

CONSENT TO MEDICAL REPORTS FROM AN EMPLOYEE'S GP

The question of whether to continue to employ someone whose ill health, either physical or mental, prevents them from working for a continuous, long period [or several long periods] or causes frequent short absences is often difficult for an employer to resolve. Disciplinary procedures under which warnings for misconduct are given are not appropriate. This would also apply in a case where the frequent sickness absences are for different reasons which are clearly related to a medical condition.

In considering what to do when an employee is absent due to long-term ill health, an employer should take account of the following:

- Whether he or she has communicated with and consulted in person with the sick employee.
- Whether he or she has asked for the medical opinion of the employee's own GP, of a GP appointed by the employer or of an occupational health specialist.
- The real effects of the absence on the business, for example, the difficulty in completing work or the amount of disruption caused by the absence.
- The reason for sickness.
- Alternatives to dismissal and any 'reasonable adjustments' which could be expected under the Disability Discrimination Act 1995, if relevant and appropriate.
- Any measures which could help the person return to work.
- How long the employee has worked for the organisation.
- The availability of a replacement worker.
- Possible return dates and any help or adjustment the employer could provide.

In many situations the employee will not be able to provide all of the relevant information. So, to get a true picture of their state of health and possible return dates, the employer should get a detailed medical opinion as to whether the employee is able to carry out the duties of the contract of employment. This should be from the employee's own doctor first,

and then from a company doctor or an independent occupational health specialist. If the employee is seeing a specialist consultant, the opinion may be extremely important.

Before contacting a medical practitioner for an opinion, employers should carefully consider beforehand the type of relevant information which they are likely to need and what the practitioner needs to know to be able to provide a meaningful response. For example, an explanation of the nature of the work should help a doctor form a more helpful opinion on the possibilities of an employee returning to do this.

If an employee asks for an 'adjustment' to be made because of a disability which is not obvious, an employer may need to ask the employee for evidence that the disability falls under the broad definition of a 'disability' as defined by the Disability Discrimination Act.

An employer who wants an opinion from the employee's GP must first ask for the employee's permission. A request by an employer for a report from a medical practitioner who is or has been responsible for the clinical care of the employee must be in line with Part III of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.

.The main aim of Part III is to:

- give people who are the subject of reports for employment purposes the right to look at these reports;
- make sure employers who want these reports get the employee's permission before approaching a medical practitioner; and
- set rules for medical practitioners regarding access to and provision of these reports

For further information on with Part III of the Access to Personal Files and Medical Reports (NI) Order 1991 and advice on dealing with absence from work read our publication - Advice on handling absence from work which you can download from the publications section of this website.

The following **sample letters** may be used by an employer when seeking an employee's consent to a medical report from his/her GP.

SAMPLE ONLY

CONSENT TO MEDICAL REPORT FROM GP IN LONG TERM ILL-HEALTH CASE

Date

Dear (employee's name)

- *(a) Thank you for replying to my letter dated _____
- *(b) I was disappointed that you did not reply to my letter dated _____
- *(c) As agreed at our meeting on _____ I need to obtain certain information regarding your current medical condition.

In order to assess your current medical condition I need to seek information from your own Doctor. In accordance with Part III of the Access to Personal Files and Medical Reports (NI) Order 1991 I cannot ask your Doctor to supply a report on your state of health without your written consent. I am also required to inform you of your rights under the Order before you give your consent. A statement of your rights under the Order is attached.

I would be grateful if you would give consent to me to approach your Doctor for a medical report by completing the consent form attached.

Yours sincerely

(Employer/Manager name)

*Delete as appropriate

REF: LONG TERM ILL-HEALTH 1

SAMPLE ONLY

CONSENT FORM

Name in full _____ Date of Birth _____

Address _____

Name and Address of your GP

I have received a statement of my rights under Part III of the Access to Personal Files and Medical Reports (NI) Order 1991 and I hereby consent to _____
(Employer/Manager) obtaining a report on my state of health and fitness for employment from the medical practitioner named above.

I *do/*do not require access to the report before it is sent to _____
(Employer/Manager)

*(delete as necessary)

Signed _____ (Employee) _____ Date

SAMPLE ONLY

SUMMARY OF YOUR RIGHTS UNDER THE ORDER

1. A report cannot be obtained from your GP unless you consent in writing.
2. You may when giving your consent in writing ask to have access to the report before it is sent to your employer by your GP
3. If you elect to have access to the report you must contact the GP with 21 days of the report being requested, to make arrangements for access. If you fail to do this you will not have a right to see the report before it is sent to the employer. However you will still have the right to see the report on written request to your GP within 6 months after it is sent
4. You should make contact with the GP in writing. You can either ask to see the report at the GP's surgery or ask to be sent a copy of it. If you ask for a copy the GP may charge a reasonable fee.
5. Even if you do not ask for access to the report at the time you give your consent to the report being obtained, you can request access (in writing at any time within 21 days after the report is requested by the employer. You must address your request to your GP
6. If you exercise your right to access to the report before it is sent your employer, you have the following additional rights:
 - a) You can request that the report be amended (but the GP is not obliged to agree to this request).
 - b) You can require a statement of your views to be attached to the report (if your amendments are not agreed).
 - c) You can withdraw consent to the report being sent. In the latter case the GP will simply inform the employer that your consent has been withdrawn.

7. You must exercise your rights under paragraph 6 in writing within 21 days of seeing the report. If you fail to do so, the GP will assume you do not object to the report being sent to the employer.

NOTE: The GP is not obliged to show you any parts of the report which he/she considers might cause serious harm to your physical or mental health or that of others, or which would reveal information about a third party, or the identity of a third party who has supplied information to your GP about your health, unless the third party agrees. The GP will inform you if any of these restrictions applies.

SAMPLE ONLY

REQUEST TO EMPLOYEE'S GP FOR MEDICAL ASSESSMENT

Doctor's Name _____ Date _____

Address _____

PLEASE ACKNOWLEDGE RECEIPT OF THIS LETTER IF THERE IS LIKELY TO BE ANY DELAY IN REPLYING

Re:

Name in full _____ Date of birth _____

Address _____

To administer Statutory Sick Pay, and the Company's Sick Pay Scheme, and plan the work in the department, it would be helpful to have a report on your patient, who is our employee.

His/her work as a _____ has the following major features

Management responsibility for _____

Seated/standing/mobile

Light/medium/heavy effort required

Day/shift/night work

Clerical/secretarial duties

HGV/medium/private driver

Other _____

The attendance record for the past year is summarised as:

Total days _____

This month _____

Previous months _____

I have your patient's permission to enquire:

What is the likely date of return to work?

Will there be any disability at that time?

How long is it likely to last?

Is there any underlying medical reason for this attendance record?

Is he/she likely to be able to render regular and efficient service in the future?

In accordance with Part III of the Access to Personal Files and Medical Reports (NI) Order 1991 your patient has been advised of his/her rights under the Order and has consented in writing to you supplying a report. A copy of the consent supplied by him/her is enclosed and this indicates that he/she does*/does not* require access to your report before it is submitted to us.

Is there any specific recommendation you wish to make about him/her which would help in finding him/her an alternative job, if that is necessary, and if there is an opportunity for redeployment or any reasonable adjustment that we could make to enable him/her to do his/her job?

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