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## **Fluctuating conditions, fluctuating support:**

Improving organisational resilience to fluctuating conditions in the workforce

*The second white paper of the Health at Work Policy Unit*

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## About the Health at Work Policy Unit

The Health at Work Policy Unit (HWPU) provides evidence-based policy recommendations and commentary on contemporary issues around health, wellbeing and work. Based at The Work Foundation, it draws on The Work Foundation's substantial expertise in workforce health, its reputation in the health and wellbeing arena and its relationships with policy influencers. The HWPU aims to provide an independent, authoritative, evidence-based voice capable of articulating the views of all stakeholders.

The second Policy Paper from The Work Foundation's Health at Work Policy Unit (HWPU) will focus on the challenges faced by employers in managing a future workforce where the prevalence of chronic and fluctuating conditions is set to rise. It will explore the kinds of support which employers will need from doctors and other healthcare professionals, from the welfare and benefits system and from other agencies such as Fit for Work, Access to Work, Occupational Health services and patient advocacy groups. It will also assess whether policy-makers have scope to do more to create a system of incentives and support for the many employers who wish to do more but lack access to advice, resources or support.

The paper was informed by a literature review and discussions with expert advisors, including a roundtable discussion held with patients groups, employer groups and employers in November 2014.

The Work Foundation transforms people's experience of work and the labour market through high quality applied research that empowers individuals and influences public policies and organisational practices. For further details, please visit [www.theworkfoundation.com](http://www.theworkfoundation.com).

## Executive summary

### Fluctuating conditions and work

It is estimated that by 2030 around 40 per cent of the UK's working age population will have at least one chronic and work-limiting health condition. For people over 50 in 2014 this figure is already at 42 per cent. One of the features of many chronic conditions is that their symptoms can fluctuate significantly from week to week, and from individual to individual. They can involve chronic pain or levels of fatigue which can be disabling and distressing, and which can disrupt independent living, attendance at work, work productivity and career prospects.

Examples of fluctuating conditions include asthma, depression, multiple sclerosis, rheumatoid arthritis, inflammatory bowel disease and ankylosing spondylitis. Many people will experience more than one. Some of these conditions are first diagnosed when an individual is young and in the early stages of their career, having a life-course impact. Each of them can shorten working lives and is likely to affect a growing proportion of the workforce over the next two decades. This raises questions for employers about how they can manage the reality of fluctuating conditions within their workforce, and what steps they can take to ensure that this does not have an adverse effect on their business going into the future.

### What do we know about managing fluctuating conditions at work?

'What works', in terms of supporting someone with a fluctuating condition to remain in work, will vary from person to person, and from job to job. Through reviewing the literature and consultation with experts, we encountered several key ideas which should underpin effective support. These include, enhancing knowledge about fluctuating conditions and their management across key stakeholders – clinicians, employees and employers – and providing access to occupational health advice. The relationship between the employer and the employee is crucial, with the importance of good people management highlighted, as well as trust and open communication – particularly given that such conditions are often 'invisible' and highly variable, to make person-centred decisions which provide the most appropriate support for that individual.

In particular we highlight the importance of shared-decision making, with key stakeholders sharing their expertise and working together to find the best solutions for both the employee and the employer. Both the employee and the employer need to be empowered not only to make decisions but also to make sure they are implemented at work – sometimes going against the grain of company policy. For those searching for solutions and suggesting changes, as well as for the organisations who are asked to implement them, there needs to be creativity, flexibility, and open-mindedness – shifts in attitudes and finding innovative solutions.

## Review of current policy mechanisms

The cross-departmental Health, Work and Wellbeing initiative leads the way in highlighting and addressing health and wellbeing in the working age population. Much of this agenda is underpinned by legislation, in particular around equalities (which includes provision for making reasonable adjustments), health and safety, and most recently, the right to request flexible working.

Improving access to occupational health services is a key part of the programme – marked by the most recent initiative from the Department of Work and Pensions (DWP), Fit for Work, which will be launched in full later this year. This is complemented by the NHS Health at Work network, through which a number of NHS trusts provide occupational health services to businesses locally. Also important is the Access to Work (AtW) scheme, which has since 1994 been providing grants and support to individuals with health conditions and disabilities to make adjustments to work to better enable job retention. Support was enhanced by the introduction of the Mental Health Support Service (MHSS) in 2011.

The key health sector initiative is the Statement of Fitness for Work, or 'Fit Note' – designed to enhance GP provision of the formal sickness certification process by including advice and guidance on return to work. This initiative might be seen as part of a wider programme of changing the way clinicians think about patient employment – with increasing recognition that employment should be seen as a clinical outcome, and the enhancement of occupational health training provided for GPs.

## Current policy gaps

Having reviewed the evidence around what works to support people with fluctuating conditions to remain in work, and looked at the current policy landscape, we identify some policy gaps which we feel there is scope to address. This was informed by discussions with expert advisors, and through feedback from a roundtable event held with patients groups, employer groups and employers. Gaps have been categorised as follows:

### *Implementation of legislation*

- The Equality Act still fails to protect many employees with fluctuating health conditions from discrimination;
- Reasonable adjustments (and likely flexible working) provisions are in many cases still not being developed with consideration of the significant proportion of employees with fluctuating needs who seek to access them, creating a considerable burden for some employers;
- There is a disproportionate focus on 'safety' by employers when implementing health and safety legislation – this does not fit with the broader concept of health and safety we understand today which includes provision for wellbeing and rehabilitation.

### ***Provision of occupational health support and advice***

- There is limited access to specialist occupational health support for people with fluctuating conditions, including through Fit for Work. For example the focus on longer periods of sickness absence, and a singular assessment might not sufficiently account for fluctuating symptoms. How well small business are provided for is also noted;
- Knowledge sharing between GPs and employers, as facilitated by the Fit Note, is still weak, and more needs to be done to enhance the ability of clinicians, employers, and employees to share knowledge and improve understanding of the variability of an employee's health condition and implications for their work;
- There is a lack of awareness of the importance of health and work in primary care.

### ***Help for employers to fulfil their obligation to individual employees***

- There is limited access to knowledge of 'what works' and 'what has worked' in making workplace adjustments, given the considerable variation within and between fluctuating conditions;
- There is dissatisfaction around access to financial support and adjustment advice through Access to Work;
- Organisational culture and stigma provide a barrier to work for those with fluctuating health conditions, marked by a poor understanding by employers and colleagues about fluctuating conditions.

### ***Support for employers to take a strategic 'whole of business' view***

- Difficulty in taking a strategic, 'whole of business' approach to fulfilling requests for reasonable adjustments and managing access to work funds, as well as fulfilling flexible working requests when many employees require them;
- There is a lack of compensation for employers for employee sickness absence (given the removal of the Statutory Percentage Threshold scheme).

## **Recommendations**

We have developed a series of recommendations to address each of the above gaps – suggesting ways in which policy might be revised or updated.<sup>1</sup>

At the forefront of these, we call on government to support measures to increase the flexibility of sickness absence policies, to allow employees with fluctuating health conditions

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<sup>1</sup> In our gaps section we highlighted 4 themes under which gaps sit, one of these was in the 'implementation of legislation'. We do not directly address this with our recommendations, as we believe increasing compliance with legislation is best achieved through changes in workplace culture and practice – this would be encouraged through our other areas of recommendations.

to preemptively arrange part-time sick leave. Modelled on the ‘Part-time sick pay’ system already operating in the Nordic countries, employees could arrange to reduce hours in agreement with their line managers for a set amount of time, in the early stages of their condition flaring. In addition we recommend that the scope of income protection insurance be further developed so that businesses can better support those with fluctuating conditions to remain in work. This would mean that in the event of sustained absence the employer could continue to pay the employee and receive compensation for this, along with offering them rehabilitation support to facilitate an earlier return to work.

The following table provides an overview of the full set of recommendations. Though some stand alone, in order to comprehensively address existing challenges to providing appropriate employer support for employees with fluctuating conditions, it is suggested that the development of ‘clusters’ of coordinated recommendations be developed. This would provide a more comprehensive strategy for ensuring employers are equipped and able to support employees with fluctuating conditions to remain in, or return to, work.

Many of these recommendations would require costing, feasibility testing and piloting to ensure that they fit the needs for which they are suggested. It is vital to work with stakeholders, particularly people living with fluctuating conditions and employers, large and small, and clinicians to ensure that any solutions developed are appropriate to their needs.

Identified Gap	Policy recommendations
<b>Access to occupational health support for people with fluctuating conditions</b>	<p data-bbox="619 1137 1356 1211"><i>Improving access to specialist occupational health support for people with fluctuating conditions</i></p> <ol data-bbox="619 1249 1356 1825" style="list-style-type: none"> <li data-bbox="619 1249 1356 1323">1. Development of template for an employee-owned ‘health at work’ record</li> <li data-bbox="619 1346 1356 1420">2. Increasing local commissioning of occupational health and vocational rehabilitation support</li> <li data-bbox="619 1442 1356 1554">3. Better incentivising the NHS to see work as a positive health outcome for those with long-term and fluctuating conditions</li> <li data-bbox="619 1576 1356 1650">4. Monitoring how Fit for Work is addressing the needs of service users with fluctuating health conditions</li> <li data-bbox="619 1673 1356 1825">5. Improving access to specialist occupational health support for small business through partnership with NHS and other providers</li> </ol>

<b>Employers fulfilling their obligation to individuals</b>	<i>Helping employers to fulfill their obligation to individuals – access, empowerment and knowledge</i>
	<ol style="list-style-type: none"> <li>6. Improving and expanding Access to Work’s provision for fluctuating conditions</li> <li>7. Undertaking a targeted information sharing campaign for employers about how to create a right to request policy and its benefits</li> <li>8. Developing a ‘best practice’ database of adjustments and supports for people with fluctuating conditions</li> </ol>
<b>Employers taking a strategic ‘whole of business’ view</b>	<i>Encouraging and supporting employers to take a strategic ‘whole of business’ view</i>
	<ol style="list-style-type: none"> <li>9. Providing advice to employers on how to develop a strategic approach to managing fluctuating conditions in their business</li> <li>10. Developing models which would promote wider uptake of Income Protection (IP) insurance through the workplace and building the evidence base around the effectiveness of rehabilitation services offered</li> <li>11. Developing an early part-time sick pay model</li> </ol>

If the NHS, the welfare system and modern workplaces are going to support people living with these conditions to have active, high quality and fulfilling working lives then much more will need to be done to ensure that ‘work ability’ is a treatment goal for clinicians, and that job retention and return to work are a priority for the Department for Work and Pensions (DWP) and employers. Sadly, for too many people trying to work with a fluctuating condition, the quality of support they receive also fluctuates far too much.

