

COVID-19 sickness absence management FAQs

Introduction

The Department of Health and Social Care (DHSC) and its arms-length bodies produced a suite of guidance (“the guidance”) for employers on workforce issues arising from the COVID-19 pandemic which was published in March 2020.

Due to the exceptional circumstances, usual processes of co-production and consultation were not possible, although the NHS Staff Council Executive trade unions had input in reviewing and updating the guidance.

In April 2022, the DHSC wrote to the joint chairs of the NHS Staff Council setting out their intention to withdraw the guidance. This was followed by confirmation, issued on 29 June 2022, that withdrawal would take effect from 7 July 2022. Following instruction from the DHSC, the NHS Staff Council have produced [separate guidance](#) to support employing organisations manage this withdrawal.

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

Question 1

Due to the COVID-19 pandemic, operations, post-op rehabilitation and other treatments have been delayed or cancelled and this has impacted upon an individual member of staff’s ability to return to work. Consequently, an individual may have gone on to reduced or nil pay and/or hit sickness management triggers. How should employers approach the management of such cases?

Employers should be supportive where staff have not been able to access timely treatment or support to aid their recovery and return to work, as a result of the pandemic.

The NHS terms and conditions of service states that periods of sick pay on full pay or half pay can be used in order to ‘materially support a return to work’: or ‘in any other circumstances’ ([section 14.13](#)). Employers should use these flexibilities, where possible, as a means of supporting staff whose treatment or recovery has been delayed because of the exceptional circumstances of the pandemic.

The [SPF industrial relations statement](#) covering the period June to the end of September states that sickness and capability trigger processes ‘could continue to be paused during this period, particularly where there are capacity shortages.’

Using section 14.13, flexibilities will mean sick pay is maintained and staff do not hit nil pay where treatment or rehabilitation are delayed by COVID-19.

However, if any staff have dropped to nil pay while the local absence management processes have been paused by the employer, [section 14.10 - 14.12](#) mean they are entitled to have half sick pay reinstated after 12 months' continuous absence until such time as local processes have concluded.

Question 2

Where members of staff are required to undergo pre-op or post-op self-isolation what should they be paid?

In the first instance an employer should explore all options regarding an individual's ability to work from home with or without work role reallocation.

If an individual is unable to work from home then because self-isolation is an official requirement, due to infection control measures, staff should be recorded as being on authorised absence (not sickness) and they will receive their full pay for the duration of their requirement to self-isolate.

This may need to be repeated if the operation is cancelled by the provider after self-isolation has begun.

The same approach, including the opportunity to undertake work from home (even if not in their substantive role), should be applied where the NHS has advised a member of staff that they must self-isolate because someone in their household is undergoing an operation.

Any post-operation recovery would be paid as per normal sickness entitlement except where the individual was fit to return to sooner than the duration of the self-isolation where the difference should be recorded as authorised absence.

Question 3

How should we use a phased return to support a member of staff who is returning to work after being off sick with COVID-19?

Local sickness absence policies should be followed. Occupational health advice should be sought, where appropriate, as to the duration and adjustments need to support the individual in their return to work.

In some cases, occupational health may advise a longer than normal period of phased return in order to successfully support an individual who has been ill with COVID-19, or has had COVID-19 work-related mental/psychological illness, back to work.

[Section 14](#) and [annex 26](#) of the NHS terms and conditions of service handbook make the following provisions for phased return:

- **Section 14 paragraph 14.14:** 'During the rehabilitation period employers should allow employees to return to work on reduced hours or, where possible, encourage employees to work from home without loss of pay.'

Any such arrangements need to be consistent with statutory sick pay rules.'

- **Annex 26 point 10, second bullet point:** 'In order to avoid premature and unnecessary ill health retirements employers should also consider the following interventions as early as is practically possible and at the latest within one month of an employee going sick:
 - phased return - enabling staff to work towards fulfilling all their duties and responsibilities within a defined and appropriate time period, through interim flexible working arrangements, whilst receiving their normal pay'.

[Section 22 on injury allowance](#) can also be paid to eligible staff who seek to return to work but who may exhaust the full pay provision normally offered locally due to the length of the phased return required.

NHS Staff Council Executive

July 2022