

Occupational Health Referral Guidelines for Managers

Introduction

The role of the Occupational Health (OH) Service is to support managers in the management of sickness absence by assessing and advising on employee fitness for work and by supporting and enabling an employee's return to work. For such support to be of optimum benefit to managers, the quality of communication between managers and the OH service is crucial, not only in terms of feedback from OH following assessment of employees, but also in relation to information provided by managers when initially referring employees. These guidelines are intended to help managers gain the most appropriate assistance following referral to Occupational Health.

We have outlined below some key principles OH employs in helping employees return to work. The advice provided is based on clinical, legal and Government guidelines on managing sickness absence and is the basis on which we provide our reports. It is helpful if managers understand why we provide our advice in the way we do.

Key principles

Early intervention is key

Preventing short-term health absence becoming long-term absence is essential. Your absence management policy outlines the trigger points for managing absence. We advise you to take note of the trigger points within the absence management policy and ensure that you have followed the relevant stages; don't delay these stages waiting for the employee to get better or because you believe the illness to be genuine. We advise that the manager manages the employee in line with the policy, whilst we work with the employee to try to enable their return to work. All absence should be managed in line with the policy; it is not a case of an illness being genuine or not, it is about managing attendance.

Don't wait for 100% fitness to enable a return to work

There is significant research that suggests an employee becomes disengaged with the workplace after three weeks of absence from work (Government taskforce on public sector sickness, 2004). Getting the employee into work is essential if we are to prevent the absence becoming long term, even if the employee is not fit to return to work to undertake all of their normal duties.

For these reasons, we will often recommend that an employee should return back to work even when they may not be 100% fit. We do not wait for 100% fitness because this may never happen. Research also indicates that if we get employees back to work, even if not 100% fit, they will return to their normal work far quicker than if they had remained at home recovering. Where an employee is not 100% fit, we ask managers to consider the advice we provide about temporary modifications to duties/working hours to enable an employee to be at work.

Information provided in the referral

To ensure a report written by our OH Advisor or Physician is 'balanced', it is important to be fully informed of all the issues from the manager's perspective. During our consultation with the employee they will provide information from their perspective. The referral is often the only communication we receive from the manager; therefore, it is important that we are advised of all the facts in order that we can make a comprehensive assessment.

We would like to be advised of how often the employee has been off work, what were the reported reasons (the employee often does not know when we ask), if there are any management issues, i.e. capability policy being applied, whether there has been a dispute with the employee, if there is an

investigation or grievance issues. This enables us talk about all the issues that may be affecting their health at work, not just the issues they report they are off sick with. The employee's pattern of attendance over a twelve-month period is also important.

If there are specific questions the manager would like answered, it is very helpful to have these included in the referral.

Whilst we will include relevant medical information, wherever the employee consents us to provide it, we try to focus on the practical implications of the health problem in question. A manager will, therefore, have enough information to take the appropriate action required, focusing on the advice about the return to work, rather than the medical condition itself.

Before completing the referral, please ensure you have sought consent from the employee to be referred to occupational health and to be contacted to arrange a consultation. As per instructions from HR, you will need to enter the employees date of birth, so please request this before completing the referral.

The Equality Act 2010 and making adjustments

The Equality Act 2010 has superseded the Disability Discrimination Act 1995 and underpins the advice we provide. If we discuss the Equality Act (EA) in our reports we are highlighting what we believe are the legal implications to the employee's health condition. Deciding whether a condition is likely to fall within the EA is ultimately a legal decision, made at an Employment Tribunal, rather than a medical one, and therefore we would encourage managers not specifically to ask this. We will often advise on adjustments, regardless of whether we believe the EA applies and we would encourage managers to act on this advice, where practical to do so. In our reports we will, however, provide you with an informed opinion as to whether we believe the EA is likely to apply, if we believe it is relevant to advise on this.

Under the EA, the employer has to consider adjustments. By this we mean the manager has to have explored the possibility of making adjustments, where they can reasonably do so. In our reports, we are stating what physical/mental limitations the employee has and what adjustments we believe should be in place for the employee to undertake their role. We are not stating that the manager has to adapt these adjustments; it is for the employer to determine whether these adjustments are reasonable and can be accommodated.

We would strongly advise the manager to take advice from Human Resources (HR) and ourselves around adjustments, especially if the manager believes they cannot be accommodated.

Having an underlying health problem does not give the employee an entitlement to take long periods of time off sick. Some time off sick could be considered an adjustment under the EA. Again, HR or OH can provide you with some guidance on this.

Tell the employee they are being referred – and why

It is essential for the manager to advise their employee why they are being referred prior to the referral. It is not appropriate for OH to undertake this role. We are in our rights to not proceed with our consultation if we believe the employee does not know why they are seeing us.

Work-related stress cases

Where an employee cites work-related stress as a reason for absence we advise a referral is made immediately. Mental health issues of any kind can lead to long-term absence - understanding the employee's perceived stressors is therefore important. In our report we advise you of the employee's perceived stressors; we do not report these as fact.