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## Chapter 1 Fluctuating conditions and work

In this chapter we consider what we mean by a 'fluctuating condition' for the purpose of this policy paper, and why they can be such important issues for work.

### What do we mean by fluctuating conditions?

Fluctuating conditions are chronic conditions, physical and/or mental. They are characterised by significant variation in the overall pattern of ill health and/or disability. This may be combined with variations in the type and severity of the symptoms experienced, so while some aspects of health remain relatively stable, other aspects may be highly changeable (adapted from MS Society et al., 2011). Examples of fluctuating conditions can be found in Box A – they may include those where symptoms fluctuate as a result of an underlying health condition, periodic or seasonal conditions, or may be the result of essential medical treatment (MS Society et al., 2011).

#### Box A: Conditions which might be seen as 'fluctuating'

- **Physical health conditions** – these include chronic infections such as hepatitis and HIV; inflammatory bowel diseases such as Crohn's Disease and ulcerative colitis; neurological conditions such as multiple sclerosis (MS), myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS) and Parkinson's; rheumatological disorders such as fibromyalgia, repetitive strain injury (RSI), rheumatoid arthritis and systemic lupus (SLE); and hormonal disorders such as diabetes.
- **Mental health conditions** – these include depression, bipolar disorder and schizophrenia.
- **Periodic/Seasonal conditions** – these include some cases of allergic disease, asthma, migraine, sickle cell disease.
- **Treatment related** – these include the use of antiretroviral therapy in HIV/AIDs and certain Parkinson's treatments.

Source: MS Society et al., 2011

Where conditions are first diagnosed at a young age and an individual is in the early stages of their career (or still in education), they may have a life-course impact.

Many people will experience more than one fluctuating condition. The negative impact of a

fluctuating physical condition on quality of life and ability to work may be exacerbated by the development of a co-morbid mental health condition. For example, the level of depressive feelings among people with arthritis (marked by fluctuating chronic pain) is associated with reduced functional capacity (Doeglas et al., 2004).

Box B provides an overview of some of the defining characteristics of fluctuating conditions. In the following section we look specifically at how such conditions are seen as effecting employment.

### **Box B: Key characteristics of fluctuating conditions?**

The following provides an (inexhaustive) list of factors seen as characteristic of fluctuating health conditions, and pertinent to the discussion around employment.

- Very individual (effect different people very differently)
- Unpredictable (especially in the first few years)
- Invisible
- Often involve chronic (i.e. lasting at least 3 months) and include disabling pain & fatigue
- Can be hard to diagnose precisely
- Have a non-linear presentation, pathology or recovery pathways
- Can be hard to explain to others
- Can be easily attributed by others to somatisation
- Can't often be prevented or cured in the conventional sense
- Can be controlled or managed over time
- Can be catastrophised by doctors, patients, families, employers and co-workers
- Can elevate the risk of developing comorbid mental illnesses
- Usually result in lower work productivity, higher presenteeism and premature work loss or retirement.

## **Working with fluctuating conditions**

It is the changeable nature and the lack of predictability that marks out fluctuating conditions and is particularly problematic for employment. Fluctuating chronic pain for example, a symptom of many health conditions, has been identified as having a substantial negative impact on work-related outcomes, including sickness absence, productivity, presenteeism, as well as in terms of job loss (Patel, Farquharson, Carroll et al., 2012).

The lack of predictability that often characterises fluctuating conditions is a considerable

challenge for those seeking to remain in work. Previous research highlighted that the uncertainty inherent in such conditions is also seen as challenging by employers (Lalani et al., 2012; MS Society et al., 2011; Sinclair, Martin & Tyers 2012).

Such conditions therefore influence wellbeing and ability to function at work at an individual level, as well as presenting a substantial problem in terms of planning and developing appropriate support. People may fluctuate between the extremes of being fully able to work, and being completely incapable of work (though most will find themselves somewhere in the middle) (MS Society et al., 2011). This makes assessments of the needs and ability to work very difficult, as assessments will likely occur at specific points in time, rather than on an ongoing basis (a concern highlighted in the review of Work Capability Assessments<sup>2</sup>).

Often, symptoms are also invisible, for example fatigue, pain, and problems with memory. This can create issues around trust, and may influence the ability of employers and co-workers to understand. Patients and patient groups have identified unsupportive attitudes among colleagues as a particular barrier to remaining in work (as well as a barrier to self-management (Summers, Bajorek & Bevan, 2014)).

For employers, there is often the concern that a fluctuating condition means less reliability in terms of taking sick leave and the need to change working hours/duties, sometimes significantly and at short notice (MS Society et al., 2011). Some employers, and particularly smaller employers, may find it hard to retain employees in light of such possibilities. Both long and short periods of sickness absence (the latter often associated with fluctuating conditions) present issues – there are direct costs including temporary staff replacement at late notice, as well as the indirect costs of absence, such as quality of work, continuity of service, and the challenges of organising a ‘handover’ of duties. Job loss is often devastating for someone with a fluctuating condition. Searching for a new job, entering self-employment (which is often lower paid), or seeking to access disability benefits, all present their own challenges. Many would like to return to work, but have found their condition to be a substantial barrier, requiring more support, flexibility and understanding from employers and government agencies than is currently available to them.

## **Fluctuating conditions as a workforce issue**

*“Developing a fluctuating condition in work was devastating for me. I struggled with my employer to get reasonable adjustments put in place and had a challenge with my manager who failed to understand my condition and constantly questioned my need for support. The stress of the tribunal and return to work interview offered by my employer, which discounted the advice and recommendations from Occupational Health, led me to resign from my job and effectively ended my career. All of this had a further deleterious effect on my health and well-being.*

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<sup>2</sup> Improving the Work Capability Assessment. Available at: <https://www.gov.uk/government/policies/simplifying-the-welfare-system-and-making-sure-work-pays/supporting-pages/improving-the-work-capability-assessment> [Accessed 19/01/2015]

*Although I won on point at Tribunal and there is a public record of what happened to me, there were no real winners as I no longer had the job I had loved doing and my employer lost someone who they had previously seen as a valuable member of staff.”*

**– Jacqueline Winstanley, CEO Universal Inclusion, Chair UK Forum for Hidden & Fluctuating Conditions, International Advisory Board Member C4GEI.**

The presence of fluctuating conditions is an increasing issue in the workforce – it is estimated that by 2030, four out of ten of the working age population will have a chronic condition, many of which will be fluctuating in nature. For people over 50 in 2014 this figure is already 42 per cent (Vaughan-Jones & Barham, 2009). Increasingly we are looking to employers to see how they are managing this situation – what steps they can and are taking to ensure that this (sometimes substantial) proportion of their employees can remain in their jobs and work effectively. This would reduce the costs to the business, but also the costs to society through helping people to stay in work and not move onto incapacity benefits. Most importantly it would reduce the costs to the individual, which are often poorly considered (Schofield et al., 2011).

The workplace is seen as having a key role to play in supporting and promoting employee health and wellbeing (Black, 2008). The first paper of the Health at Work Policy Unit *‘The Way Forward: Policy options for improving workforce health in the UK’* (Bajorek et al., 2014) reiterates the ‘business case’ for developing a workplace health and wellbeing strategy. Investing in staff health and wellbeing is a win-win situation for employers and employees – with financial benefits being realised in the longer term through the retention of better supported, engaged employees. By taking a considered and proactive approach to employee health and wellbeing, organisations can increase their resilience to the realities of the workforce – building organisations which are flexible, agile and adaptive to the needs of a more diverse workforce with diverse working patterns, health needs and caring responsibilities, while maintaining business success and operational flow.

In this paper we identify policy levers which could be used to encourage and support employers to do ‘what works’ to create businesses better adapted to these needs – improving employee productivity, as well job retention, and securing business resilience and sustainability into the future.

Chapter 2 looks briefly at what we know about good practice in managing employees with fluctuating health conditions. In Chapter 3 we consider the current policy picture in terms of how employers of and employees with fluctuating conditions are being supported. This leads us to Chapter 4, in which we identify some ‘gaps’ in policy, before making a number of recommendations in Chapter 5 for what policymakers might do to fill these gaps.

## Chapter 2 What do we know about managing fluctuating conditions at work?

The diversity within fluctuating conditions and the people that have them creates a challenge for defining ‘what works’ in terms of their management at work. What might benefit one person in one job may simply not be appropriate for another. However, through reviewing the research literature and consultation with patients, patient groups and employers, we have identified some key concepts which are seen as beneficial in supporting people with fluctuating conditions to remain in work: **shared-decision making**; **empowerment**; and **flexibility and creativity**. These will be discussed further below. Before doing so we highlight briefly several other themes which run through these key concepts, and should be considered in developing policy in this area.

The need to enhance the **knowledge** of all stakeholders – including employers, employees and clinicians is pivotal to developing effective strategies and providing appropriate support, as is the importance of taking a **person-centred** approach, focussing on that individual and their situation. Developing and implementing successful strategies for individual employees is often dependent on the quality of the line manager and their relationship with the employee. The line manager can directly affect employee sickness absence and wellbeing (Black, 2008; NICE, 2014; Post, Krol & Groothoff, 2005; Waddell, Burton & Kendall, 2009) and **good people management** has been found to be integral in facilitating a successful return to work (BOHRF et al., 2010; Cohen et al., 2012).

