

# Coronavirus: absences from work and entitlement to pay

| Reason for absence   | Right to pay (England)  | Source  | Best practice  |
|--|---|---|--|
| <b>Off sick with Covid-19 symptoms</b>   | <p>Entitled to contractual sick leave and pay as usual, because employee is unwell.</p> <p>Entitled to SSP from day 1 as long as total period of incapacity is 4 days or more (the usual 3-day waiting period for SSP has been removed for incapacity related to Covid-19).</p> <p>If sickness turns out not to be related to Covid-19 (because the employee tests negative) then employee can return to work once feeling better (and would not be entitled to SSP if total period of incapacity is less than 4 days).</p> <p>If employee receives a positive Covid-19 test result then the employee will be legally required to self-isolate even if they feel better, triggering a new basis of entitlement to SSP (see below).</p>  | <p>Contractual terms</p> <p>Statutory Sick Pay (General) Regulations 1982 (as amended)</p>  | <p>Relax requirements for evidence of illness.</p> <p>Inform employee of possible entitlement to additional payment through Local Authority if in receipt of benefits.</p> <p>Payment of full pay will ensure employees do not ignore advice and come to work, risking spreading the virus.</p>  |
| <p><b>Not sick but officially notified of requirement to self-isolate:</b></p> <ul style="list-style-type: none"> <li>• after testing positive for Covid-19</li> <li>• because they have been identified as a close contact of someone who has tested positive for Covid-19 by NHS Test and Trace and are not exempt from self-isolation requirements</li> </ul> | <p>Legally required to self-isolate.</p> <p>Able to work remotely – entitled to usual pay.</p> <p>Unable to work remotely – entitled to SSP from day 1 for duration of legal isolation period as long as the total period of incapacity is 4 days or more (the usual 3-day waiting period for SSP has been removed for incapacity related to Covid-19).</p> <p>SSP only applies to self-isolation following notification by NHS Test and Trace – not to being “pinged” by the NHS app.</p> <p>Legal self-isolation period is generally 10 days from onset of symptoms, 10 days from date of positive test if the employee has no symptoms, or 10 days from contact with someone who tested positive if the employee is identified as a close contact. From 16 August fully vaccinated people will not be required to self-isolate if a close contact has tested positive but they must take a PCR test.</p> <p>Entitlement to contractual sick leave and pay will depend on wording of contract but most contractual schemes would not apply as they require employee to be sick.</p> | <p>Health Protection (Coronavirus Restrictions) (Self-isolation) (England) Regulations 2020</p> <p>Statutory Sick Pay (General) Regulations 1982 (as amended)</p> | <p>Ensure employees are treated consistently.</p> <p>Inform employee of possible entitlement to additional payment through Local Authority if in receipt of benefits.</p> <p>Payment of full pay (including where employee has been “pinged” by the NHS app) will ensure employees do not ignore advice and come to work, risking spreading the virus.</p> |

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| <p><b>Not sick or officially notified of requirement to self-isolate but self-isolating under government advice:</b></p> <ul style="list-style-type: none"> <li>• <b>for 10 days because someone at home or in support bubble has Covid-19 symptoms</b></li> <li>• <b>on written medical advice for up to 14 days in advance of a hospital procedure</b></li> </ul> | <p>Able to work remotely – entitled to usual pay.</p> <p>Unable to work remotely – entitled to SSP for duration of relevant isolation period as long as the total period of incapacity is 4 days or more (SSP would start on day 1 as the usual 3-day waiting period for SSP has been removed in these circumstances).</p> <p>If employee subsequently develops symptoms or is officially notified of a requirement to self-isolate, this will trigger a new basis of entitlement to SSP (see above).</p> | <p>Statutory Sick Pay (General) Regulations 1982 (as amended)</p>                               | <p>Payment of full pay will ensure employees do not ignore advice and come to work.</p> <p>Ensure employees are treated consistently.</p>  |
| <p><b>Shielding because deemed to be clinically extremely vulnerable</b></p>  | <p>Note that shielding in England ended on 1 April 2021</p> <p>Able to work remotely – entitled to usual pay.</p> <p>Entitled to SSP if unable to work from home and officially asked to shield in a shielding notification letter, for the period specified in the letter.</p> <p>Not entitled to SSP once shielding notification has ended.</p>   | <p>Statutory Sick Pay (General) Regulations 1982 (as amended)</p>                               | <p>If employee unwilling to return to work, or unpaid leave.</p>   |
| <p><b>Not allowed to come to work by employer - whether enforcing government rules on self-isolation or under the employer's own policies.</b></p>  | <p>Able to work remotely – entitled to usual pay.</p> <p>If enforcing legal self-isolation requirement or employee is sick – arguably SSP only, as employee arguably not “able” to work even if they attempt to come to work.</p> <p>If absence is at employer request in other circumstances, entitled to usual pay unless contractual right not to pay or to lay the employee off without pay.</p>  | <p>Health Protection (Coronavirus Restrictions) (Self-isolation) (England) Regulations 2020</p> |  |
| <p><b>Self-isolating after returning to the UK from abroad or trapped abroad</b></p>  | <p>Able to work remotely – entitled to usual pay.</p> <p>If not sick and unable to work remotely, no entitlement to pay - unless entitled under contract or policy (more likely if work-related travel).</p>  |   | <p>Discuss options with employee including whether it is possible to take extra paid holiday or unpaid leave.</p> <p>If travel was for work, employee may reasonably expect payment – so consider continuing full pay to avoid grievances.</p> <p>Ensure employees are treated consistently.</p> |

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|--|--|--------------------------------------|--|
| <b>Unwilling to come to work because of Covid-19 risks</b> | <p>Able to work remotely and employer agrees – entitled to usual pay.</p> <p>Unless under a shielding notification letter, there is generally no entitlement to pay if employer requires employee to come to work and they refuse. Potential exception if employee leaves or refuses to return to the workplace due to a reasonable belief of 'serious and imminent danger' or if serious anxiety means employee is to unwell to come to work.</p> | S44 Employment Rights Act 1996       | <p>Talk to employee to try and resolve their concerns and discuss the options - including whether it is possible to take unpaid leave or annual leave.</p> <p>Ensure employees are treated consistently.</p> |
| <b>Need to look after children or other dependants</b>     | <p>Emergency dependent leave gives right to reasonable amount of time off work.</p> <p>Covers assisting or arranging care for ill dependants (e.g. child has the virus), and with unexpected breakdown in care arrangements (e.g. child is self-isolating or school is closed).</p> <p>This is unpaid - unless pay is provided in the employer's contract or policies.</p>   | S 57A-57B Employment Rights Act 1996 | <p>Ensure employees are treated consistently.</p>  |

### For more information



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