

Shielding guidance – updated 23 November 2020

Introduction

The Department of Health and Social Care (DHSC) and its arms-length bodies have produced a suite of guidance for employers on workforce issues arising from the COVID-19 pandemic which is published and [updated centrally](#). Due to the exceptional circumstances, usual processes of co-production and consultation have not been possible, although the NHS Staff Council Executive trade unions had input in reviewing and updating the guidance.

This document is an update to the initial DHSC guidance on shielding and has been produced by a joint working group of the NHS Staff Council Executive.

Context

Where a period of national or local shielding comes to an end, organisations should undertake an individual and workplace risk assessment to determine if it is safe for staff to return to the workplace. To support the risk assessment, appropriate occupational health advice should be sought.

Whilst the risk of COVID-19 still presents, a return to work may necessitate workplace adjustments or additional protective measures. This may include agreeing which duties can and cannot be undertaken in their substantive role or a temporary redeployment into a COVID-secure work area. It may also include additional provisions via the [access to work scheme](#). Adjustments and risk mitigation measures should be regularly reviewed.

Employers should be mindful that shielding staff may be protected under the disability provisions of the [Equality Act 2010](#) and additional consideration should be given to staff with protected characteristics.

Employing organisations should also endeavour to enable a member of staff to work from home where the risk assessment deems it is not safe for them to physically return to the workplace. In such circumstances it may be appropriate for employers to consider reallocation of duties for a staff member in order to facilitate home working.

In instances where employing organisations have established that the reason(s) for being unable to return to the workplace do not relate to ill health and working from home is not possible, employing organisations will need to consider the use of following options on a case by case basis taking account of the duration needed:

- local special leave
- annual leave
- unpaid leave

- suspension on full pay for medical or health and safety reasons.

Employers should be mindful of the specific provisions for suspension on full pay for pregnant workers under the management of health and safety at work regulations and Employment Rights Act 1996.

Employers should ensure that all staff in this position have regular reviews to ensure that they can be enabled to return to work as soon as it is safe to do so.

If a staff member submits a GP fit note confirming that they are not fit to return to the workplace following a period of shielding, the employer may also seek occupational health advice to better understand why the employee needs to remain at home, or what reasonable adjustments could be put in place to allow staff to return to work safely.

Where all efforts to safely return staff to work have been explored but it is not possible to do so, employing organisations will need to consider the reasons for this and establish if this is because staff are not well enough to return. Where this is the case, staff will be placed on sickness absence and receive pay in line with [section 14 of the NHS terms and conditions of service](#).

As outlined above, employers should undertake a risk assessment and role mitigation to ensure both the workplace and role are COVID-secure for shielding staff returning to work. Where there is no medical reason to prevent a member of staff returning to work, employers should explore the reasons for the refusal to see if any of the staff member's concerns or fears [can be addressed](#), involving staff side union representatives where appropriate. This could include whether there are alternative work options that address their issues such as working from home, or a period of unpaid leave. However, if a solution cannot be reached, then it may be that this has to be addressed via local conduct policies. This is very much a last resort as the intention is to provide a safe and supportive return to work and therefore all reasonable steps must have been taken including the exploration of all possible reasonable adjustments.

Employers are reminded that shielding arrangements may be introduced as a result of a local authority or national decisions on localised restrictions, or the re-imposition of national shielding arrangements. Where this happens, employers should apply the previous guidance on enabling homeworking where possible but should be mindful of any differences in the application of previous shielding arrangements, including who is required to shield. Where employees are shielding due to national and/or local government guidance or regulations, and there is no prospect of them working from home, staff should receive full pay through the provision of COVID-19 special leave.