Underpinning the success of strategy development and delivery is **open communication**. It is only through open, honest dialogue that the needs of both the employee and the employer can be understood and worked from. Such honesty requires that the employee can **trust** that their employer is committed to supporting them - with the decision to disclose often difficult. Trust is very important for a successful return to work (Wainwright, Wainwright, Keogh & Eccleston, 2013). Trust goes both ways, and support for an individual will often be driven by manager and colleague assessment of the authenticity of illness (Wainwright et al., 2013). Employers will need to be able to trust their employees’ descriptions of their health and needs – even where symptoms are less visible and more subjective (such as chronic pain).

Access to **occupational health services** (OHS) are often seen as helpful where employees have fluctuating health conditions. OHS, found in many organisations, provide organisational and individual advice on all aspects of health and work.<sup>3</sup> This may include preventing work-

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<sup>3</sup> Tips for Purchasing Occupational Health Services. Available at: [http://www.hseni.gov.uk/purchasing\\_occupational\\_health\\_services.pdf](http://www.hseni.gov.uk/purchasing_occupational_health_services.pdf) [Accessed 20 Jan 2015]

related diseases, health surveillance of the workforce and sickness absence management. Good practice is seen as about adapting the work to the worker and not the other way round.<sup>4</sup> Guidance is provided to employers and employees on what adaptations to work might best support their condition, while providing access to or signposting to vocational rehabilitation professionals (e.g. physiotherapists, psychotherapists) who might be able to improve health. OHS provision is more common in larger employers. Almost two thirds of employers with 250 or more employees have an occupational health service, compared to one in five small employers (1-50 employees) (Wood, Silvester & Steadman, forthcoming). Several government interventions have been directed at enhancing occupational health support for small employers, seen as a particular challenge in improving health and wellbeing among employees.

### **Shared decision making and shared knowledge**

Shared decision making is a best practice approach in employee health and wellbeing, particularly in job retention and return to work (Black, 2008; Cohen et al., 2012; Wainwright et al., 2013). Often used from a clinical perspective, shared decision making describes a scenario where the health professional and patient share their respective expertise and make decisions in partnership (*“no decision about me, without me”*). When applied to employment, we find that in order to identify the most effective and appropriate solutions, we must bring together all the relevant expertise – those with understanding of that particular job, the work team, the broader demands of the business, as well as the individual – who understands their own health, their own needs and how these interact with their job.

Given the inherently individual nature of many fluctuating conditions, engaging the individual employee is crucial in understanding how a condition presents (e.g. the frequency and severity of fluctuations, and what might trigger onset or worsening symptoms (MS Society et al., 2011)) and therefore how it might be managed and what adjustments might be helpful. Engagement of the individual in decision-making and improved communication is also positive for psychological health and is associated with reduced sickness absence (Cohen et al., 2012; Michie & Williams, 2003).

Clinical expertise will of course also have a role, and there needs to be a more coordinated approach between clinicians, employees and employers in order to develop the most appropriate health support at work (Cohen et al., 2012).

### **Empowering individuals – employees and their managers**

Individuals and their line managers need to be empowered to make the decisions they have made together a reality in the workplace. Static and inflexible company policies can form a barrier to making changes which would benefit both the employee and ultimately the employer. For example, policies around working hours or home working may be so rigid as to prevent innovations which could allow an individual to continue to work effectively, while

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<sup>4</sup> What is occupational health? Available at: [http://www.worksmart.org.uk/health/what\\_is\\_occupational\\_health](http://www.worksmart.org.uk/health/what_is_occupational_health) [Accessed 20 Jan 2015]

policies around sickness absence might penalise an individual for their absence, even where it is not seen as a problem by the manager. Any organisation that wishes to take a proactive approach to supporting employees with fluctuating health conditions must empower and allow space to both employees and their managers, to allow changes to be made which support the needs of both parties – allowing productive work to continue while meeting the broader organisational needs.

This might include empowering individuals to self-manage their condition at work. The ability to do this may be constrained by particular environments – with smaller organisations identified as being less able to support this than larger organisations, and similarly private organisations felt to be less supportive than public organisations (Summers et al., 2014). Also, we might think in terms of empowering employers through increasing their confidence to provide support. Many employers, though willing to make changes and better support employees, are held back by doing so by limited knowledge on how this might be done, lack of confidence, or lack of organisational support. Many require reassurance that what they are doing is appropriate for their employee and the business.

### **Flexibility, creativity and an open mind**

As suggested above, solutions to some problems might fall outside of what is considered 'normal' within an organisation. A fluctuating condition may mean that certain elements of work are difficult or not possible at certain times, requiring (often temporary) changes to hours or specific duties (MS Society et al., 2011). Flexible working, and in particular short-term emergency leave (e.g. for appointments) is highly valued by people with chronic health conditions (Wood, Silvester & Steadman, forthcoming). Such modified work has been identified as both significant and cost effective (Cohen et al., 2012; McHugh, 2001), often allowing an individual to keep working, avoiding the element of the job that is problematic (e.g. working in the morning) rather than stopping work altogether.

In order to identify effective solutions, employers need to be flexible and creative – having an open mind about what might be possible. There may need to be a more flexible approach to work and working models than is traditional, such as enabling home working, or indeed in some cases a more flexible approach to the business and to the expectations of employees. This means a shift away from thinking that a good employee outcome is attendance from 9-5, Monday to Friday, to focus instead on the job/task outcomes, irrespective of whether they are achieved outside of 'normal' business hours.

With greater flexibility there can be greater creativity – with decision making partners thinking outside the box about what might be useful to support someone to remain in work. For example, patient groups have advised us that often it is getting to work itself that is a concern, more than actually doing the work. In such cases providing access to alternative forms of transport to work might be a more valuable approach than making changes to aspects of work or working time.

## Summary

Many of the above concepts require a shift in the attitudes of employers, managers, co-workers and even individuals with fluctuating conditions themselves. Some employers are working towards these ideas already, while others are lagging behind. It is suggested that government policy has a role to play in enhancing those trying to make a difference to continue to do so, while encouraging those who are not yet in this space to take action.

Designing government policy which has an influence on work culture and employer attitudes is challenging. Policymakers traditionally focus on initiatives to tackle health based discrimination, and to increase employer and employee access to clinical expertise and support – helping employers fulfil their legal obligations as well as improving the health of employees to allow them to remain in work. In the following chapter we consider what policy mechanisms currently exist which improve support for employees with health conditions and disabilities to remain in work.

## Chapter 3      Review of current policy mechanisms

A number of government policies are focussed on better supporting people to return to and remain in work when they have a chronic health condition. These often centre on supporting, advising or encouraging employers to retain employees and provide support which will facilitate their retention, and encourage productive working. Many such policies are co-ordinated through the Health, Work and Wellbeing initiative<sup>5</sup> – a cross-governmental programme involving Department of Work and Pensions (DWP), Department of Health (DH), Health and Safety Executive (HSE), the Scottish Government and the Welsh Government and the Department for Business, Innovation and Skills (BIS). The publication of the 2008 review of the health of Britain's working age population, '*Working for a healthier tomorrow*' (Black, 2008), the development of a suite of *Health, Work and Well-being indicators* in 2010 measuring aspects of health and work (including out of work measures) for employers and employees (Department for Work and Pensions, 2010), and the '*Independent review into sickness absence*' in 2011 (Black & Frost, 2011), have all been major drivers of this agenda. Through these, policy initiatives such as the statement of fitness for work (commonly known as the Fit Note), the health at work occupational advice line, and Fit for Work have all been developed.

In this chapter we will review these and other policy mechanisms identified as playing an important role in this area and in the next chapter we will consider whether they work optimally and where there might be gaps, particularly in terms of the needs of those with fluctuating conditions.

### Legislation

A number of laws exist which look to protect and support people with health conditions and disabilities to remain in work. A summary of some of these can be found in Table 3.1.

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<sup>5</sup> Helping people to find and stay in work. Available at: <https://www.gov.uk/government/policies/helping-people-to-find-and-stay-in-work/supporting-pages/co-ordinating-the-health-work-and-wellbeing-initiative> [Accessed 3 Dec 2014]

**Table 3.1: Summary of UK legislation on health and work**

Name	Purpose	Key elements
<b>The Equality Act 2010</b>	To make it illegal for employers to discriminate against people with disabilities	<ul style="list-style-type: none"> <li>• Protections around recruitment, redundancy and retirement.</li> <li>• Right to non-disclosure.</li> <li>• Requirement to make 'reasonable adjustments'.</li> </ul>
<b>Flexible Working Regulations 2014 (right to request) for the Employment Rights Act 1996</b>	To provide <i>all</i> employees the legal right to request flexible working.	<ul style="list-style-type: none"> <li>• Employers must consider all requests, and if refusing must provide business reasons for this decision.</li> <li>• The reason for the request (e.g. health, caring etc.) is not part of the consideration.</li> </ul>
<b>Health and Safety at Work Act 1974 and Management of Health and Safety at Work Regulations 1999</b>	To ensure the health, safety and welfare of employees at work. Including minimising the risk of stress-related illness or injury to employees.	<ul style="list-style-type: none"> <li>• Sets out the general duties which employers have towards employees, and employees have to themselves and to each other.</li> <li>• Requires conducting risk assessments where there are 5 or more employees.</li> </ul>

A range of guidance exists to support employers to fulfil these provisions, for example provided through ACAS, government departments, patient groups and others.

## Access to occupational health services

### *Fit for Work (FfW)*

Fit for Work (FfW) service is the flagship DWP government programme for improving access to occupational health in the UK (with some national differences between devolved countries). The service aims to enhance access to occupational health for all employers, and particularly smaller employers who are less likely to have access to organisational occupational health services. The service is funded through the abolition of the Statutory Sick Pay Percentage Threshold Scheme (PTS), which occurred in 2014. The PTS compensated employers (primarily smaller employers) for higher than average sickness absence.

The FfW Service has two components – advice and assessment. The main aspects of these are summarised in table 3.2. The ‘advice’ element commenced in December 2014, and the assessment element commenced in January 2015 in Sheffield – to be rolled out nationwide from Spring 2015.

