

Sick pay for all

**How the Corona Virus has shown we
need urgent reform of the sick pay
system**

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1. Introduction

The U.K. currently faces a heightened risk of people falling ill with Corona Virus, a respiratory disease which spreads rapidly. The Prime Minister has said that:

"The most important thing now is that we prepare against a possible very significant expansion of coronavirus in the UK population."¹

Part of this preparation should be ensuring that our sick pay system is fit for purpose, so that everyone feels confident in following the public health advice given by the NHS.

But at present, longstanding flaws in the system which mean many people miss out on sick pay are being exposed by the heightened risk of this virus.

This report:

- Describes the current problems with the sick pay system
- Sets out the reforms to statutory sick pay that are needed for everyone
- Sets out the specific steps that employers and government should be taking to deal with the current outbreak of Corona Virus; and
- Summarises the next steps government must take to protect workers.

2. What's wrong with our current system of sick pay?

This section sets out the current system of sick pay, and shows the problems that mean too many people are missing out.

How sick pay works

Many people will receive sick pay as set out in their contracts. Others will rely on statutory sick pay (SSP) which is the minimum that employers have to pay out.

The weekly rate for SSP is £94.25. It can be paid for up to 28 weeks.

But SSP only kicks in if someone is sick for at least four days in a row.

And, to qualify, your average weekly earnings over the previous eight weeks must be at least £118 a week.

You are not eligible for SSP if you're receiving statutory maternity, paternity, adoption or additional paternity pay. The self-employed are also excluded.

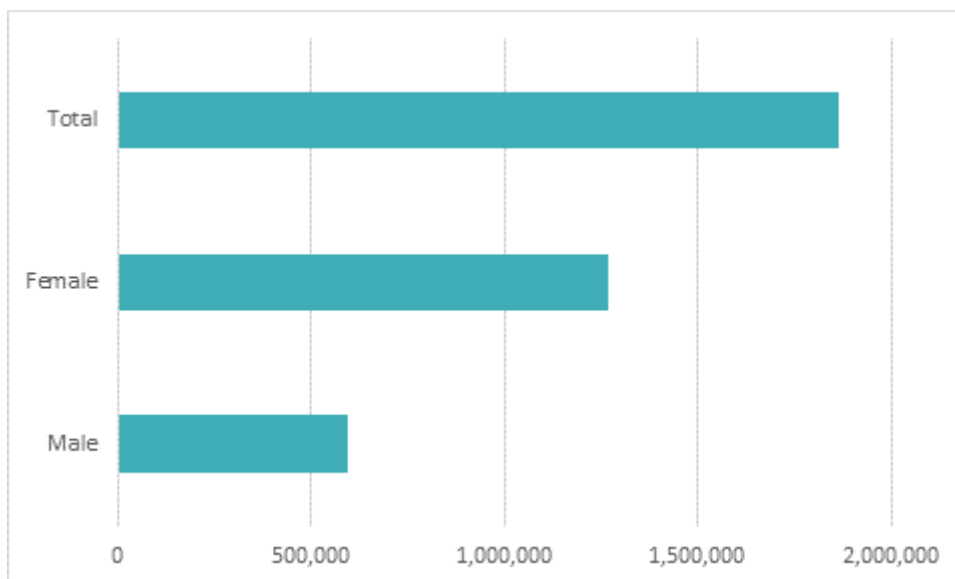
¹ BBC News Website 3rd March 2020 'Coronavirus cases in UK could rise 'significantly', says PM' online at <https://www.bbc.co.uk/news/uk-51708550>

Problem 1: Too many people miss out on sick pay because they don't earn enough

Currently those in work earning less than the Lower Earnings Limit (LEL) of £118 do not qualify for SSP or any financial support from their employer. Women, those in insecure work, and younger and older workers are most likely to miss out.

Nearly two million people (we estimate that the figure is 1,870,000) miss out on receiving sick pay when ill, and most of these women. TUC analysis shows around one in ten women employees are not entitled to SSP due to the LEL threshold and around 70 per cent of those who would benefit from the removal of the threshold are female.

Numbers earning below the sick pay earnings threshold



Source ONS – 2019 LFS data on earnings in main job.

