

# Letter to Branches

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General Secretary: Billy Hayes ([www.billyhayes.co.uk](http://www.billyhayes.co.uk))

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## To: All Branches

Dear Colleagues

### **Medical Statement Regulations – DWP/HW&W Consultation on Reforming the Medical Statement (Replacing the current 'sick note' with a 'fit note').**

The government has been developing a revised medical statement and has consulted widely with GPs, employers and their representatives, health professionals (including experts and advisers), Trade Unions and other employee stakeholders. This consultation and the draft regulations apply to England, Scotland and Wales. This is more commonly known as the reform of the "sick note". Medical statements (Doctors Certificates) are prescribed in regulations. The consultation document is to consult on amending these regulations in order to implement the proposed changes. The Government is seeking views on the draft regulations. The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) Amendment Regulations 2010 will bring about the changes.

1. change the format of the medical statement to allow doctors to record whether a patient is fit or not fit for work but also include a new option to allow a doctor to indicate where someone "May be fit for some work now".
2. update the rules relating to completing statements;
3. make provision to rationalise the current set of medical statements, by removing of forms med 4 and 5 to simplify the process for GPs and employers, and reflect recent changes to the welfare system arising from the introduction of Employment and Support Allowance (ESA); and,
4. permit GPs to issue statements printed by their practice's computer systems as opposed to handwriting on a statement pad.

The DWP, Health, Work & Wellbeing Directorate Consultation document states that the Medical Certificate process as currently in use by General Practitioners (GPs) to document their advice on fitness for work to patients with a health condition and the forms they use have remained largely unchanged since the foundation of the NHS! However, the environment in which GPs give their advice has changed.

### **The DWP, Health, Work & Wellbeing Directorate Consultation document also makes the following claims and statements:-**

1. In general, work has become safer and much less physically demanding, and less rigid allowing more people with physical conditions to work through their illness rather than take time off work.
2. Employers are more flexible and, given the right information about what an individual could be capable of, simple low-cost changes can be made to facilitate an individual's return to work. They are also now obliged to take account of disability rights legislation to help disabled people back into work and retain their jobs.
3. Leaders of the healthcare professions have recognised the positive health benefits of being in work, even for those who have to limit their activities, and their role in assisting patients to work;

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4. The right of patients to be involved in and consulted on all decisions about their care and treatment is fully recognised, for example in the NHS constitution for England. This includes being enabled to make informed decisions about refraining from work.
5. Stigma is increasingly recognised as a major barrier for those with mental health problems, and this can be overcome by appropriate advice to employers on working capacity.
6. Despite evidence that, in general, work has a positive effect on health while inactivity can worsen physical and mental well-being, every year it is estimated that around 350,000 people leave work to claim health-related benefits; and around 172 million working days are lost in Britain each year due to sickness absence. With early work-focused healthcare and workplace management many of these people could be helped to stay in work, making them, their families and communities in which they live, all better off.
7. GPs are, in the vast majority of cases, the primary source of advice and guidance for individuals who develop a health condition. Evidence shows that the advice and guidance they can provide is pivotal to an individual's decisions about whether or not they should return to work. However, while the medical profession is committed to better tackling health and work issues, there is broad recognition that medical practitioners, and in particular GPs, need better support in giving back to work advice to their patients.

Dame Carol Black, National Director for Health and Work, considered these factors when making her recommendations in *Working for a healthier tomorrow; Review of the health of Britain's working age population*. Among other measures, **she recommended replacing the current 'sick note' with a 'fit note'**. The Government accepted her recommendation and, after discussions with stakeholders and a trial of a new statement with over 500 GPs, is proposing changes to the current medical statement.

The TUC agrees that more needs to be done to support those off sick to return to work. In some cases a phased or supported return may help speed up the process of a return to full fitness. However, there are many circumstances where an early return can prevent the worker making a full recovery, or lead to a relapse. Ideally the decision on how to support workers in returning to work on a phased and supported basis should be made after discussion with the employee and an occupational health adviser. Using the sick note as an instrument to do this takes the employee out of the equation.

The TUC sounded a clear note of caution at the Consultation launch regarding the possibility that workers might be "by passed" if the new fit note becomes a tool for dialogue between the doctor and the employer.

The TUC is also concerned that some people may be forced back to work before they are ready and workers may feel they are being forced back to work whereas the most effective way of encouraging workers back to work is through access to proper occupational health support. Most employers however, won't have the expertise to give workers the support they need for an early return and this could make matters worse was the fear.

The TUC added that GPs are under great time pressure and will need training and support, and access to specialist Occupational Health advice, to make the new system work, because if clumsily applied, it could have the opposite to its intended effect, and employers could find it unhelpful.

The TUC is of the view that it is unlikely that most employers will have sufficient understanding to be able to handle early return to work by an employee without occupational health support and it is also unlikely that many GPs will have sufficient knowledge of the workplace to be able to make a sufficient judgement as to what

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adjustments are possible, let alone helpful. There is also a danger that, because the sick note is a dialogue between the GP and the employer, workers may feel that they are being "forced back". Where this happens it could make a full recovery less likely.

The TUC is also concerned that the government has missed the opportunity of encouraging GPs to add on the Med 3 form details of where an illness may be occupationally caused and giving an indication of what preventative measures may be helpful in preventing a recurrence.

There are other aspects that the TUC is still looking at. This includes the effect of the new system on both benefits and sick pay, the issue of confidentiality, and the question of liability by either the GP or the employer should a person's condition get worse as a result of an early return to work.

The TUC concluded that most effective way of encouraging workers back to work is through access to proper occupational health support. Attempting to achieve this through simply changing the Med 3 form is unlikely to lead to any great change, and may make the situation worse in some cases.

**Please find attached the CWU response to the Consultation Document.**

Yours Sincerely

**Dave Joyce**

National Health, Safety & Environment Officer



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