**Table 3.2: Summary of Fit for Work**

Key points	
<b>Advice – phone line and web resources</b>	<ul style="list-style-type: none"> <li>• Developed from ‘Health at Work’ advice line and web resource.</li> <li>• Provides free, impartial work related advice to all (including employers, employees, and GPs).</li> <li>• Online library of advice on health and work topics.</li> </ul>
<b>Assessment – occupational health phone assessment</b>	<ul style="list-style-type: none"> <li>• GPs and employers may refer employees to the assessment service. Employers can refer employees where they have reached 4 weeks sickness absence. GPs may refer earlier where it is anticipated the employee will have at least 4 weeks sickness absence.</li> <li>• Employees will be assessed over the phone by an occupational health professional. The assessment will seek to identify all potential obstacles preventing the employee from returning to work.</li> <li>• A Return to Work plan will be developed and sent to the employee. This will include recommendations to help the employee return to work more quickly, and will direct them to sources of further help and advice.</li> <li>• A tax exemption of up to £500/year for each employee will be available on medical treatments recommended by service.</li> </ul>

### ***The NHS Health at Work network***

The NHS Health at Work network and Syngentis (formerly NHS Plus<sup>6</sup>) provide local businesses, as well as large multi-site business with bespoke occupational health services through the NHS<sup>7</sup>. Services include absence management, rehabilitation, risk assessment,

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<sup>6</sup> In March 2013, NHS Plus was replaced by a new NHS Health at Work Network and a social enterprise, Syngentis  
<sup>7</sup> Support for Business. Available at: <http://www.nhshealthatwork.co.uk/support-for-business.asp> [Accessed 3 Dec 2014]

health surveillance and prevention, immunisations and health promotion and wellbeing.

Whether a local NHS provides these external occupational health services varies by location. Requests from small businesses are often ad hoc, and tend to be made as a response to a specific issue, for example, relating to a legal requirement or a HSE inspection. Awareness of the provision is usually through SME HR networks, or local chambers of commerce. A review of NHS provision of occupational health services externally, and particularly the SME market, was conducted in 2007 (Strategycom, 2007), but there has not been any follow up research to demonstrate the size of the market today, the extent to which this provision is used by small businesses, or how successful this is. It is anticipated that there will be some cross-over with the new FfW service.

## Access to Work

The DWP Access to Work scheme is the primary source of government support for making adjustments to enable people with chronic health conditions and disabilities to remain in work. The scheme has been running since 1994, and in 2011 was complemented by the development of a specific mental health Access to Work programme, ‘the Workplace Mental Health Support Service’. Access to Work provides grants to individuals already in, or about to commence work, to support workplace adjustments to be made, where they are seen as above and beyond those “reasonable” adjustments required by legislation. It also provides support and guidance on what adjustments and support might be appropriate. This may include things like new specialist equipment or adaptation to equipment; flexible working arrangements; fares to travel to work if public transport can’t be used; job coaches; or disability awareness training for colleagues.<sup>8</sup>

The Work and Pensions Committee held an Inquiry into Access to Work in 2014. The report “*Improving Access to Work for disabled people*” was published in December 2014 (Work and Pensions Committee, 2014).

## Access to further support and guidance

Other types of advice and support are also available to employees and employers regarding health conditions and employment.

**Guidance for employers and for individuals** provides information on good practice and advice to support and empower employers when supporting employees with health conditions. These are primarily produced by government partners in the Health, Work and Wellbeing initiative<sup>9,10,11</sup> and many resources are available through the Fit for Work online

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<sup>8</sup> Access to Work. Available at: <https://www.gov.uk/access-to-work> [Accessed 3 Dec 2014]

<sup>9</sup> Health, work and wellbeing case studies. Available at: <https://www.gov.uk/government/collections/health-work-and-wellbeing-case-studies> [Accessed 3 Dec 2014]

<sup>10</sup> Specialist disability employment support real life stories. Available at: <https://www.gov.uk/government/collections/specialist-disability-employment-support-real-life-stories> [Accessed 3 Dec 2014]

<sup>11</sup> Working Together to Prevent Sickness Absence Becoming Job Loss. Available at: <http://www.hse.gov.uk/pubns/web02.pdf> [Accessed 11 Nov 2014]

resource.<sup>12</sup> This includes guidance on prevention and management of health conditions at work, as well as specific information on return to work processes and sickness absence management, including some case studies to highlight good practice.

Numerous resources have also been developed by non-government bodies, in particular occupational health services (Yarker et al., 2014). Condition specific guidance is also available, often developed by patient groups or the health sector, providing guidance on best practice in job retention and return to work for people with those conditions. For example: Macmillan: Going back to work after Cancer treatment<sup>13</sup>; MS Society: Work and MS<sup>14</sup>; Mind: Managing and supporting mental health at work<sup>15</sup>; NHS Choices: Returning to work after mental health issues.<sup>16</sup>

Government-led resources include a number of voluntary agreements, designed to encourage employers to take positive and affirmative action on employee health and wellbeing, for example:

- Workplace wellbeing tool<sup>17</sup>: to help employers to work out the costs of poor health and wellbeing to their business to the end of building a business case.
- Public Health Responsibility Deal<sup>18</sup>: to encourage employers to participate in the public health agenda.
- Employer's charter<sup>19</sup>: to help employers understand exactly what they can and can't do when managing staff. It covers assessments of fitness to work and action employers can take in connection with sickness absence.

## The Statement of Fitness for Work – the “Fit Note”

The DH's Statement of Fitness for Work, commonly known as the “Fit Note”, was introduced in 2010. It was developed to transform the formal sickness certification process into a way of also providing health related return to work advice to employers. The aim was to enable individuals to return to work quicker after a period of sickness absence, even when not 100 per cent fit. The GP has the option to mark the patient as being 'fit for work taking account of the following advice'. Advice is usually for temporary revisions to a job to accommodate health needs e.g. a phased return, altered hours, amended duties and workplace

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<sup>12</sup> Fit for Work Advice Hub. Available at: <http://support.fitforwork.org/app/home> [Accessed 3 Dec 2014]

<sup>13</sup> Available at: <http://www.macmillan.org.uk/Cancerinformation/Livingwithandaftercancer/Workandcancer/Supportforemployees/Workcancer/Goingbacktowork.aspx> [Accessed 3 Dec 2014]

<sup>14</sup> Available at: <http://www.mssociety.org.uk/sites/default/files/Documents/Core%20pubs/Work%20and%20MS%201210%20-%20Web.pdf> [Accessed 3 Dec 2014]

<sup>15</sup> Available at: [http://www.mind.org.uk/media/44253/Managing\\_and\\_supporting\\_MH\\_at\\_work.pdf](http://www.mind.org.uk/media/44253/Managing_and_supporting_MH_at_work.pdf) [Accessed 3 Dec 2014]

<sup>16</sup> Available at: <http://www.nhs.uk/Livewell/mentalhealth/Pages/returning-to-work-mental-health.aspx> [Accessed 3 Dec 2014]

<sup>17</sup> Available at: <https://www.gov.uk/government/publications/workplace-wellbeing-tool> [Accessed 3 Dec 2014]

<sup>18</sup> Available at: <https://responsibilitydeal.dh.gov.uk/> [Accessed 3 Dec 2014]

<sup>19</sup> Available at: <https://www.gov.uk/government/publications/managing-staff-what-employers-can-and-cant-do> [Accessed 3 Dec 2014]

adaptations (Wainwright et al., 2013). Guidance is available for employers (DWP, 2013a), employees (DWP, 2013b) and GPs<sup>20</sup> around the use of the Fit Note.

## Employment and the health system

The health system is increasingly being encouraged to take a proactive approach to return to work – given the inherent expertise of healthcare professionals about the needs of those with chronic health conditions. A number of other policies might be seen as encouraging the health system to take a proactive approach to health at work:

- Measuring employment as a health outcome: Increasingly employment is being recognised as a health outcome within health-related indicator sets. For example, related outcome measures can be found in the Clinical Commissioning Group Outcome Indicator Set (CCGOIS)<sup>21</sup>, the NHS Outcomes Framework<sup>22</sup> and the Public Health Outcomes Framework<sup>23</sup>.
- Healthy Working UK<sup>24</sup>: provides information for GPs/primary healthcare professionals. It includes news, training and decision aids to support the management of health and work, including the Fit Note. The website was developed by the Royal College of General Practitioners, the Society of Occupational Medicine and the Faculty of Occupational Medicine, with support from DWP.

There are many examples of where health professionals are taking a proactive approach to providing better quality health and work advice to patients. GPs may choose for example to access **training and CPD on occupational health**.<sup>25</sup> For those GPs who do not feel confident or able to provide occupational health advice themselves, they may elect to **employ an occupational health specialist in their practice** to provide support to individuals or local businesses.

Also worth noting is the role that other clinicians can have in supporting health at work. Our research with people with fluctuating conditions (such as multiple sclerosis, irritable bowel disease and rheumatoid arthritis) has highlighted the important role of **Specialist Nurses** in supporting employees to think about how their health affects their life more broadly, particularly in relation to health, for example, referring people to programmes such as Access to Work (Bajorek et al., 2015; Bevan et al., 2011; Summers et al., 2014). Self-management groups may also provide employees with specific work-related advice and support.

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<sup>20</sup> Getting the most out of the fit note. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/349909/fitnote-gps-guidance-jan-14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349909/fitnote-gps-guidance-jan-14.pdf) [Accessed 3 Dec 2014]

<sup>21</sup> Available at: <http://www.england.nhs.uk/ccg-ois/> [Accessed 3 Dec 2014]

<sup>22</sup> Available at: <https://www.gov.uk/government/publications/nhs-outcomes-framework-2013-to-2014> [Accessed 3 Dec 2014]

<sup>23</sup> Available at: <http://www.phoutcomes.info/> [Accessed 3 Dec 2014]

<sup>24</sup> Available at: <http://www.healthyworkinguk.co.uk/> [Accessed 3 Dec 2014]

<sup>25</sup> Health and Work in General Practice. Available at: <http://www.rcgp.org.uk/courses-and-events/health-and-work-in-general-practice-events.aspx> [Accessed 3 Dec 2014]

## Chapter 4 Current policy gaps

Having reviewed the evidence around what works to support people with fluctuating conditions to remain in work, and looked at the current policy landscape, we will now identify some policy gaps which we feel there is scope to address. This section has been informed by discussions with expert advisors, and through feedback from a roundtable event held with patients groups, employer groups and employers in November 2014.

