

FAQs for Managers – Management Referrals

What is the purpose of a management referral?

A line manager's responsibility includes managing employee's sickness absence levels ensuring that any health or disability related issues are understood and where appropriate, supported. It's not possible or practical for all managers to have a complete understanding of their employee's individual health issues or understand the relationship between health and work – hence the need for impartial, professional, occupational health advice.

The role of Occupational Health is not to provide HR advice and we would therefore recommend a discussion with your HR team before and following the management referral process.

- The Referral is the starting point and allows the employer (line management or Human Resources (HR)) to frame the questions they would like the OHS to address. The aim of the assessment is to provide the employer and employee with advice to help manage the health condition and reduce sickness absence.
- A written referral is necessary in all cases, to comply with good practice and provides personal details that must comply with the 2018 Data Protection Act. Referrers are advised to use the OPTIMA HEALTH Referral Form issued to you by your Senior Occupational Health Advisor or through the occupational health portal that has been provided to you by Optima Portal. The form is designed to prompt the referrer to asking the right questions about a case. Further information can be easily added either on the form or using an additional sheet.
- On receipt, the OH team will process the referral by arranging an appointment with your employee for an OH Assessment, and possibly (depending on the circumstances) by obtaining consent to write to their treating doctor (GP or specialist) for further information.

How do I ensure I get the advice I need from the OHS?

- The referral sets your agenda for the OH assessment and it is important that you make sure you ask all the relevant questions you want addressed.
- Do ensure that you provide the OHS with enough background information from the employer's perspective; otherwise the OHS may get a limited, one-sided view. It is important to provide information about role, job description, sickness absence etc.

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- Identification of workplace factors and measures taken to address issues. In certain cases it may also be helpful to provide information on issues such as: past performance and motivation; quality of your relationship and consideration of a provisional return to work programme. Do not hesitate to ask direct questions. The referral form is designed to prompt you to ask the common, direct referral questions; but feel free to ask other one.
 - A completed OH referral always contains sensitive, personal data about your employee and you should safeguard it in accordance with the 2018 Data Protection Act. Individuals that are not named and consented as being able to see the report should not have access to it unless a separate consent is given. You should also be aware that the Act gives the employee the right of access to the referral. At the OH assessment itself, information contained in the referral is often discussed with the employee during the consultation. Please ensure the information provided is factually correct to avoid any issues occurring that could affect a good consultation.
 - Attendance for OH assessments cannot be compulsory. You should inform your employee that you are making a referral, explain its purpose and obtain their agreement to attend the assessment. This is important so that when the individual is contacted by the OHS, they are expecting this and are not surprised or alarmed. We recommend that you provide your employee with a copy of our complementary advice leaflet for employees. This is set out as a series of Q&As and provides your employee with what they need to know about their OH referral and assessment. The employee should see a copy of the referral, electronically or hard copy.
 - If an employee refuses to attend for an OH assessment, please call the OH service helpline for advice on how best to proceed.
 - Exceptionally an employee may be reluctant to involve their line manager or HR Adviser regarding a particularly sensitive health matter at work. In such circumstances, the helpline can be approached for advice on how best to proceed. In most cases OH assessment and advice can still be arranged as appropriate.
 - When the employee attends for assessment he/she will be asked to complete a written consent form that provides options for receipt of and review of the report by the employee. This is a requirement of the General Medical Council for such assessments. One option is for the employee to receive and review the report prior to it being sent to the employer.

What you and your Employee can expect from The OH Assessment

- You will receive a confidential OH report that covers the issues raised in your referral. The report will aim to explain what the health condition is, how it impacts work, the likely recovery time, and what the health condition means in terms of tasks and activities that the employee can/or cannot do. Sometimes, we advise that the employee is unlikely to recover.
- In most cases the report will contain a medical summary and advice on functional capacity of the employee i.e. what they can/can't do at work. It is the employee's legal right to ask clinical and medical data is not shared with you. If this happens, we will only provide functional advice.
- You should be aware that the employee has right of access to the OH report and their overall medical records, in accordance with the provisions of the 2018 Data Protection Act, the information

commissioners guidance and the Access to Medical Records Act. If they wish access to their OH records they should apply in writing to Optima Health.

- Regarding their report your employee has several options under current guidance, and these are summarised as:
 - To elect not to receive a copy of the OH report.
 - To have a copy of the report at the same time as it is sent to you.
 - To see the report before it is sent to you.
 - To have factual inaccuracies corrected in the report. In this context, we would reassure you that doctors and nurses are only obliged to remedy factual errors; but are not bound to amend opinion on the basis of pressure from patients.
 - To withdraw their consent for the report to be released to you.
 - If your employee refuses to give consent for us to send you a report, we will contact you and outline several constructive courses of action for you.
 - The OHS cannot produce reports for individual employees, their legal advisers or union.
 - Sometimes the OH professional will write - with the employee's consent - to their GP or Specialist for a medical report. This process is subject to the 1988 Access to Medical Reports Act. The employee has to give consent and has the right of access to the external medical report before it is forwarded to the OHS. Because of the legal requirements, the process can take a few weeks. The OH professional may be able to provide you with an interim report, pending a more definitive response after the external report has been received and considered.

Why would a report be delayed?

Usually because the employee has not given consent to release report until they have received a copy – if an employee refuses to release a report we will still provide a view on capability and fitness for work, but will not disclose confidential medial data.

How will I know when the employee can return to work?

- The management referral summary will detail whether the employee is 'fit for post' 'temporary Unfit' and 'not fit' and also give a timescale for return to work where appropriate, or advice in regard to adjustments which are recommendations only.
- If the employee is not 'fit for post' the report may suggest options for alternative work. These are recommendations only. The employer has to make the final decision as to practicality of implementing such advice taking account of specific employer policies and HR advice, and consider the requirements of the Equality Act 2010 if appropriate.
- Where temporary adaptations are impractical in the employees existing role, then alternative jobs need to be explored, matching the employee's capability.

What advice will your OH report not provide?

- We will not advise on your companies' policy or procedures, offer direct management advice or replace HR support. Our role is to explain and guide you through the medical condition, its impact on

work and advising on functional capacity of the individual to carry out tasks and procedures and what adjustments they may need to support the care of their condition.

- In terms of managing the employee for example paying them company sick pay or not, changing the job role, seeking to dismiss the employee etc it's best to ask your HR team to advise.

What do I do if I have questions or require clarity about the report?

The Manager should give feedback via 'Manager Feedback' on the Portal and this will be escalated and allocated internally to the Practitioner that dealt with the case.

What happens when my employee refuses a management referral assessment stating that they deal directly with their own GP who will give advice? What can I do?

The GP looks after the health and treatment of your employee but OH is specifically there to advise about how their health condition may affect or be affected by their job. OH also engages with the employee, manager and GP to advise on adjustments, restrictions, phase returns and other alternatives. It is true that the GP is not familiar with your workplace and will be unable to support the employee appropriately.

Should the employee refuse to cooperate with the OH referral process, then a discussion with your HR team would help provide you advice on what to do next.