



Amendment to the calculation of work-related sick pay entitlement

The NHS Staff Council has been made aware of a historical discrepancy between the way in which sick pay entitlement for work-related sickness absence is calculated in England and Wales, and the provisions in the NHS Terms and Conditions of Service (TCS) handbook.

Changes will be made to the Electronic Staff Record (ESR) system on 1 July 2023 to amend the calculation in line with the TCS handbook provisions going forward.

Work-related sick pay entitlement

The [NHS TCS handbook](#) provides a sick pay entitlement for employees that are absent from work due to sickness. This consists of a period of full pay, followed by a period of half pay.

Section 14 of the handbook states that all sick pay entitlement should be calculated based on the individual's entitlement on the first day of absence (paragraph 14.2), minus any non-work-related periods of sickness absence from the previous 12 months (paragraph 14.7).

This requirement applies regardless of whether the sick pay is being calculated for non-work-related absence or for work-related absence (where individuals are absent from work due to injuries, diseases or other health conditions that are attributable to their NHS employment).

Discrepancy with the NHS TCS handbook

It has come to light that the mechanism currently being used to calculate sick pay entitlement for cases of *work-related* sickness absence does not reduce entitlement for previous periods of non-work-related sickness. This is not consistent with the NHS TCS handbook provisions and means that, in some cases, employees will have been provided with a more generous sick pay entitlement than is outlined in the NHS TCS handbook.

By default, this could also lead to the employee being provided with a more generous entitlement to [injury allowance](#) for those with a longer term work-related sickness absence (see Section 22 of the handbook). Employees may be entitled to injury allowance when full pay reduces to half pay, and this would top up any reduced earnings to 85% of pay. The NHS TCS handbook provides a 12 month entitlement to injury allowance per episode of sickness.

Where a more generous period of full pay is being provided, this delays the point at which any injury allowance should be accessed, and means that sick pay is potentially being received over a longer period than is provided for in the handbook.



Overview of the changes to ESR

Having been made aware of this discrepancy, the NHS Staff Council has worked with the ESR programme and the respective governments in England and Wales to ensure that the ESR system is updated to align with the provisions in the NHS TCS handbook.

Changes will be made to the ESR system at the end of June 2023, and will take effect from 1 July 2023.

From 1 July 2023, ESR will deduct any relevant periods of sickness from the previous 12 months when calculating any new episodes of sick pay entitlement for work-related sickness absence, in line with paragraph 14.7 of the NHS TCS handbook.

Scope of the changes

The key points for employers and staff to be aware of are:

- The ESR changes will apply to instances of work-related sickness absence that begin on or after 1 July 2023.
- Where an employee is part-way through a period of work-related sickness absence on 1 July 2023, no changes will be made to their existing sick pay entitlement for that period of absence.
- In all instances of work-related sickness absence that began before 1 July 2023, employees (in both England and Wales) will not need to pay back any overpayments that may have been made due to this discrepancy.
- The medical workforce in England and Wales is likely to be similarly impacted by these changes.

The NHS Staff Council would encourage NHS organisations and local trade union representatives to ensure that employees with a period of work-related sickness absence from 1 July 2023 understand how their sick pay entitlement will be calculated in ESR.

Local partnerships should also provide the necessary reassurance to employees that are part-way through a period of work-related sickness absence on 1 July 2023 that their existing sick pay entitlement will not be impacted by these changes.



Sara Gorton, Staff Side co-chair



**Oonagh Monkhouse, Employer Side
co-chair**

June 2023