### Implementation of legislation

Though there are a number of pieces of legislation which support individuals with fluctuating conditions in the workplace, there is some doubt as to how well they are implemented and adhered to by organisations.

For example, the Equality Act seeks to protect individuals against discrimination on the basis of their health, however a survey of people with cancer found that around one in ten people who returned to work after treatment felt harassed to the point that they felt they could not stay in their job.<sup>26</sup>

The Equality Act also provides the right to non-disclosure, this aims to prevent discrimination by allowing people to choose to keep their health condition private from their employer. However, where disclosure does not occur employees will be severely limiting their potential to access in-work support. Consequently, though it is important to have the right to non-disclosure, given the discrimination often faced by people with health conditions and disabilities, this does little to counter the cultural and practical barriers to disclosure at work and more still needs to be done in this area.

In regards to making reasonable adjustments, it has been suggested that this requirement was implemented (firstly in the Disability Discrimination Act), without full consideration of the increasing numbers of employees with health conditions being recruited and retained. For example, over four years, Lloyds Bank provided workplace adjustments for more than 18 per cent of their workforce, over 22,000 people. Other organisations report the proportion of employees with disabilities in their workforce is as high as 30 per cent (Scott-Parker & Selvanera, 2014). Some organisations have had to contract in additional services to manage the high levels of adjustments required in their workforce – particularly where additional funding and support for individual adjustments is coming from the Access to Work scheme (Scott-Parker & Selvanera, 2014).

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<sup>26</sup> Legislation about work and cancer. Available at: <http://www.macmillan.org.uk/Cancerinformation/Livingwithandaftercancer/Workandcancer/Supportformanagers/Employersguide/Section5/Legislation.aspx> [Accessed 3 Dec 2014]

There are concerns that a similar scenario may occur with the new flexible working regulations and employers are concerned about how the right to request regulation will affect them. A recent survey by the British Chamber of Commerce found that only 17 per cent of employers felt the right to request regulation was a positive contribution, with many highlighting that they sought to provide flexible working and remote/home working anyway (62 per cent and 38 per cent respectively).<sup>27</sup>

The Health and Safety at Work Act controls health and safety risks for all employees. In practice however it is often heavily weighted towards the traditional 'safety' aspect, particularly injury prevention, with less consideration of 'health' aspects, such as the management of health conditions not seen as directly caused by work, and prevention (including of psychosocial risks). Many employers, particularly small employers, will do the minimum in order to be compliant with legislation, often due to limited resources and poor awareness of the needs of employees and the organisational benefits.

Though legislation in these areas is undoubtedly positive, given recent shifts in thinking about health at work and how we might better support employees with health conditions to remain in work, legislation alone will be insufficient. Even the newer elements, such as the provision for reasonable adjustments and the right to request, may not have been developed with sufficient consideration of the strategic implications for businesses of fulfilling the requirements for a workforce in which a substantial proportion of employees have fluctuating health conditions. Businesses need more strategic advice on how to comply with legislation, and they need education and support to ensure that they can build policies and processes which both support employees, and allows their business to remain resilient.

## **Provision of occupational health support and advice**

### ***Access to specialist occupational health support for people with fluctuating conditions through Fit for Work***

The Fit for Work (FfW) advice and assessment service has been developed to fill some of the gaps in provision of occupational health support for employees. While the advice service provides a source of general advice over the phone and online to all callers, the Fit for Work assessment service will provide more individualised support for those who have had or are expected to have a longer period of absence.

The advice element (which commenced in December 2014) follows on from the health at work advice line – the evaluation of its pilot highlighted fluctuating conditions as problematic for employers and a common reason for service use. We may expect this to continue, however we do not actually know how effective the service was in dealing with these concerns (Lalani et al., 2012).

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<sup>27</sup> Firms are increasing pay and creating more jobs, says BCC. Available at: <http://www.britishchambers.org.uk/press-office/press-releases/firms-are-increasing-pay-and-creating-more-jobs,-says-bcc.html> [Accessed 8 Dec 2014]

The assessment component began on a small scale in early 2015 and we cannot yet assess its role in supporting people with fluctuating conditions to remain in work. Many parties have raised concerns around the four week sickness absence requirements for eligibility to the service. For those with fluctuating conditions, it is the shorter, not the longer term, absence that is often a problem, with employers also demonstrably concerned about how to manage shorter periods of absence (Lalani et al., 2012).

More generally, current services are often not seen as understanding the specific implications of a fluctuating condition – in particular the invisibility and the considerable variability in how they will impact on someone’s work on a periodic basis (hourly, daily, weekly, monthly or even annually). Concerns have been raised around the assessment component in terms of how appropriate it will be for fluctuating conditions, with concerns that the flaws identified in assessing fluctuating conditions in the Work Capability Assessment (Harrington, 2010) may be reflected in assessments made by FfW. Also to be considered here is that it is likely that the period where a condition is first realised will be the most difficult, and subsequent ‘flares’ may not be as severe, but instead the impact is likely to lessen over time as the individual gains a better understanding of their condition. A factor which is also often missed is the psychological impact of managing a fluctuating health condition, be it physical or mental, particularly where it is placing work at risk or is poorly managed or supported at work.

The FfW assessment must be implemented with the knowledge that a tailored, individual and holistic approach is crucial to providing appropriate support and that in many cases measures will need to be short-term, though changeable. Packages of support need to be fluid and frequently reviewed.

The appropriateness of the FfW service for small organisations (who are less likely to have alternative occupational health support) will be a critical issue. The four week element presents a possible barrier for smaller employers, particularly the smallest, who will struggle with a staff member away for that period of time and will require support to withstand that amount of absence. A further concern is the accessibility of provisions (such as the £500 incentive) for smaller employers, with any onerous administration requirements likely to be a barrier for small businesses with limited resources and administration support.

It is further noted that at present, FfW is not for use by self-employed people – some 4.6 million of the UK population.<sup>28</sup>

### ***Sharing knowledge between GPs and employers***

GP engagement with FfW will be imperative to its success – they will be the main pathway into the assessment service. GPs may also benefit from the FfW advice line, which will provide occupational health advice, potentially of use for informing the Fit Note (along with

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<sup>28</sup> Why has the number of self-employed increased? Available at: <http://www.ons.gov.uk/ons/rel/lmac/self-employed-workers-in-the-uk/2014/sty-self-employed.html> [Accessed 8 Dec 2014]

the existing guidance). Though the 'Return to Work Plan' may become an alternative to the Fit Note in time, this is not clear at present, and presumably such a progression will only be relevant to employees who meet the FfW eligibility criteria.

Consequently the GP Fit Note will remain an important device for employers to access clinical advice on an individual employee. The Fit Note has been found to reduce sickness absence, through the increased likelihood of the correct adjustments being made (Lalani et al., 2012). Studies highlight the value of the Fit Note (Lalani et al., 2012), including for fluctuating symptoms, such as chronic pain (Wainwright et al., 2013). Employers appreciate the positive language and the facilitation of conversations about health between employees and employers, and conversations about work between GPs and employees. Research indicates that employees similarly appreciated this role, finding Fit Notes empowering in conversations with employers about support at work (Lalani et al., 2012; Wainwright et al., 2013).

Scope exists for increasing the effectiveness of the Fit Note. At present, its implementation is not sufficiently joined up across GPs, employers and employees as a tool to support return to work. Increasing the capacity for shared decision making between these three expert partners would be highly beneficial. The Fit Note evaluation (Lalani et al., 2012) highlighted sharing of information between the GP and the employer as a weak point. Employers felt that adjustments were being recommended by clinicians that were not possible to implement, resulting in conflict, or simply disappointment for employees. This might be unsurprising given GPs may not have sufficient occupational health expertise, and will have limited knowledge of the patient's workplace. This may be compounded by the limited time GPs have for consultation (Lalani et al., 2012). The ability of the GP and employer to share information which might increase the knowledge of both parties, and enhance fitness to return to work decisions and advice is a continuing concern.

### ***Awareness of the importance of health and work in primary care***

GP engagement with the health and work agenda in general is sometimes seen as a concern. Work as a health issue is a relatively new concept, and though gaining ground among clinicians, we cannot expect that all GPs will be fully engaged with this agenda – particularly given the wide range of subjects they are already expected to be expert in, and the limited time they have for consultations. Further it is noted that GPs are not always the best placed to provide occupational health advice – anecdotally it has been suggested that patients are not always comfortable with the issue of work being raised in their GP consultations when they are seeking acute support for their fluctuating health condition.

However, given the positioning of GPs and the considerable influence they have over individuals' health related choices (including their involvement in the Fit Note and the FfW service), it is critical that primary healthcare services and particularly GPs are better engaged with this field.

## Help for employers to fulfil their obligation to individual employees

### *Knowledge of 'what works' and 'what has worked' in making workplace adjustments*

As mentioned, the types of adjustments or provisions to best support someone with a fluctuating health condition to remain in work and to work productively will vary from person to person, from job to job and from condition to condition. Establishing what works best for an individual requires not only good communication between employers and employees, but also creative thinking to develop the model that's right for an individual's situation.

Though some sources of guidance and general examples of good practice are out there, given the variation inherent to fluctuating conditions, a few specific examples might not be sufficient to help people to see what might work for them. Often employers are keen to identify and implement support, but are concerned about doing something wrong and would like reassurance.

At an individual level, one initiative to ensure that information is available on what has worked in the past for an employee is the BT Employee Disability Passport.<sup>29</sup> This is an employee-owned tool to enable information to be collected on the individual's health and their health at work needs. Employees are able to take the passport with them to provide advice to new managers or new employer (see Box C).

