

## Guidance Notes for Managers: Referral & Process Flow Chart *(updated April 2014)*

Advice provided by Occupational Health (OH) in the referral process is primarily designed to support the referring manager in their decision making when dealing with a workplace health-related issue. Following an assessment of the health problem by an OH Practitioner a report is provided to the referring manager. This report is not a “medical” report but a “management” report designed to answer specific questions asked by the referring manager to provide guidance in managing the situation.

Our aim is to make this as smooth and timely a process as possible. The points below will help you to understand the process and to make the best use of our service, but please do not hesitate to call our Advice Line for support and guidance at any stage of the process.

### Reasons for Referral

There are many and varied reasons for wishing to obtain independent advice in relation to an employee, but the commonest reasons include:

- **Long term sickness absence** - usually defined as continuous absence of 4 weeks or more.
- **Recurring short terms absence** - based on episodes and their frequency, within a defined time-frame.
- **Concerns over work performance** - poor or reduced performance levels where there may be a health problem.
- **Concerns about an employee** - where there is a genuine worry for the individual’s health even though there is no real impact on absence or performance (e.g. general behavior)
- **Investigation of work-related illness/injury** - assessment of whether a health problem is likely to be work-related or not.
- **Ill-Health Retirement assessment** - to advise whether the criteria for ill health retirement may be met according to the organisation’s policy. In ill health retirement cases it is usual for evidence to include an assessment of capability, matched to the requirements of the job, as well as medical evidence about illness or injury. In the NHS Pension Scheme the final decisions on release of pension benefits lies with NHS Pensions not OH.

### Completing a Management Referral Form

The reasons for the referral MUST first be discussed with your employee. They must be fully informed as to why they are being referred to OH and what information you, as their manager, require from the OH assessment. The signature on the back of the form indicates they understand the reasons for the referral.

The referral form must also be completed before an employee can be booked for an assessment, as the appointment cannot be made before receipt of the referral form in OH, in case the form doesn’t arrive in time.

Referral forms can be sent to OH by email, but as this means the individual cannot sign the form then the manager must state in the e-mail that the individual is fully aware of the details in the referral. Best practice means a copy of the completed management referral form should also be given/sent to the employee.

It is essential that key information is provided to the assessing OH Practitioner, and the quality of this information is vital to the effectiveness of the referral process and the subsequent management report back to the manager. Without adequate background information the OH Practitioner may be unable to fully assess a problem and respond to the questions asked. Managers should provide a summary outline of key factors of the job, particularly aspects that may impact health condition of the individual – a job description can be useful. You should keep a copy of the form for your records.

## Questions That May Be Relevant To Include

There are a range of questions that may be asked depending on the reasons for the referral. Common questions that a referring manager may wish advice on include:

- Is the employee fit for work?
- When is the employee likely to become fit for work?
- What can be done to assist an early return to work?
- Is a graduated return to work programme appropriate?
- What sort of modifications or adjustments may be required?
- Are the modifications or adjustments likely to be short term or permanent?
- Is there an underlying medical reason for recurrent short term absence?
- Is any underlying health problem likely to improve and, if so, in what time scales?
- Are further absences likely and at what level?
- Is the illness caused or made worse by work activity?
- Can any steps be taken to reduce the risk of further health problems in the workplace?
- Is reduced work performance likely to be due to health problems?
- Is their health problem likely to meet the criteria for disability as defined by the Equality Act 2010?
- Is the employee fit to attend an investigatory or disciplinary process?
- Does the employee meet ill health retirement criteria or income protection benefit criteria?

If there is ever any doubt about how best to word a referral, the manager should contact the Nurse Advice Line for guidance.

Managers also need to be aware that **all** information sent to OH regarding a referral (including any supplementary emails, letters or phone calls) will form part of an individual's occupational health record and will therefore be available to them in line with the requirements of the Data Protection Act.

## Report to the Referring Manager and Confidentiality

Confidentiality is central to the functioning of an occupational health service. It is a requirement for all doctors to respect patient confidentiality, and this is made clear in GMC and Faculty of Occupational Medicine guidance. Additionally nurses must adhere to a code of confidentiality and physiotherapists have similar requirements. A breach of patient confidentiality is therefore a professional misconduct issue and so all our staff, including the administrative personnel, are required to sign a confidentiality agreement on commencing work with Avon Partnership.

