

Statutory Sick Pay related to Coronavirus

Tuesday 19 May 2020, version 3.

For general advice on Statutory Sick Pay (SSP) not related to coronavirus please read the main FAQs on our [SSP legal guide](#).

For information on other issues related to Coronavirus please see the [Coronavirus hub](#). We update the hub daily and should be your first point of reference for updates and guidance.

1 Who is entitled to SSP?

An employee (including agency workers on a contract for services) who is sick, meaning unable to work because they are not well enough to do so.

An employee will be treated as off sick in relation to Coronavirus if:

- 1.1 [They are self-isolating and unable to work because they are self-isolating in accordance with government guidance:](#)
- a. The person has symptoms of coronavirus, however mild, and is staying at home for 7 days, beginning with the day the symptoms started;
 - b. The person is self-isolating for 14 days because they live with someone who is self-isolating due to having symptoms;
 - c. The person is self-isolating for 14 days because they live with someone who is self-isolating due to having symptoms and they then develop symptoms, so must stay at home for 7 days, beginning with the day the symptoms started.

Or ([and this is the updated bit - effective from Thursday 16 April 2020](#)):

1.2 [The person is shielding because:](#)

- d. They are defined by the applicable devolved public health guidance ([England](#) or [Scotland](#) or [Wales](#)) as extremely vulnerable and at high risk of severe illness from Coronavirus due to an underlying health condition; and
- e. They have been advised, by a notification sent to them, or in respect of them, that they must shield for the period specified in the notification.

"Symptoms of Coronavirus" means the recent onset of:

- a) a continuous cough;
- b) a high temperature;
- c) both a continuous cough and a high temperature; or
- d) any other symptoms of coronavirus as may be specified by the Chief Medical Officer or one of the Deputy Chief Medical Officers in guidance as amended from time to time.

At the moment SSP does not apply to those who are choosing to stay at home in order to 'social distance', nor does it apply to someone caring for a dependant or staying at home for any reason not permitted by the Coronavirus SSP regulations.

The Coronavirus Act 2020 does give the government powers to make changes to who is entitled to SSP so this could change in the future.

2 Self-isolating – medical evidence required

Employees can provide a self-certificate for the first 7 days of sickness absence. After that they are able to obtain a self-isolation notice [online from NHS111](#).

If someone is 'shielding', a copy of the letter they have received advising them to shield should be sufficient for notification purposes.

3 When is SSP payable from?

Regulations came into effect on Saturday 28 March 2020 to allow employers to pay SSP from day one of sickness absence if the sickness absence is related to Coronavirus (as above in, 'Who is entitled to SSP?') and can be retrospectively applied back to Friday 13 March 2020.

Normally, SSP is only payable from the fourth day of absence, and this continues to be the case for sickness absence not related to Coronavirus.

4 Are vulnerable people who are 'shielding' entitled to SSP?

Yes. The government amended the Statutory Sick Pay legislation effective from Thursday 16 April 2020. People who are shielding in line with the relevant devolved public health guidance ([see section one above](#)) can now be treated as on sick leave for the period specified in their notification letters.

Background - the government announced that vulnerable people (e.g. people with certain medical conditions) should stay at home, or 'shield' for 12 weeks to protect themselves from

Coronavirus. The various devolved public health guidance is intended to protect the most vulnerable people who are at high risk because of certain underlying medical conditions. People in this category should have now received letters advising them to remain at home for 12 weeks.

5 So, I've got an obligation to put 'shielding' employees on SSP?

No. If your PAYE employee is shielding in line with the relevant devolved public health guidance and you are keeping them employed, you've got two choices:

1. Put them onto SSP for the duration of the shielding period stipulated in their notification letter. Bear in mind, they may need to shield for longer than the period notified in their letters if the risk to them is still high after that period - the public health guidance may be amended to extend the shielding period as more information comes to light about Coronavirus. You could therefore be liable to pay SSP for the maximum of 28 weeks or a different period if the government amends the SSP regulations further.
 - a. If you're eligible you may be able to [claim back two weeks of SSP](#) related to Coronavirus absence. Otherwise those two weeks and any further weeks of SSP will be a direct cost to you as the employer for which you'll be unable to claim amounts back from HMRC.
2. Put them onto furlough with their agreement - [if you and they are eligible as per the government guidance to the Job Retention Scheme](#).
 - a. An employer can switch someone between SSP and furlough. If an individual is sick, it's the employer's choice whether to put them on SSP (if eligible) or keep them on furlough pay. If they're put on SSP, an employer cannot claim furlough pay at the same time to top up SSP.
 - b. The government guidance covers the interaction between SSP and furlough pay in the, '[employees you can claim for](#)' section.

You can access the relevant public health guidance for:

[England](#)

[Scotland](#)

[Wales](#)

For more information on shielding.

6 Can an employer reclaim SSP from the government?

Yes, but only if the eligibility criteria are met:

- The employee is [eligible for SSP related to coronavirus](#); and
- Your PAYE payroll scheme was created and started on or before 28 February 2020; and
- You had fewer than 250 employees on 28 February 2020 ('employee' means anyone on your PAYE payroll, including your PAYE agency workers)

The scheme will open on Tuesday 26 May 2020.

6.1 How much can I reclaim?

The repayment will cover up to two weeks of SSP starting from the first day of their sickness but only where the employee is unable to work because:

- They have coronavirus symptoms; or
- They're self-isolating because someone in their household has symptoms; or
- They're [shielding](#) for at least 12 weeks.

The weekly rate of SSP was £94.25 before 6 April 2020. From 6 April 2020 it is £95.85.

Under the reclaim scheme, you cannot reclaim any contractual rate of sick pay above the statutory amount. You will still have to pay any applicable contractual sick pay if the employee has met the eligibility criteria for it, despite you not being able to reclaim any amount that goes above the statutory SSP rate.

6.2 What are the claim periods?

You can backdate your claims to:

- 13 March 2020 - for employees unable to work due to having symptoms or self-isolating because someone in their household has symptoms; or
- 16 April 2020 - for employee's who were shielding.

The government guidance states:

You can claim for multiple pay periods and employees at the same time. The start date of your claim is the start date of the earliest pay period you're claiming for. The end date of your claim is the end date of the most recent pay period you're claiming.

You can use both the SSP reclaim scheme and the job retention scheme for the same employee but you cannot use them for the same period of time for that employee.

6.3 Do I have to keep records?

Yes. You must keep records of any SSP that you've paid and want to reclaim.

After you've received payment from the reclaim scheme, you must keep the following for **three** years:

- Dates of the employee's sickness absence; and
- Which of those dates were qualifying days; and
- The reason they said they were off work; and
- The employee's National Insurance number.

You can access the full guidance about the reclaim scheme on the [government website](#).