

## **THROWING A SICKIE? NOT ANY MORE...**

The Government is seeking comments from the public and professionals upon draft proposals to introduce 'Fit Notes' instead of 'Sick Notes' when an employee is unwell.

Each year approximately 172 million working days are lost due to sickness absence. Long term sickness absence results in it becoming more difficult as time goes on for employees to return, often making their own sense of well being worse and becoming more reliant upon state benefits. It is generally accepted that a return to health can be accelerated by maintaining working continuity in some form.

The current sick note arrangement has been in place almost since the dawn of the NHS. With the majority of work less physically demanding and far more office based than in the past, it is thought that where an employee might previously have been signed off as 'unfit,' they may now be fit to return to work in some form or another instead of being 'signed off sick'. The previous 'all or nothing' sick note is now felt to be out of date.

Draft Regulations have been issued and between 28 May and 19 August 2009, the Department of Work and Pensions (DWP) are seeking public and professional input on the proposals. The new form is three forms streamlined into one and will be known as a MED3 or 'Statement of Fitness for Work'. The form will be completed by the employee's doctor, who will advise whether the employee is (i) fit for work; (ii) not fit for work; or (iii) may be fit for some work now and will specify a time-scale for return to work with periodic assessment by the doctor.

Importantly, the form allows the doctor to indicate whether the employee may benefit from:

- (1) a phased return to work
- (2) altered hours
- (3) amended duties
- (4) Workplace adaptations

The new note will, of course, not undermine the duty of care between the doctor and patient whose overriding duty is to the patient. Nevertheless, it is likely to assist employers about referring matters to their own Occupational Health adviser and in particular to think about appropriate steps to allow someone to return to work as soon as possible. A pilot scheme across some 500 GP surgeries has had some success.

The Government Department of Work and Pensions are requesting input by 19 August 2009 at [www.dwp.gov.uk/mediacentre/pressreleases2009/may/emp17/280509.asp](http://www.dwp.gov.uk/mediacentre/pressreleases2009/may/emp17/280509.asp) on five questions. For any further information, please contact Howard Robson at Warner Goodman LLP, email [howardrobson@warnergoodman.co.uk](mailto:howardrobson@warnergoodman.co.uk)