Confidentiality will not inhibit the quality of advice provided to managers. However, if employees do not believe the occupational health assessment process is medically confidential then they are unlikely to be honest and open about their health issues. This can then sometimes undermine the effectiveness of the process.

So, when reporting to management, confidential clinical details are omitted unless expressly permitted/agreed by the referred employee. It is, however, possible to provide responses to the questions asked without releasing confidential information. For example, a manager can resolve a health related issue without knowing the actual diagnosis as long as they understand some of the key functional issues and what they can do to assist.

## Additional Medical Information

In some cases it may be necessary to obtain further medical information from the employee's General Practitioner or Specialist. This is usually in the form of a report for which the General Practitioner or Specialist will charge. This is only done therefore where there are clear benefits in doing so. For example, where specific medical information may influence the view of a prognosis, where information may be required to confirm aspects of the employee's clinical history or to clarify issues and/or obtain specific details. All of which may influence the final report to the manager.

Occasionally a situation arises where an occupational health clinician may wish to commission a specialist assessment outside of NHS healthcare channels, resulting in a cost which would be recharged to the referring manager – either to substantially shorten delays, or because the NHS would not provide the assessment. In those circumstances prior agreement will be sought from the referring manager, with an explanation as to the reason for the request.

## What Happens Now?

You should arrange a meeting with your employee to discuss the contents of the report. If modifications or adaptations have been advised then the discussions should cover how these can be implemented. Although you have received the advice from OH your local Human Resources team member may need to be involved with this part of the process.

Please note that the opinions expressed in the report are based on specialist clinical knowledge and experience of the workplace and are therefore not subject to negotiation or amendment. However, if you have questions about the report, or it does not provide you with the information you requested or require, you should contact the OH Practitioner whose name appears at the base of the report to discuss your queries.

Of course the advice given by the OH Practitioner is just that, advice. You, as the manager, have to consider whether the advice given to you is practical to implement taking into account organisational factors. However, you would also need to be able to justify why you didn't implement the advice, having sought it, should the situation end up as an employment tribunal case.

## Reliance on an occupational health report and disability

Many employers rely on the advice from OH when trying to determine whether an employee is disabled for the purposes of the Equality Act 2010. However, a 2014 Court of Appeal ruling has made it clear that employers should not rely unquestioningly on such advice, especially if the opinion of OH is that the employee is **not** disabled. Employers should therefore not 'rubber stamp' advice from OH; instead it should be used as supporting information for decision-making in cases where an employee is potentially disabled and not as a substitute for the employer's own decision. In line with the ruling it is the employer that remains responsible for making the judgment as to whether an employee is disabled for the purposes of the legislation.

With this in mind it is advisable therefore, when referring to OH for advice, to pose specific and targeted questions to try to establish whether or not an employee is a disabled person within the meaning of the legislation. Those questions can particularly focus on the elements of 'disability' which are a "physical or mental impairment which has a **substantial** and **long-term** adverse effect on the ability to carry out **normal day-to-day activities**". Guidance is available at <https://www.gov.uk/definition-of-disability-under-equality-act-2010>

## **When to Refer Again?**

You will have been given details in the report if the OH Practitioner wishes to see the individual again – you should find the detail somewhere near the end of the letter.

There is no set rule however about re-referring your employee back to OH, so advice should be sought from the Nurse Advice Line, as each case is different and time-factors often play a role. A written request providing further information/questions is likely to be requested and you may need to complete another referral form. Again the employee should be kept aware and copied into any correspondence.

## **Employee Perceptions versus Management Perceptions**

It is commonly observed by managers that occupational health doesn't challenge employee perceptions and accepts everything the employee says at face value.

This is incorrect.

During their assessment appointment an employee will be encouraged to express their perceptions about why they believe their work has caused their illness. However, you as the manager will have already provided information, on your referral form, and this will enable the assessing clinician to obtain a broad view of the problem.

The OH Practitioner will independently assess the situation, taking into account their experience in dealing with occupational issues and their specialist knowledge of the workplace. A detailed history will be taken, including details on relevant, and past, health issues, treatment, day-to-day restrictions, and work issues. Where appropriate the OH Practitioner may undertake a clinical examination to determine functional capability. This then normally provides a more balanced view of the problem, one that will stand up to scrutiny and challenge.