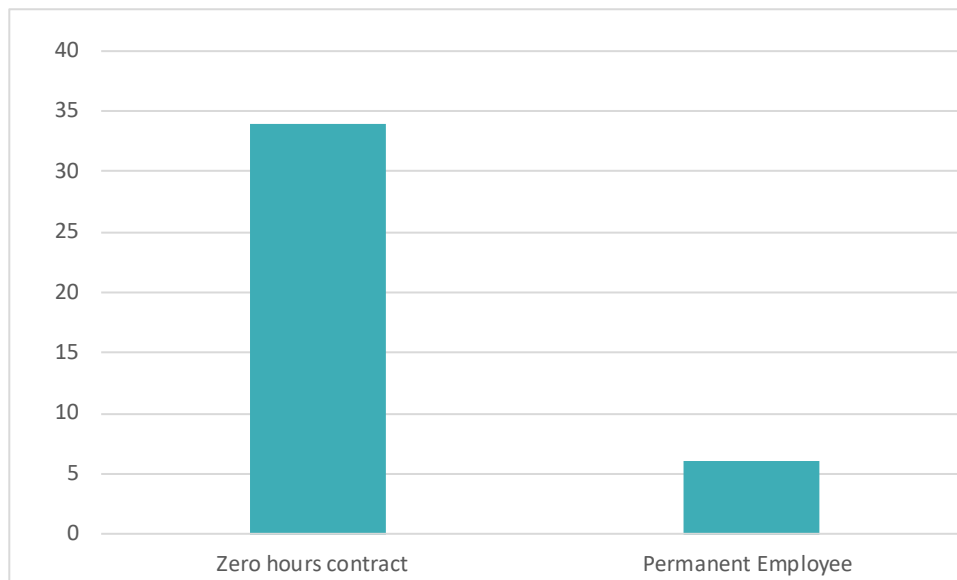
The required earning threshold for SSP also means that those who are in insecure forms of work are also more likely to miss out on SSP because they are likely to earn less. This is because their irregular hours may not result in them earning enough to meet the income threshold. Those in insecure jobs may force themselves to work even if they are unwell – putting their clients' or fellow workers' health at risk.

For example, TUC analysis shows around a third (34 percent) of those on zero-hour contracts do not meet the earnings threshold compared to 6 percent of permanent employees.³

²TUC analysis based on average of 2019 LFS data

³ TUC analysis based on Apr- June 2019 data

Percentage of Zero hours contracts V permanent employees who do not meet earnings threshold



Source ONS – 2019 LFS data on earnings in main job.

Statutory sick pay (SSP) also eligibility varies significantly by age, with over one in five being ineligible for SSP due to not earning the required amount.

Older employees, aged 65 and over, are also less likely to be eligible for SSP, with one in four not earning enough to be eligible.

Number and percentage of employees not eligible for SSP due to pay, by age

Age groups	Number of employees not eligible for sick pay	% of those not eligible for SSP	All employees	% of all employees	% not eligible for SSP
16-24	782,228	42	3,543,739	13	22
25-34	249,209	13	6,779,309	25	4
35-49	291,927	16	9,116,729	33	3
50-64	337,549	18	7,401,358	27	5
65+	200,035	11	770,031	3	26

Source ONS – 2019 LFS data on earnings in main job.

This mirrors the trend we see in zero-hours contracts, where these two age groups are the two most likely to be employed on a zero-hours contract.

There are also regional differences in the percentage of employees who are ineligible for SSP due to not meeting the pay requirements.

Government Office Region (2 and 3 combined)	Number not eligible for SSP	% of all not eligible for SSP	Number of employees	% not eligible for SSP
North East	76,497	4	1,054,616	7
North West	211,458	11	2,985,618	7
Yorkshire and Humberside	147,866	8	2,208,294	7
East Midlands	131,219	7	2,028,972	6
West Midlands	161,655	9	2,391,009	7
East of England	182,298	10	2,630,062	7
London	168,760	9	3,783,338	4
South East	299,842	16	3,852,647	8
South West	196,183	11	2,332,647	8
Wales	86,997	5	1,267,136	7
Scotland	153,368	8	2,340,092	7
Northern Ireland	44,805	2	728,207	6
Total	1,860,948	100	27,602,637	7

Source ONS – 2019 LFS data on earnings in main job.