#### **Box C: BT Employee Disability Passport**

A scheme to document the requirements of employees who have special needs that can sometimes impact on their working life. The passport:

- is empowering – it allows the employee to explain in their own words.
- facilitates disclosure – it is completely voluntary and the individual has control of how much information they share.
- documents reasonable adjustments.
- is confidential – only the line manager/nominated other and the individual have a copy.
- allows a relationship to be built with the organisation to support retention.

Adapted from: [http://www.cwu.org/assets/files/documents/jun\\_10/cwu\\_1275665277\\_Factsheet\\_BT\\_Passport\\_Scheme.pdf](http://www.cwu.org/assets/files/documents/jun_10/cwu_1275665277_Factsheet_BT_Passport_Scheme.pdf)

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<sup>29</sup> NB. there is also a Carers Passport and a Health & Well Being Passport.

### ***Access to financial support and adjustment advice through Access to Work***

Access to Work (AtW) grants can help employees to offset the costs of adjustments with employers, while the Mental Health Support Service (MHSS) provides hands on support to employees to help manage their mental health conditions at work. The recent Work and Pensions Committee Inquiry (2014) on Access to Work identified that the uptake of support was very low. This was true particularly for those with mental health conditions, despite the growth in mental health as a work issue, and the high success rate of the MHSS in supporting job retention for clients. Referral numbers for 2013/14 were only 1600, 3.5 per cent of all AtW (yet the highest since the service begun). Uptake is most common among employees with hearing or sight issues.

Though there are many positive reports about AtW, dissatisfaction has grown over recent years, driven in the most part by an organisational restructure in 2012 (Scott-Parker & Selvanera, 2014). Since then, many support packages have been reduced or removed, despite being for long-term conditions.<sup>30,31</sup> Time taken to process applications, reduction in expertise among AtW consultants, inconsistent decisions and lack of personalisation of service provision were identified in submissions to the inquiry (Scott-Parker & Selvanera, 2014). How well the service caters for the self employed and small business owners is a particular concern.<sup>32</sup> In regards to fluctuating conditions specifically, stakeholders perceived that a lack of creativity among AtW consultants was limiting the opportunity for employees to access appropriate support, for example, poor access to grants for alternative forms of transport to work.

### ***Organisational culture as a barrier to work for those with fluctuating health conditions***

As well as directly affecting health and wellbeing, organisation culture can also be a barrier to disclosure, and to accessing appropriate workplace support (Leka, Griffiths & Cox, 2003). Many people with fluctuating conditions report feeling unsupported in work, and feel as though their condition is not something which their employer wants to or is able to support, or possibly even understands.

Line managers often play a crucial role in supporting and enabling team members with fluctuating health conditions to be productive team members. When making adjustments to hours or to work, the line manager will need to consider any implications changes to work have for the rest of the team to avoid other team members perceiving changes to be unfair, and to ensure that they are not suffering through the reduced productivity of a team member with a fluctuating condition. Relationships with colleagues can be highly influential – colleagues may be sceptical about the presence of a health condition which is both invisible, and highly changeable. This is likely to be driven by poor understanding of fluctuating

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<sup>30</sup> Widespread dissatisfaction with Access to Work. Available at: <http://base-uk.org/members/news/widespread-dissatisfaction-access-work> [Accessed 8 Dec 2014]

<sup>31</sup> What's your experience of Access to Work? Available at: <http://blog.scope.org.uk/tag/access-to-work/> [Accessed 8 Dec 2014]

<sup>32</sup> *ibid*

conditions, and may be exacerbated by general perceptions of unfair treatment by the employer.

### **Support for employers to take a strategic ‘whole of business’ view**

Support and advice for employers are often focussed at an individual level – how to support a particular employee to remain in work. What is often lacking, particularly given the high proportion of employees with fluctuating conditions, is support and advice to take a strategic, organisation-wide approach to supporting employees.

#### ***Strategic support for employers implementing legislation***

Many employers are concerned about the practicalities of fulfilling requests for flexible working and making reasonable adjustments – both of which are regulatory requirements. There will be practical business implications for companies where a considerable proportion of employees have fluctuating conditions and/or require adjustments. Concerns have been heightened by the recent introduction of the right to request legislation, under which employers will need to make judgements about which employees they can afford to grant flexible working to, and which exceed their business abilities. At present there is limited guidance for how employers might manage the potentially significant effort of restructuring business models and teams to accommodate multiple employee requests.

A linked concern is that employees with fluctuating conditions might not be seen as a priority by employers when making decisions around how to manage flexible working requests, particularly given the invisibility of and poor understanding about many of these conditions.

The current formation of Access to Work may also pose an issue. Being accessible only to individual employees reduces the employer’s ability to manage grants made for multiple employees across the business. This, joined with the administration required in the Access to Work process, may be a barrier to taking a strategic approach. As noted above, in some cases external organisations have had to be brought in to manage the burden of the administration attached to multiple Access to Work grants.

#### ***Compensating for sickness absence***

Though creating an appropriately supportive work environment should reduce levels of sickness absence, among staff with fluctuating health conditions and in general, there will likely still be a level of absence which an employer may need to seek cover for. Alternatively, having requests for short term flexible working (i.e. that mornings cannot be worked for a number of weeks) or staff undertaking a phased return to work process, may similarly mean that appropriate cover needs to be sought to ensure the business can continue to run optimally. The removal of the Statutory Percentage Threshold scheme means there is no support available at present to compensate employers for staff absence.

## Chapter 5 Recommendations

In chapter 4 a number of policy ‘gaps’ were identified. Some relate to challenges for which there is no current policy provision while others – indeed the majority – highlight areas where policy might need to be revised, extended, resourced differently or executed more consistently. The identified gaps focus on four core themes:

- **Implementation of legislation**
- **Access to occupational health support for people with fluctuating conditions**
- **Employers fulfilling their obligation to individuals**
- **Employers taking a strategic ‘whole of business’ view**

In response, we have developed a series of recommendations suggesting how policy might be revised or updated to address these themes. Though ‘implementation of legislation’ is highlighted as an area where there are gaps, it is not directly addressed by the recommendations below. It is suggested that addressing the weakness in the implementation of legislation, is best achieved through influencing workplace culture and practice, which will improve the likelihood that legislation is implemented as intended. It is suggested that this is covered within the three areas of recommendations outlined below.

Identified Gap	Policy recommendations
<p><b>Access to occupational health support for people with fluctuating conditions</b></p>	<p><i>Improving access to specialist occupational health support for people with fluctuating conditions</i></p> <ol style="list-style-type: none"> <li>1. Development of template for an employee-owned ‘health at work’ record</li> <li>2. Increasing local commissioning of occupational health and vocational rehabilitation support</li> <li>3. Better incentivising the NHS to see work as a positive health outcome for those with long-term and fluctuating conditions</li> <li>4. Monitoring how Fit for Work is addressing the needs of service users with fluctuating health conditions</li> <li>5. Improving access to specialist occupational health support for small business through partnership with NHS and other providers</li> </ol>

<b>Employers fulfilling their obligation to individuals</b>	<i>Helping employers to fulfill their obligation to individuals – access, empowerment and knowledge</i>
	<ol style="list-style-type: none"> <li>6. Improving and expanding Access to Work’s provision for fluctuating conditions</li> <li>7. Undertaking a targeted information sharing campaign for employers about how to create a right to request policy and its benefits</li> <li>8. Developing a ‘best practice’ database of adjustments and supports for people with fluctuating conditions</li> </ol>
<b>Employers taking a strategic ‘whole of business’ view</b>	<i>Encouraging and supporting employers to take a strategic ‘whole of business’ view</i>
	<ol style="list-style-type: none"> <li>9. Providing advice to employers on how to develop a strategic approach to managing fluctuating conditions in their business</li> <li>10. Developing models which would promote wider uptake of Income Protection (IP) insurance through the workplace and building the evidence base around the effectiveness of rehabilitation services offered</li> <li>11. Developing an early part-time sick pay model</li> </ol>

Though some of the 11 recommendations stand alone, in order to comprehensively address existing challenges to providing appropriate employer support for employees with fluctuating conditions, it is suggested that ‘clusters’ of coordinated recommendations are developed from the following options. There should be further consideration of how those recommendations complement one another in order to build a comprehensive and integrated strategy for ensuring employers are equipped and able to support employees with fluctuating conditions to remain in, or return to, work.

Many of these recommendations would require costing, feasibility testing and piloting to ensure that they fit the needs for which they are suggested. It is vital to work with stakeholders, particularly people living with fluctuating conditions and employers, large and small, to ensure that any solutions developed are appropriate to their needs.

### **Improving access to specialist occupational health support for people with fluctuating conditions**

The following recommendations provide a policy response to concerns about variable access to specialist occupational health services and supports. They focus on how to enhance access to advice on health and work, and how to improve the quality of advice. This includes how to improve engagement with and better utilise clinical expertise to support

job retention.

***Recommendation 1: Development of template for an employee-owned 'health at work' record***

*To provide employees with a recognised, authoritative record of how their condition might affect work, and what they need from an employer to help them to stay in work*

Improving the information shared between clinicians, employers, and employees is crucial to ensuring that the best decisions are made about job retention and return to work, in particular in the case of more complex, individualistic and variable fluctuating health conditions. The Fit Note was designed to be a tool to facilitate good quality advice from GPs to employers about how best to support employees to return to work. In practice however it does not always achieve this, with GPs having limited capacity to provide the level of tailored occupational health advice that employers feel they need.

It is suggested that an answer to this is **empowering the employee to have a greater role in facilitating return to work conversations and providing advice, to both clinicians** (influencing and supporting Fit Note advice) **and their employer** (who will be responsible for making the adjustments while managing business objectives). The employee is the best placed to understand how their individual condition fluctuates, the effects it has on their working life, and what they might need to allow them to continue to do their job.