It is for the manager to explore these perceptions with their employee further. Following our assessment, we aim to bring these reported perceptions to the managers' attention in order to enable discussion and resolution to take place. Where necessary we will advise that the manager undertakes an individual stress risk assessment. Further advice on risk assessments can usually be obtained from your Health and Safety team.

Pre-assessment and post-assessment meetings

Where a case is particularly complex we are able to offer a pre-assessment meeting so we are aware of all the facts before we see the employee. The advisor you meet with may document this meeting in the employee notes as part of the referral if the advisor considers this is relevant. A pre-assessment meeting can be face-to-face or over the phone and can be booked through our administrator.

Once we have provided a report to the manager and further clarification or advice is required we are able to offer a post-assessment meeting for this purpose. The advisor may document this conversation in the employee's records if the advisor considers it relevant to document the advice.

Although for legal purposes it is important for us to have transparency we would encourage the use of these meetings as our advice can help the manager to make decisions on the next step, or provide clarification to the advice we have provided.

Physiotherapy services (for contracts with physio provision)

There is a physiotherapist in the OH department to assess musculoskeletal problems. As soon as an employee is absent with a musculoskeletal problem, refer to us, again working on the principle of early intervention. Our physiotherapist is able to provide an assessment on fitness for work, as well as providing physiotherapy, particularly in relation to home exercise and rehabilitation advice.

Specialist/General Practitioner reports

Occasionally we will ask for a report from the employee's specialist or General Practitioner (GP). The Access to Medical Reports Act means the specialist/GP will retain the report for three weeks for the employee to view it and provide their consent before it is released. The whole process generally takes around six weeks for us to receive the report. We usually only obtain a report when we are addressing long-term absence and need to get a long-term view from the employee's specialist/GP on the management of their case. In short-term absence management, our own physician or practitioner is able to make a medical decision without the need for further medical information.

Permanent ill health

We start to consider permanent ill health when it becomes clear that a condition is chronic and/or is showing little, or no improvement, especially when all treatment options have been exhausted or treatment options are not thought to bring significant improvement. We take these health considerations into account when considering the employee's role and how their daily living is affected. Before considering permanent ill health we will always look at whether adjustments could be applied to keep an employee in work and whether there are any redeployment options available. Once these options have been exhausted and the employee has capability issues in undertaking the role or is too unwell to attend work then this is usually the point when permanent ill health is considered.

Occupational Health and General Practitioner (GP) opinion

Whilst OH opinion does not override that of GP opinion, the employer is entitled to take the medical opinion it chooses. It is perfectly reasonable for you to take the opinion of the OH service, as this is a 'specialist' opinion, with knowledge of the employee's health condition and knowledge of the employee's

job role, the workplace and the working environment, and is in a position to advise management of adjustments to enable their return to work.

The Fit Note tells the manager whether the employee's GP thinks they are not fit for any work, or whether they may be fit for work (not necessarily their current job). The advice in the Fit Note is about the employee's fitness for work in general and not specifically about their current job.

The latest guidance document (September 2015) issued by the Department for Work & Pensions confirms that the Fit Note is NOT binding on the employer. The GP's assessment of whether the employee is or is not fit for work 'is classed as advice, and it is for employers to determine whether or not to accept it'. An employee does not need permission from the GP to return to work before the expiry of the fit note.

Our performance

As already mentioned, early intervention is key to absence management. Our key performance indicator is therefore to see an employee within five working days of the receipt of the referral, wherever possible.

Consent to release reports

The General Medical Council (GMC) have made it clear OH must obtain the employee's written consent to release the report to the manager, and the employee is entitled to see the report before it is released. Our completed report is available to managers via our online portal within 48 hours, although this will be delayed if we have not received the employee's consent to release the report. The employee is entitled to comment on our report and request amendments where we have provided factually incorrect information but they are not permitted to change our advice or opinion.

The employee can decide not to provide their consent for the report to be released, in which case the manager will have to manage the case on the information they have available to them. We would advise that further advice is sought from HR services if this was to happen.

If we have not received the employee's consent after 48 hours we will advise you. If the employee does not consent for the report to be released after 5 working days we will consider that the employee has not consented for its release and advise you that there is no report available for this reason and that you should consider the case based on the information you have.

If we have got it wrong, tell us

Our advice in our reports is provided on the information we have available. Whilst we are unlikely to change our medical opinion, if we have provided advice that is not workable in the workplace please let us know. Also, if we have based our advice without having full information please discuss this with us as early as possible, especially if new information becomes available.

If you are happy with our service please tell us; if you are unhappy with our service we would very much like you to give us feedback. This enables us to act upon criticisms and improve the service.

Reviews

Employees occasionally try to depend heavily on OH for support; however, we are not a treatment service and tend not to offer frequent reviews if someone is in work or likely to return to the workplace with a simple phased return. The manager should refer the employee back to OH if the adjustments are not working as expected. We will continue to review employees if they are not yet ready to return to work or if we believe that further adjustments may be needed.