

# Statutory sick pay due to coronavirus (COVID-19) - FAQs

There have been a number of changes made to the statutory sick pay (SSP) regime this year as a result of the coronavirus pandemic, so we've set out below some FAQs as a reminder.

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*Please note: the information contained in this legal update is correct as of the original date of publication*

With more businesses and organisations reopening, but with coronavirus still in significant circulation, some degree of coronavirus-related absence seems unavoidable. There have been a number of changes made to the statutory sick pay (SSP) regime this year and so we've set out below some FAQs as a reminder.

## What SSP are employees entitled to if they become unwell?

The current rate of SSP (from 6 April 2020) is £95.85 per week and it is payable for up to 28 weeks. Individuals must still be eligible for SSP to qualify. This means that they must be an employee (although this is the wider definition of employee which includes those workers whose earnings are liable for class 1 National Insurance Contributions), with average earnings of at least £120 per week. Employees must also be ill for at least 4 days to be eligible for SSP.

The reason for their illness is also relevant. Where employees are ill with coronavirus symptoms for at least 4 days (and this illness takes place on or after 13 March 2020), then they will be entitled to SSP from the first day of absence. Where employees are ill for any other reason (or for coronavirus-related absences before 13 March 2020) they will be entitled to SSP from day 4 of their absence.

## Are employees entitled to SSP if they are self-isolating?

Eligible employees who are self-isolating because someone in their household has coronavirus symptoms and who cannot work as a result will be entitled to SSP. Where this absence starts on or after 13 March, they will be entitled to SSP from day 1; where the absence pre-dates 13 March, it will be from the fourth day of absence (or 13 March if earlier).

The "household" requirement has been extended with effect from 6 July to include those who are isolating because someone in their extended or linked household has symptoms.

Eligible employees will also be entitled to SSP if they are self-isolating as a result of them being notified by the NHS or public health authorities that they have been in contact with someone who has tested positive for coronavirus. This will apply to such absences which take place after 28 May. The current wording would not, however, include anyone who wishes to self-isolate after being notified of coronavirus-contact by an individual or body other than the NHS or public health authority.

Employees who are self-isolating as a result of any quarantine periods imposed after travel abroad would also not fall within any of the current self-isolation categories who are entitled to SSP as a result of the various SSP amendment legislation introduced this year.

## Are employees entitled to SSP if they are shielding?

Eligible employees who have been advised by their GP or the NHS to stay at home for 12 weeks due to their higher risk status and who cannot work from home will be entitled to SSP in respect of absences on or after 16 April.

This entitlement (with effect from 6 July) is now linked until the end of the period specified in the shielding notice, or the date specified in any further shielding notice advising them that they no longer need to shield. Government guidance has confirmed that the shielding period is due to end on 1 August. However, the legislation does allow for shielding to be reinstated through the issuing of a further shielding notice.

For any periods not covered by a shielding notice (or self-isolation period), employees will need to seek a specific medical certificate from their GP certifying them as unfit for work if they wish to claim SSP; it is unclear how willing GPs will be to do this in circumstances where the individual is technically fit to work but where they remain concerned about potential risks to themselves from coronavirus.

## **How does a period of furlough affect SSP?**

An employee cannot be both furloughed and in receipt of SSP. Although there has been some contradictory guidance released on this point, it appears that if an employee is in receipt of SSP, the employee and employer can agree to bring this period of incapacity to an end and then move to furlough. Whilst furloughed, the employee would then not be entitled to SSP.

What about contractual sick pay schemes? Do the above principles apply?

This will depend on the scheme wording and in particular whether it applies only to illnesses or can be read as extending to any inability to attend work for wider health-related reasons. However, some employers may choose to extend any sick pay schemes to include self-isolating employees to encourage compliance with the government guidance. Similarly, employers may wish to consider how such absences will be treated under any absence policies, again to encourage employees to comply with any self-isolation instructions and reduce the risk of infections spreading in the workplace.

## **Can an employer send an employee home if they display coronavirus symptoms in the workplace?**

Given the need to provide a safe workplace for all employees, it would be both reasonable and necessary for an employer to ask an employee to self-isolate if they are displaying recognised symptoms of coronavirus. Employers should have planned their approach to such a scenario as part of their risk assessment process, including any additional cleaning processes that will be required, and any wider staff isolation needed to try to limit the spread of the virus.

## **What evidence or “proof” can employers ask employees to provide?**

For non-coronavirus-related absences, the same rules apply: employers can ask employees to provide reasonable evidence of incapacity after 7 days' absence. This is usually a medical certificate.

For coronavirus-related absences, the government has urged employers to be reasonable, given the difficulties some employees may face in getting a medical certificate. Employees can also provide as evidence an online note from NHS 111, the notification from the NHS or public health authority requiring self-isolation, and the NHS or GP letter advising them to shield.

## **Can employees be absent for more than one occasion due to coronavirus?**

Yes – an individual may have to isolate on a number of occasions. This is particularly the case where an individual is self-isolating but does not develop symptoms - unless the individual develops symptoms, they will not be tested themselves.

## **Can employers recover the SSP paid to employees?**

Some employers may be eligible to recover some SSP. Only employers with fewer than 250 employees (as at 28 February) and who were not “in difficulty” as at 31 December 2019 can claim; and they are only entitled to claim for the first 14 days' SSP for eligible employees, and only then for coronavirus-illness absences on or after 13 March, shielding absences on or after 16 April and isolation absences as a result of NHS/public health authority notification on or after 28 May. This means that if an employee has multiple absences or is required to self-isolate for longer than 14 days, the employer will not be able to recover the full costs of the absence. The SSP rebate cannot be claimed for absences unrelated to coronavirus.

Records must be kept in respect of any rebates for at least 3 years.

[Guidance: Check if you can claim back Statutory Sick Pay paid to employees due to coronavirus \(COVID-19\)](#) →

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