re-training costs and poor staff morale. There may also be an increase in revenue and profits that will come from any additional output produced.

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. See <http://www.dwp.gov.uk/employer/disability-discrimination-act/> for more information on the DDA and your responsibilities.

How long do any amended duties or workplace adaptations have to last for?

On the Statement a doctor will state the period of time their advice is for. When agreeing a return to work plan you should always be clear on the length of time any amended duties or support is for. In most cases this will be about temporary measures. If the employee cannot then return to their normal duties, you may need to discuss further or alternative

temporary measures or, if needed, have a discussion on the long-term effects of their health condition on their job, taking into account your responsibilities under the DDA.

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 the DVLA rules for LGV/PCV drivers.

If you feel you need a medical opinion stating that your employee is fit for work you can enter into a private arrangement with a GP or occupational health specialist.

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 to work.

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.

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 an occupational health specialist and, if needed, you should consider your organisational policy for absence disputes. More information on best practice and support can be found from Acas online at www.acas.org.uk. If the disagreement is about the payment of SSP then there is a prescribed HMRC procedure – see http://www.hmrc.gov.uk/employers/employee_sick.htm for more details. 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 an advice centre.

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 always to discuss the advice with your employee. They may be able to provide more information on the context of the advice. If you are still unsure you may want to consider advice from an occupational health professional (see below). You can also write to the doctor for more information; however, bear in mind that you may have to pay for this service and a busy GP may not be able to respond to your enquiry immediately.

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 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 occupational health support should be seriously considered. The benefit of this support, in many circumstances, will be greater than the financial investment.

If you do not have access to occupational health support, information on how to find occupational health providers in your area is in the 'where to go for further information and support' section of this guide.

How does this affect Statutory Sick Pay (SSP)?

Your responsibilities to pay SSP have not changed. SSP will still be 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. Your responsibilities to pay SSP in these cases will not change. For more information on SSP see the HMRC website at http://www.hmrc.gov.uk/employers/employee_sick.htm#2b.

In cases where it may be appropriate to support your employee back to work by reducing their hours they work for a period, you should consider the financial impact on them and whether they might be disadvantaged.

In such cases it is important to remember that SSP is only a minimum provision. When considering a return to work involving reduced hours, it may be cost effective to consider

paying sick pay for the hours not worked due to illness or injury, even when SSP does not apply.

If you operate a separate occupational sick pay scheme, the changes may also have implications for the scheme. If so, you should seek to review it in consultation with your employees or their representatives.

What is a risk assessment?

A risk assessment is nothing more than a careful consideration of what, in your workplace, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm. More information on how to complete a risk assessment can be found at www.hse.gov.uk/risk/fivesteps.htm.

Where to go for more information and support

- For more information on the Medical Statement visit the Business Links website.
- For queries relating to Statutory Sick Pay you can visit the HMRC website at http://www.hmrc.gov.uk/employers/employee_sick.htm or ring their help line on **08457 143 143**.
- For help and advice on avoiding and/or managing disputes you can contact Acas, either online at www.acas.org.uk or via their help line on **08457 47 47 47**. Acas also have a number of sickness absence and management guides available for businesses and employees.
- In Scotland further information for employers and employees can be obtained from the Scottish Centre for Healthy Working Lives at:
<http://www.healthyworkinglives.com/>
or freephone **0800 019 2211**.
- The Health and Safety Executive has provided guidance for employers and managers on managing sickness absence and return to work. This can be found on their website at:
www.hse.gov.uk/pubns/priced/hsg249.pdf.
- Your trade or regional business association may be able to provide you with support and advice on managing sickness absence.
- To find details of occupational health providers in your area you may want to contact:
 - NHSplus: <http://www.nhsplus.nhs.uk/>
 - Commercial Occupational Health Provider Association:
<http://www.cohpa.co.uk/>
 - Society of Occupational Medicine:
<https://www.som.org.uk/?id=120>

Your trade or regional business association may also be able to provide you with details of occupational health providers.

Important information about this leaflet

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure that the information in this leaflet is correct as of February 2010. It is possible that some of the information is oversimplified, or may become inaccurate over time, for example because of changes to the law.

This report can be accessed online at:

www.dwp.gov.uk/fitnote

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