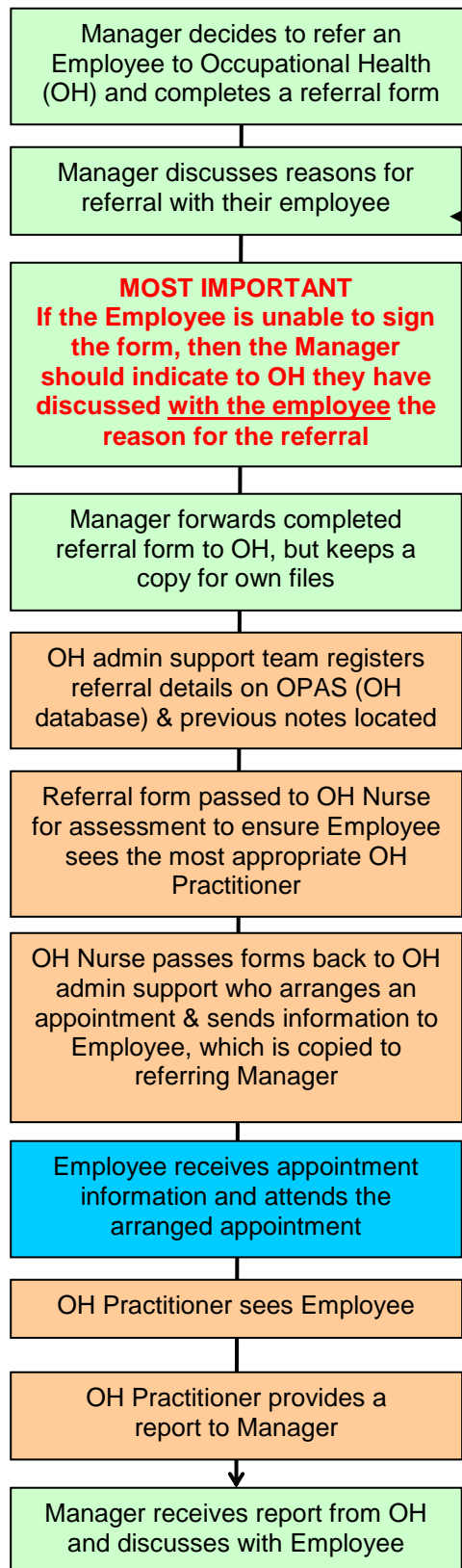
It is important to remember that sometimes there are two different views of the same situation. In reflecting to the manager the perceptions of the employee this does not mean the occupational health clinician is 'taking their side'. If a manager is not made aware of differing views then this cannot be discussed with the employee. Unresolved differences may serve as a barrier to a return to work.

It does therefore highlight the need for you, as the referring manager, to be vigorous as possible in providing sufficient detail to help the OH Practitioner to obtain that balanced view of the problem. Suggesting your employee self-refers means that your viewpoint cannot be taken into consideration and the assessing clinician will be unable to give a balanced viewpoint to allow you to manage the situation. Asking your employee to self-refer does not shorten the process – in fact it can often lengthen it. It also tends to negate your managerial responsibilities.

If you would like further advice about referring to occupational health then please contact our Nurse Advice Line on 0117 34 23400 (Monday to Friday, 08:30 to 16:00 hours, but not Bank Holidays).

|             |
|-------------|
| Referring   |
| Employee    |
| APOHS       |
| Information |

### Management Referral Process



Employee signs the form to say they understand the reason / reasons why the referral is being requested

**MOST IMPORTANT**  
If the Employee is unable to sign the form, then the Manager should indicate to OH they have discussed with the employee the reason for the referral

There should be **NO** surprises when the OH Practitioner sees the Employee. Time can be wasted during the appointment explaining the reasons why the Manager has requested the referral, and in some cases, appointments even postponed so that the employee can discuss their strong disagreement with the contents.

**Referral form registered, triaged and appointment allocated within 1 working day**

**Current appointment standards:**

- Physician  
Within 10-working days from receipt of referral
- Nurse Specialist  
Within 10-working days from receipt of referral
- Musculo-Skeletal Specialist  
Within 10-working days from receipt of referral

Manager informed, by letter on the day, if Employee cancels the planned appointment and the reason why. Employee will be offered a 2<sup>nd</sup> appointment, but Manager to discuss with Employee to ensure any future attendance.

Standard is for the report to leave OH within 3-working days of appointment. **HOWEVER**, the Employee is entitled to view the draft report before it goes to the Manager (GMC guidance), which could delay report by up to another 7-days.