Problem 2: People have to wait too long before qualifying for the benefit

Statutory sick pay isn't usually paid for the first three days that someone is off ill unless they have received SSP in the last eight weeks and are now eligible for it again.

These waiting days include weekends, bank holidays and any days the worker doesn't usually work.

This leaves workers, especially those on low incomes, at risk of financial hardship.

It also makes it more likely that some will be tempted to ignore early symptoms and continue to attend work.

The rules around waiting and qualifying days in accessing SSP can be complex to understand for those in insecure work who do not work set days and hours.

Qualifying days are usually the employee's contracted working days and hours. For example, if someone normally works from Monday to Friday, and they are sick from Monday to Friday, they will receive two days' SSP that week (for Thursday and Friday).

Problem 3: The level of sick pay is too low

The current weekly rate of sick pay is just £94.25.⁴ The income replacement level is around 20% and is amongst the lowest of its European counterparts, though the duration is longer.

UK SSP is inadequate to meet basic living standards and the low paid have little to no savings to fall back on

Statutory sick pay and social protections for jobless and self-employed people in the UK have breached legal obligations under European law, the Council of Europe has found.

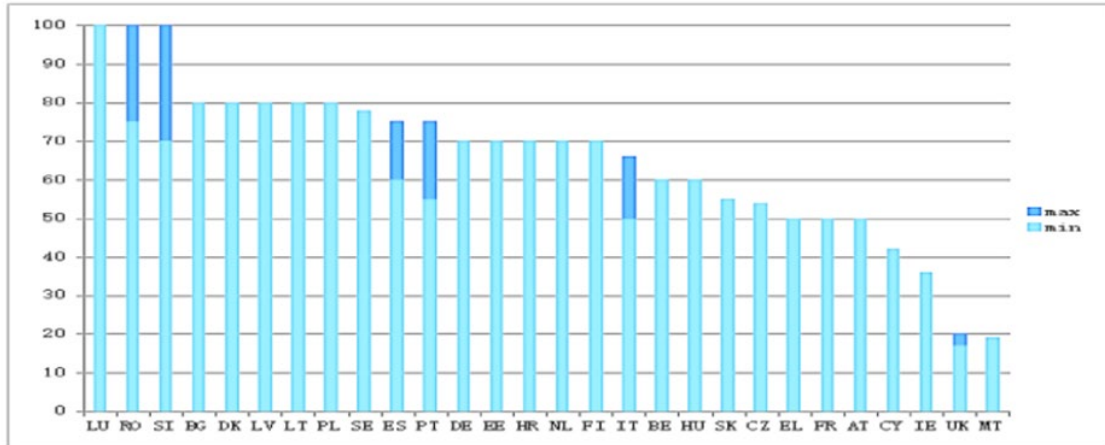
Provisions for the sick and unemployed in the UK were found to be "manifestly inadequate" in a report by the European Committee of Social Rights (ECSR).⁵

The three-day waiting period also reduces the amount of support available. Someone who usually works a five-day week will receive £132 in SSP for a two-week period. The worker will be paid the full £189 if they have already received SSP within the last 8 weeks, and that included a 3-day waiting period.

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⁵ <https://www.independent.co.uk/news/world/europe/uk-sick-pay-legislation-eu-law-breach-council-europe-social-charter-a8176396.html>

Being paid £132 or £189 across a two-week period compares badly with average earnings. Average weekly earnings are currently £512, meaning that the average worker who is quarantined will miss out on at least £863 across the fortnight.



Source: MISSOC 2015.

Sickness benefit replacement levels, EU 28, 2015 6

⁶ <https://publications.europa.eu/en/publication-detail/-/publication/fc7a58b4-2599-11e7-ab65-01aa75ed71a1>

Being on statutory sick pay for two weeks would cost the average worker at least £836



Source: ONS, GOV.UK, TUC analysis

3. Making sick pay fit for purpose

The Corona Virus has exposed long-standing problems with the UK's sick pay system. The Government has consulted on reforming sick pay, and should now urgently take action to:

- Abolish the lower earnings limit (and any earnings threshold) for receiving Statutory Sick Pay, extending coverage to almost two million workers.
- Remove the waiting period for sick pay to ensure that it is available from the first day someone is sick.

