



## 'Fit for Work' Scheme: advice for NASUWT members

A 'Fit for Work' Scheme was rolled out across Wales during 2015. The service is provided by a subsidiary of US public service provider Maximus.

### **What is Fit for Work?**

It is a Government service intended to promote early return to work for employees who are off sick. There are two elements to the Scheme:

- access to advice for employees, employers and GPs through a website and freephone helpline; and
- referral for a telephone assessment with a healthcare professional.

### **Does it replace employers' existing provision for occupational health?**

The intention is not that it will replace employers' own occupational health provision, but that it will fill gaps in provision, particularly for small and medium-sized employers. Many academies, for instance, do not have their own occupational health services. Where an employer has its own occupational health provider, it is expected that they will continue to use that service as they are likely to be able to offer a more comprehensive service and will have a better understanding of the workplace and the employer.

### **How does the referral process work?**

In cases of sickness and injury, GPs should refer any patients who they expect to be off sick for at least four weeks but where there is a realistic prospect of a return to work. If the GP does not make a referral, then an employer may do so after four weeks of absence. Employees cannot self-refer. Only one referral can be made annually.

### **Does the employee have to consent to the referral?**

Although GPs are encouraged to refer patients whom they expect to be absent for four weeks or more, the Scheme is not mandatory. Guidance issued by the Department for Work and Pensions (DWP) makes it clear that before a referral to Fit for Work can be made, the employee must give explicit, informed, specific and freely given consent. Consent has to be given at various stages of the process and can be withdrawn at any stage by the employee.

### **What happens after referral?**

Within two working days of a referral, the employee should be contacted by Fit for Work to arrange to carry out an assessment. This usually takes place by telephone and will be conducted by an occupational health professional. Face-to-face assessments are only available in limited circumstances.

### **What is the aim of the assessment?**

It is intended to be a holistic assessment which seeks to identify all the obstacles preventing the employee from returning to work and agree a Return to Work Plan. The intention is that the Return to Work Plan will provide details of the supportive actions which will help address each obstacle to enable a safe and sustained return to work.

### **Does the employee have to consent to any plan being sent to their employer?**

The employee must give explicit, informed, specific and freely given consent before any version of the Return to Work Plan is shared with the employer or the GP.

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## **Does the employer have to follow the Return to Work Plan?**

The employer is not required to accept or apply it. However, if the employee is disabled within the meaning of the Equality Act, the recommendations in the plan may amount to reasonable adjustments and so if the employer does not implement the recommendations they may leave themselves open to a claim under the Equality Act.

## **Implications and advice**

There is evidence that providing support and advice to employees at an early stage of sickness absence can maximise the chances of a successful return to work. However, NASUWT members should be clear that reference to the service is entirely voluntary and they can give or withhold consent without penalty. Participation at every stage of this process is the NASUWT member's decision.

A Fit for Work assessment may be an opportunity to address factors which are preventing an early return to work. It may also be an opportunity for a member with a long-term condition to start the process of arranging reasonable adjustments to assist them in the workplace.

However, some members may decide to refuse to consent to a referral because they do not feel comfortable with a referral or consider that it is appropriate for them.

Members who are threatened with disciplinary procedures for refusing consent at any stage in the Fit for Work process should seek advice from the NASUWT immediately.

Members should contact the NASUWT if they are being put under pressure to be referred for a Fit for Work assessment.

They should also contact the NASUWT if an assessment is carried out but the employer declines to implement the recommendations of the Return to Work Plan.

Employers have been advised in DWP guidance to update sickness absence policies to reflect the availability of Fit for Work. Any changes to policies and procedures must be subject to consultation, negotiation and agreement with the NASUWT. Changes to sickness absence policies that include reference to the Fit for Work Scheme must not suggest that the Scheme is mandatory.

NASUWT Representatives and members should be vigilant and report any attempts by an employer to include a requirement for Fit for Work consent in the contract of employment.

Where the Fit for Work service is to be used to replace existing Occupational Health (OH) provision, this should be the subject of consultation with the NASUWT and there should be no agreement to any worsening of conditions of service.

Where an employer has their own OH provision, it may be a requirement of the agreed sickness absence policies that employees engage with OH. The introduction of Fit for Work does not change this. Although Fit for Work is a voluntary scheme, existing policies and procedures may make engagement with an employer's own OH provider mandatory and refusal to do so could be grounds for disciplinary action.

## **HELP, ADVICE, SUPPORT**

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