**It is therefore recommended that a template for an employee-owned 'health at work' record** (much like the BT Disability Passport – see Box C) **be developed, to provide employees with a personalised, recognised and authoritative record of how their condition might affect work, and what they need from an employer to help them to stay in work.**

**The template will provide a tool to facilitate shared decision making between employees and other stakeholders.** Key questions for inclusion in the template, as well as guidance on its use, should be **developed through coproduction with relevant stakeholders** – including employees with fluctuating health conditions, large and small employers, patient organisations, GPs, occupational health and other vocational rehabilitation specialists. This might include information about what to expect and what to do when a symptom fluctuates, what adjustments might counter this or reduce the impact of health on work, and what an employer can do to support their employee. The employee would be able to take this record from job to job, and it would be updateable on an ongoing basis to provide the best information to new (and current) employers on how to support the individual's fluctuating health at work.

**The tool should also be piloted to ensure it is valuable and appropriate for employees, employers, GPs and vocational rehabilitation professionals in particular.** As noted, the BT Disability Passport may provide a possible model for testing. Other potential users of, and providers of, the information in the record might include Access to Work consultants and occupational health specialists.

### ***Recommendation 2: Increasing local commissioning of occupational health and vocational rehabilitation support***

*To improve access to multi-disciplinary return to work support through primary care*

For those without access to an occupational health service through their employer, GPs are often the first line of support. As suggested above, GPs may not also be the best placed to provide occupational health advice for a number of reasons. Soon GPs will be able to refer patients to FfW for an occupational health assessment and support, however, the four week eligibility criteria has been identified as problematic for someone with a fluctuating condition, who may be more prone to short term absence.

**It is recommended that guidance be developed to support local commissioners to commission occupational health and vocational rehabilitation services in their area, to which they may refer patients for further advice**, when the patients are ready to discuss work. This is particularly pertinent given that the condition will fluctuate and the individuals might benefit from greater flexibility around when they receive such support.

One model for service delivery might be **Vocational Rehabilitation prescriptions**, the feasibility of which is currently being assessed by Macmillan. These provide a simple way for CCGs to refer patients to case managed, tailored, multi-disciplinary vocational rehabilitation support (Gilbert, 2013).

**Commissioning of vocational rehabilitation support should not just be the responsibility of GPs, and any such guidance should be developed for use jointly by local partners** – including national NHS and Public Health bodies, and local government. This may be supported by the development of joint guidelines for the commissioning of local services, informed by the successful joint commissioning guidelines developed by the Royal College of General Practitioners (RCGP) and the Royal College of Psychiatrists (RCPsych) via their Joint Commissioning Panel on Mental Health<sup>33</sup> (guidelines on employment are currently under development).

### ***Recommendation 3: Better incentivising the NHS to see work as a positive health outcome for those with long-term and fluctuating conditions***

*To achieve greater recognition of work 'as a clinical outcome' or treatment goal for people with fluctuating health conditions, encouraging clinicians to consider the impact on work when making decisions and providing advice*

We need to encourage more clinicians to recognise the importance of being able to remain in work, i.e. that in many cases the opportunity to continue to work is highly valued by people with fluctuating health conditions, as well as the knowledge that good work and good health are closely linked. The extent of recognition is seen as highly influential on whether and how clinicians consider the impact on work when making treatment decisions, suggesting

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<sup>33</sup> Available at: <http://www.icpmh.info/> [Accessed 20 Jan 2015]

referrals or providing advice.

The importance of this is increasingly being acknowledged, with several outcome measures pertaining to work being included in health-related indicator frameworks. For example the NHS Outcomes Framework now includes 'Employment of people with mental illness' and 'Employment of people with long-term conditions' as indicators. The **Clinical Commissioning Groups Outcomes Indicator Set (CCG OIS)** includes the indicator, 'proportion of adults in contact with secondary mental health services in paid employment is'. However, while these frameworks look at specific conditions, none consider the specific difficulties identified across fluctuating conditions (which are inclusive of both mental health and long-term conditions).

**It is recommended therefore that these successful approaches to increasing recognition about the importance of employment for people with health conditions, be expanded to incorporate those with fluctuating health conditions. In particular we support calls by those such as Macmillan to include a measure of 'Employment of people with long term conditions', in the Clinical Commissioning Groups Outcomes Indicator Set (CCG OIS)** (consulted on by NICE for inclusion in the 2013/14 CCG OIS).<sup>34</sup> We recommend that such a measure should include a breakdown of employment status across conditions in order to monitor and report on **employment outcomes for people with fluctuating health conditions in particular.**

***Recommendation 4: Monitoring how Fit for Work is addressing the needs of service users with fluctuating health conditions***

*To ensure the needs of this group are recognised and appropriate support is provided to facilitate job retention for those with fluctuating health conditions*

In ensuring that Fit for Work provides appropriate support to employees, support will need to be delivered through the lens of the fluctuating needs which are associated with many conditions found. Assessments need to be conducted with consideration of the specific symptoms which are identified by individuals as problematic for their work, and with the awareness that how they present at the time of assessment is not how they always present. The psychological impact of managing a fluctuating health condition (whether primarily related to physical or mental health) should also be at the forefront of FfW providers' thinking and recommendations.

A further concern is that the four consecutive week sickness absence eligibility criteria may not meet the needs of those with fluctuating health conditions, who are often likely to experience multiple short periods of absence. Waiting for this time period to pass is an avoidable barrier to early intervention.

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<sup>34</sup> Macmillan Cancer Support response to NICE CCG OIS Consultation. Available at: <http://www.macmillan.org.uk/Documents/GetInvolved/Campaigns/NHS/Macmillan-Cancer-Support-response-to-NICE-consultation-on-indicators-for-clinical-commissioning-groups.pdf> [Accessed 19 Jan 2015]

**It is recommended that provision be included in the evaluation of Fit for Work to allow specific identification of how well the needs of service users with fluctuating health conditions are being met.** To this end, specific outcome measures for those with fluctuating conditions should be included. As a new service, it is accepted that a period of time will be needed before it is possible to assess performance. However, it is important that this key area be monitored to inform future evidence-based adaptations of the service.

***Recommendation 5: Improving access to specialist occupational health support for small businesses through partnership with NHS and other providers***

*To improve provision of occupational health support to small businesses in an economically viable form*

Access to specialist occupational health support for small businesses remains limited. Though we hope the recently re-launched Fit for Work advice line will provide a valuable source of occupational health advice for small businesses, access to face to face assessment and services for small businesses remains a gap. This is particularly concerning given the complex nature of highly variable and highly individual fluctuating conditions.

**It is recommended that the government looks at ways to support the extension of NHS occupational health services to provide occupational health support to more small businesses across the country.** Such sharing of occupational health provision already occurs in some areas, led by the NHS Health At Work Network. **We recommend that an analysis is conducted to identify what the local barriers are to expanding this programme nationally, as well as an analysis of the current needs and use. This analysis should also consider the role which partnerships with private providers could play, as appropriate, to offer full geographical coverage.**

An analysis should include an investigation of which **methods of payment are the most cost-effective models for small businesses (e.g. ‘pay as you go’ models) to encourage them to access local occupational support when and where they need it.** Enhancement of the preventive use of occupational health services is also to be encouraged.

It is further considered that extending the role of the NHS in providing external occupational health services, may have the side effect of **improving sustainability of the NHS Occupational Health provision** for those Trusts who have in-house occupational health services.

**Helping employers to fulfil their obligation to individuals – access, empowerment and knowledge**

Access to specialist occupational health services is only one aspect of providing the right support for people with fluctuating conditions to remain in work. As discussed previously, there are many things that employers and particularly line managers can do, and should be supported and enabled to do, to provide better support for their individual employees. In many cases this is about removing current barriers to accessing support, as well as

providing employers with the knowledge and information they need to feel confident in making changes to support employees.

***Recommendation 6: Improving and expanding Access to Work's provision for fluctuating conditions***

*To improve uptake amongst individuals with a fluctuating mental health condition and support small employers who employ individuals with a fluctuating condition*

Access to Work is still not reaching sufficient numbers of people with fluctuating conditions who might benefit from the service. The 2014 Work and Pensions Committee Inquiry into Access to Work found that despite reforms, much more needed to be done to encourage take up amongst individuals, including those with mental health conditions. **We support recommendations made by the Inquiry that options for people with mental health conditions be expanded to match those offered for other conditions, and that there should also be more specialist support available for those with a more serious mental health condition.**

Further, it is recommend that **Access to Work support be made available to individuals with fluctuating conditions to allow employers to hire temporary staff to cover absence when an individual needs to take time off or temporarily reduce their hours.** Individuals should be able to draw this funding as they require it. This would particularly benefit small businesses for which the costs of losing a staff member, even for short periods, can be difficult to bear. As the Sayce review argued, it would remove the disincentive of taking on an individual with a fluctuating condition, and help small businesses to retain employees with fluctuating conditions (Sayce, 2011).

***Recommendation 7: Undertaking a targeted information sharing campaign for employers about how to create a right to request policy and its benefits***

*To encourage more employers to implement a right to request policy, sending a clear signal to employees of their support for flexible working, offering workplace specific advice on the options and improving the transparency of decisions made*

For individuals with fluctuating conditions, the black and white distinction between in work and out of work must be challenged. Individuals should be given autonomy to determine the working patterns which best allow them to manage their condition and stay in work. Flexible working in its broadest sense should be embraced. This may require rethinking much of the way we currently do business and encourage employers to consider whether more jobs could be satisfactorily performed from locations other than the office, and at times other than 9am to 5pm. It means putting the idea of flexible working at the centre of business planning in order to allow people to work where they want and when they want whilst still delivering business results.

To achieve this, **employers should be encouraged and supported to put in place a right**

**to request policy**, as suggested by those such as Acas<sup>35</sup>, either as a standalone policy or as a part of a wider flexible working strategy. Any policy drawn up should be done in consultation with employees and unions/employee reps. Such a policy could include:

- How to make an application for flexible working – who they should apply to, what the application should cover, arrangements for appeals and time limits for dealing with requests.
- Information about the options for flexible working – including business specific advice about how roles could be performed outside the office, equipment available etc.
- A statement to the effect that the employer will consider the request, that it will abide by the Equality Act (in terms of flexible working as a reasonable adjustment), and it will reject it only for one of the eight business reasons.
- Any tailored considerations relevant to that workplace, e.g. proportion of employees with chronic and/or fluctuating health conditions (if known) that may require special consideration.
- Provisions to consult with occupational health/vocational rehabilitation specialists where appropriate.