Increase the weekly level of sick pay from £94.25 to the equivalent of a week's pay at the Real Living Wage. ⁷

4. Specific actions to deal with Covid 19

In December 2019 a new infectious disease broke out in China. COVID-19, commonly referred to as 'coronavirus' such, is a type of virus affecting the respiratory system.

Symptoms can include a fever, fatigue, dry cough and difficulty breathing; as well as other symptoms related to the common cold. Following transmission, symptoms take an average of 5 days to begin.

The disease is air borne and transmitted by breathing in viral droplets, ejected during coughing, sneezing or even breathing.

⁷ Sick pay is a daily paid benefit, paid on the days that an employee normally works.

It is very different from, and far more serious than, the usual seasonal influenza outbreaks that happen every year.

A number of measures can be taken to help limit the spread of the virus, including:

- The provision of hand sanitisers and for employers to maintain high levels of cleanliness in the workplace.
- The cancellation of any requests for workers to travel to locations the government has warned against visiting.
- Provision of ongoing information and advice from Public Health England to all employees.

Self-isolation

Self-isolation, or quarantine, is about preventing the spread of COVID-19. Anyone who has, or who may have been exposed to the virus, is recommended to limit the number of people they come into contact with for 14 days.

The government and local health protection teams are advising people to self-isolate if they are:

- Waiting for a COVID-19 test result
- Identified as being a close contact of someone with coronavirus
- Returning from travel in certain locations. You can find an up-to-date list on the [government's website](#).

The government has set out [guidance on measures to take while in self-isolation](#).

Some employers will also have their own recommendations and requirements for self-isolation.

Where an employer has required workers to self-isolate (for example shutting down a school), the TUC believes that that worker should be treated as suspended from work, and receive full pay. It is unacceptable for an employer to instruct a worker to take annual or unpaid leave while in isolation or unwell.

Where an individual has been required to self-isolate on public health advice (for example after returning from an affected location) it is vital they are able to access contractual or statutory sick pay. This will require the reforms set out above, and also the specific measures we suggest below.

Certification of sickness absence

Normally an employer will require a doctor's certificate, or 'fit note', after 7 days absence. In cases of COVID-19, symptoms are likely to last more than 7 days, however people suffering are recommended to not leave home; making it difficult to get a doctor's certificate.

The Government should agree that the legal requirement on fit notes after 7 days of absence be extended to 14 days; and for anything less than this, employers should accept self-certification.

Public-facing workers

Those in public services and the service industry, who work with large numbers of the general public, will be at greater risk of exposure. Workers in public-facing roles will also be on the front-line of responding to COVID-19 and helping to limit its public health impact. They may also see their workplaces particularly affected by quarantining.

Employers should work to protect their staff by safeguarding workplaces to the best of their ability. This can include the provision of hand sanitisers and other cleaning equipment, and for employers to maintain high levels of cleanliness in the workplace.

The government has suggested retired medical professionals could be called to help with the response. If retired staff do return to work, this should not have a negative impact on their pensions.

5. Summary of recommendations

Government should:

- Abolish the lower earnings limit (and any earnings threshold) for receiving Statutory Sick Pay, extending coverage to almost two million workers.
- Remove the waiting period for sick pay to ensure that it is available from the first day someone is sick.
- Increase the weekly level of sick pay from £94.25 to the equivalent of a week's pay at the Real Living Wage.⁸
- Agree that the legal requirement on fit notes after 7 days of absence be extended to 14 days; and for anything less than this, employers should accept self-certification.
- Ensure that any retired medical professionals who return to work do not see a negative impact on their pension.
- Provide funds to ensure employers can afford to pay sick pay, and provide additional support to those who miss out.

Employers should:

- Work to protect their staff by safeguarding workplaces to the best of their ability. This can include the provision of hand sanitisers and other cleaning equipment, and for employers to maintain high levels of cleanliness in the workplace.
- In cases where the employer has required workers to self-isolate, treat these workers as if they were at work and pay them accordingly.

⁸ Sick pay is a daily paid benefit, paid on the days that an employee normally works.