

Employment E-Bulletin

February 2010

GLAISYERS
SOLICITORS LLP
www.glaisyers.com

“Fit notes” to replace sick notes from April 2010



Introduction

On Friday 29th January the Department for Work and Pensions confirmed that it will be replacing the current system of GP sick notes with “fit notes” with effect from Tuesday 6th April 2010.

Background

Currently, individuals who are unfit to work on the grounds of ill health are issued with a sick note by their GP which states the reason and duration of their absence. There are however many anecdotal tales of employers frustrated by GPs signing employee's off for what are considered to be “soft” reasons, for unreasonable periods of time, or in some cases simply without providing a clear diagnosis or reason.

In addition to the above problems, sick notes have not ever provided employers with any indication of what work, if any, an employee may be capable of performing. As a result of this, employers have been forced to incur additional costs in requesting medical reports in order to obtain this information. Where employers have decided against this course of action they have been unable to facilitate an employee's return to work which has often resulted in employees falling out of work and on to incapacity benefit. Over recent years, this has seen the number of people on benefits soar, with Britain having one of the highest proportions in Europe.

Fit notes

The new fit notes will list common changes which employers could make to an employees' job role or workplace to help secure a return to work namely; “a phased return to work”, “amended duties”, “altered hours” and “workplace alterations”. There will also be a comments box for medical practitioners to suggest other options where appropriate.

The Government believes the list will encourage discussions between the doctor and their patient, as well as between the employee and employer on the potential options that could help secure a return to work. The Government rejected requests for a more comprehensive list on the basis it would over complicate the process of completing the statement.

The new notes will also allow a GP to state whether the individual is “not fit for work” or “may be fit for work taking account of the following advice”. The Government hopes the latter option will encourage employers to initiate discussions with their employee to consider what changes can be made to facilitate a return to work.

GPs will not however be able to certify that an individual is “fit for work” on the basis they lack the knowledge or expertise about an individual's role and the risks involved. In all cases it is the employer's responsibility to conduct a risk assessment when an employee returns to work to ensure there is minimal risk to both the employee and their colleagues.

The maximum duration of a fit note issued during the first six months of sickness will be reduced from six months to three months to help support the individuals return to work at the earliest possible opportunity.

Conclusion

The success of “fit notes” will be very much dependent upon how well GPs embrace the new system. There is anecdotal evidence that GPs have not been given sufficient information about the scheme and have expressed concerns they are not specifically trained to advise on work fitness particularly where they lack detailed knowledge of a persons job or workplace environment. This in itself gives rise to additional problems for employers where, for instance, a GP may recommend a course of action which is expensive or simply not feasible from an employer’s perspective.

The general consensus within the HR community however is that the system will benefit those employers who have in place appropriate systems to manage sickness absence. Those employers without appropriate systems however may face an increased risk of disability discrimination claims particularly where a GP highlights possible changes to an employee’s role which the employer fails to implement. This could give rise to claims for failing to make reasonable adjustments under disability discrimination legislation.



Russell Brown
Partner
rwb@glaisyers.com
dd: 0161 833 5667



Sarah Young
Solicitor
sey@glaisyers.com
dd: 0161 833 5689

If you would like to receive more information regarding the contents of this newsletter or information on any other employment law related matters then please contact Russell Brown at Glaisyers Solicitors LLP, One St James’s Square, Manchester M2 6DN. Tel: 0161 832 4666; Fax: 0161 832 1981; Email: rwb@glaisyers.com

How we can help your business

We are a medium sized city centre firm with a high degree of expertise in our chosen fields. We therefore provide a level of service which is comparable to that offered by many a national and international law firm, whilst retaining a personal interest in our clients and their businesses.

We believe passionately in training and developing all the members of our team to ensure that our clients continue to obtain the highest quality of advice and support.

Our range of services

- Commercial/Corporate
- Family
- Property Development
- Public Law
- Commercial Disputes
- Employment
- Landlord and Tenant
- Corporate Finance
- Personal Injury
- Road Traffic Accidents
- Residential Property
- Housing
- Publicly Funded Work
- Intellectual Property
- Divorce/Child Care
- Mergers & Acquisitions
- Probate/Estate Planning
- Costs Law
- Debt Recovery
- Immigration

Glaisyers Solicitors LLP
One St James’s Square
Manchester
M2 6DN

DX: 14364 Manchester

email: manchester@glaisyers.com

Telephone: 0161 832 4666

Fax: 0161 832 1981

www.glaisyers.com

If you do not wish to receive further information from Glaisyers Solicitors LLP about events or legal developments which we believe may be of interest to you, please either send an email to manchester@glaisyers.com or contact Tracey Fallon by telephone on 0161 832 4666 or by post at Glaisyers Solicitors LLP, 1 St James’s Square, Manchester M2 6DN. The material contained in this article is provided for general purposes only and does not constitute legal or other professional advice. Appropriate legal advice should be sought for specific circumstances and before action is taken.

GLAISYERS

S O L I C I T O R S L L P

w w w . g l a i s y e r s . c o m