More flexible working policies would signal employers' support for flexible working, offer tailored advice on the possibilities for that workplace and improve transparency of the way decisions are made. This would help to encourage greater uptake of flexible working, beneficial in particular to the needs of those with a fluctuating condition.

**It is acknowledged that for many employers this might appear a complex task. It is recommended that specific support and guidance be developed, marketed and made available to employers (including example policies and templates) to encourage them to develop flexible working policies which reflect both their business needs, and the needs of employees with fluctuating health conditions.** This might be supported by recommendations 8 and 9.

***Recommendation 8: Developing a 'best practice' database of adjustments and supports for people with fluctuating conditions***

*To support the development of innovative, appropriate strategies for supporting and retaining employees, based on good practice examples*

Many employers would like to improve the support they provide to employees with

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<sup>35</sup> The right to request flexible working: an Acas guide. Available at: <http://www.acas.org.uk/media/pdf/1/a/The-right-to-request-flexible-working-the-Acas-guide.pdf> [Accessed 20 Jan 2015]

fluctuating health conditions to allow them to remain in work, but simply do not know what to do – particularly given the variable and complex nature of these conditions. Many others have ideas of what might work, but seek reassurance before implementing them.

Many real life examples exist of how employers have made adjustments and successfully supported employees, even with the most complex conditions. It is suggested that the ability for employers to provide appropriate support for employees with fluctuating conditions would be enhanced by facilitating sharing of such good practice. Some good practice case studies do exist, dotted around the internet on government and patient group websites. **It is recommended that these be brought together in one place (e.g. hosted on a government website), and be fully searchable to improve the likelihood that an employer and employee will find an example relevant to them – in terms of the condition and how it presents, the nature of the role, and the organisation size.** Further case studies might be gathered through Access to Work, or directly from employers.

Case studies would relate to different conditions and symptoms, and provide examples of adjustments and flexible working strategies used in the real world to retain employees. Best practice in return to work should also be a feature – responding to the call for better quality guidance on return to work processes (Health and Safety Executive, 2013; Wainwright et al., 2013). The database might also be useful to inform occupational health providers and Access to Work consultants.

## **Encouraging and supporting employers to take a strategic ‘whole of business’ view**

Fluctuating health conditions seem poised to continue to grow as a factor in the UK workforce. Managing and supporting individual employees is one approach, but where a considerable proportion of workforce require such support, a more strategic approach will be required. The following recommendations consider how employers can be supported to think more strategically about how this reality can be successfully incorporated into their business model.

### ***Recommendation 9: Providing advice to employers on how to develop a strategic approach to managing fluctuating conditions in their business***

*To support employers to be more strategic in their planning and policy development, enhancing their ability to support multiple employees with fluctuating health conditions, with minimal impact on business*

Currently, occupational health support for employers focuses on individual cases. It is suggested that as a more preventative measure many employers would benefit from taking a more strategic approach to employees with fluctuating health conditions, particularly given they are likely to grow as a proportion of the workforce.

**It is recommended that Fit for Work is extended to incorporate a ‘strategic’ whole of business occupational health advice element, focusing on what businesses can do to provide better support for multiple employees with fluctuating health conditions, in**

## **terms of making adjustments or providing flexible and/or home working.**

The Workboost<sup>36</sup> phone line in Wales might provide a useful model. It provides strategic, organisational guidance on health and safety at work to small organisations – including on sickness absence and return to work issues. Specialist advisors are available to perform site visits and provide advice relevant to their specific context. This service would need to be developed in consultation with large and small businesses, to ascertain what their needs are.

### ***Recommendation 10: Developing models which would promote wider uptake of Income Protection (IP) insurance through the workplace and building the evidence base around the effectiveness of rehabilitation services offered***

*To encourage greater uptake of IP packages which have substantial and effective sickness absence management and rehabilitation elements*

Periods of absence or reduced work capability are often associated with fluctuating conditions. Though increasing the opportunities for flexible working (recommendation 7) may alleviate some of this, it is likely that absence or the need to work reduced hours will remain factors. Funding for temporary cover through Access to Work (recommendation 6) is one way that the impact on the employer may be reduced. An alternative whole of business, approach to this is increasing the uptake of Income Protection (IP) insurance.

There are two main types of IP: Group IP is bought by the employer for their workforce and protects both the employer and the employee from the consequences of prolonged sickness absence. The employee will benefit from the employer continuing to pay their salary at a comparable rate to previously and the employer will benefit from the scheme reimbursing them for paying an unproductive employee. Group IP often offers wider organisational benefits such as paying for absence management and rehabilitation services – these help employees return to fitness and work more quickly. Individual IP on the other hand, is bought by the individual and protects the individual, it will continue to pay their salary in the event of serious illness or injury – it too often offers the benefit of rehabilitation support (Association of British Insurers, 2014).

Though both individual and group IP exist in the UK, uptake is low, with many employers unaware of the wider benefits offered, in particular those offered through group IP.

**Encouraging greater uptake would mean investing in research to build a stronger evidence base around the impact and effectiveness of the rehabilitation benefits offered.** Insurance providers could then refine and expand the different types of services available, allowing more specialised services where necessary, e.g. for fluctuating conditions. A stronger evidence base would also allow insurance companies to make a stronger business case to employers about the benefits of IP and group IP in particular.

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<sup>36</sup> What is Workboost Wales? Available at: <http://www.workboostwales.com/> [Accessed 20 Jan 2015]. The service was developed from the Workplace Health Connect pilots, run by the HSE.

**There should be further development of models through which employers and the workplace play a role in providing access to IP.** The Centre for Economic and Social Inclusion (CESI) has suggested two different options. Time-based collective insurance would involve making it compulsory for employers to provide some form of insurance to replace full salary for up to one year of serious illness, employers/individuals would then be auto-enrolled, or required, to provide for a further set amount of time (e.g. 5 years), with the state providing an income safety net after this. Individual income replacement insurance on the other hand would involve the introduction of individual accounts which individuals pay into (perhaps with contributions from employers), with auto-enrolment and incentives for individuals through National Insurance contributions to encourage take up (Association of British Insurers, 2014).

**These models should be developed and trialled with proposed users and benefactors, to ensure they meet their needs.** Development of an appropriate model will need to consider the difficulties in countries like Australia, where claims were higher than the industry anticipated or priced for. This highlights some of the challenges involved in taking a system like this forward (Association of British Insurers, 2014).

In addition, any government action to encourage the uptake of IP must also control for failures in the market. In the case of Individual IP, high-risk individuals (who are often low-paid) will find it more difficult to take out cover, with schemes favouring the high-skilled and high-paid. With group IP, an individual employee's health will not normally be assessed when taking out cover, however there is still a risk that low-skilled workplaces will be less likely to see the benefits of covering their employees. These failures pose the threat that IP provision bypasses the low-skilled – those most likely to suffer chronic conditions and sickness absence. **The development of measures to encourage IP must mitigate these risks – perhaps by subsidising insurance companies for taking on high risk individuals/workplaces and/or setting a quota for the numbers of high risk clients which they must take on.**

### ***Recommendation 11: Developing an early part-time sick pay model***

*To support employees with fluctuating conditions to remain in work by providing sick pay to compensate for temporarily reduced working hours at times of poor health*

The 'part-time sick pay' system, already operating in the Nordic countries, was designed to support people with temporarily reduced work capability to remain in work by making sick pay arrangements more flexible. Employees experiencing a period of poor health (whether through fluctuations or periods of recovery) may temporarily reduce working hours for a defined period, during which time they will receive their salary for the hours they continue to work, and sick pay for those they have dropped. This provides the opportunity to continue to do some work, to remain active and to avoid a prolonged period of absence, while reducing pressure to return to full time work prematurely.

In Finland, 'partial sickness allowance' was introduced in 2007 and could be accessed after an employee had taken 60 continuous working days of sick leave. The national Occupational

Health Service would formulate a return to work plan and the individual would make a staged return to work (Viikari-Juntura et al., 2012). Following criticism that the 60 day requirement was too narrow, this requirement was reduced to 10 days in 2010, and the numbers claiming partial sickness allowance quadrupled between 2007 and 2011. Of those claiming, 41 per cent had musculoskeletal disorders and 33 per cent has mental health disorders – both of which tend to be fluctuating in nature. Those with musculoskeletal disorders were found to have 20 per cent less work disability days over the following year than those on normal sick leave. On average those taking partial sick leave returned to their normal working duties 8 days earlier than those on normal sick-leave (Finnish Institute of Occupational Health, 2012).

**In the UK, the government should consider supporting a similar system of early part-time sick leave.** Employers would be encouraged to introduce greater flexibility into sickness absence policies, to allow employees to pre-emptively arrange to take sick leave on a part-time basis. This should be done in a way that does not cause employers any additional cost – part-time sick pay should be paid at the same rate as pre-existing full-time sick pay with all existing conditions as standard. The amount of time that an employer would be required to cover should remain at 26 weeks (130 working days) – so that if an employee was to take 3 days a week off work, the maximum time they could be on part-time sick leave would be 43 weeks. The amount of part-time sickness absence being taken would need to be clearly agreed between the line manager and where possible occupational health, prior to or in the early stages of absence. The decision to take part-time sick leave could also occur after a period of full-time sick leave, in which case it could be informed by a Fit Note or as part of the return to work plan given by Fit for Work.

This system could be encouraged on a voluntary basis in a few companies, and monitored for impact, this will help to develop a best practice model for the UK. It suggested that government take a lead role in developing a best practice model, along with employer guidance on implementation. Similarly as has happened with policies around a staged return to work, the benefits of offering this option as a part of reasonable adjustments could be promoted so that more and more employers gradually change/extend their sickness absence policies to accommodate this. Highlighting the evidence base for employers would likely be valuable. Alternatively it could be made compulsory through a change in the statutory sick pay requirements. Any action to encourage this should be developed alongside employers, HR specialists and individuals with a fluctuating condition.

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