

Statutory Sick Pay related to Coronavirus

Thursday 27 August 2020, version 7.

Contents:

1. [Who is entitled to SSP?](#)
2. [Definitions used in the legislation](#)
3. [What medical evidence is required to get SSP?](#)
4. [From what date is SSP payable?](#)
5. [Can I pay SSP to someone who is shielding?](#)
6. [Can I put a 'shielding' person on furlough?](#)
7. [Can I reclaim SSP from HMRC?](#)
8. [Do I have to keep records?](#)

In this document, 'employee' refers to your internal employees and your PAYE agency workers on a contract for services.

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

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?

Employees and PAYE agency workers on a contract for services if they can't work because they're too sick because of illness or injury.

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

1.1 They are self-isolating in accordance with government guidance:

- a) The person has symptoms of coronavirus, however mild. They must stay at home for 10 days from when the symptoms started, or until the end of the isolation period; or
- b) The person lives with or is in an extended or linked household with someone who is self-isolating due to having symptoms. The person must self-isolating for 14 days from when the symptoms started or until the end of the isolation period; or
- c) The person lives with or is in an extended or linked household with someone who is self-isolating due to having symptoms and they themselves then develop symptoms. They must self-isolate for 10 days, beginning with the day the symptoms started or until the end of the isolation period.

Or:

1.2 The person is shielding (effective from Thursday 16 April 2020) because:

- a) They are classed as 'extremely clinically vulnerable' and at high risk of severe illness from coronavirus due to an underlying health condition; and
- b) 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.

A person can receive more than one notification, effectively extending their shielding period.

A person is no longer shielding once the period in the notification or subsequent notification comes to an end. If they receive a notification telling them that they no longer need to shield, they will not be classed as shielding from the date specified in the notice.

You can see who is classed as 'extremely clinically vulnerable' in the applicable devolved public health guidance for [England](#) or [Scotland](#) or [Wales](#).

Or:

1.3 The person is self-isolating under the, 'test and trace', system because:

- a) They've been advised by a relevant notification that they've been in contact with someone who was infected at the time of contact, and
- b) Is, therefore, staying at home until the date specified in the relevant notification.

The Government's website has more information about the ['test and trace'](#) system.

Or:

1.4 The person has tested positive for coronavirus, so

- a) They're staying at home for 10 days from when the symptoms started or the date of the positive test result if this is earlier than their symptoms starting; or
- b) They're staying at home until all of their symptoms are gone - if this is longer than 10 days.

Or:

1.5 The person is self-isolating because they live with someone who has tested positive for coronavirus

- a) This could be in the same household or a linked or extended household.
- b) The person must stay at home for 10 days from the first day that the household member had symptoms or from the date of the positive test result if this was before their symptoms started; or
- c) If the positive household member still has symptoms after 10 days, the person living with them must isolate until the member no longer has symptoms, if this is longer than 10 days.

Or:

1.6 The person is self-isolating prior to surgery - effective from 26 August 2020

- a) The person has received a pre-surgery notification;
- b) They've been told to stay at home for up to 14 days prior to going into hospital; and
- c) They are staying at home in line with that advice.

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. Nor does it apply to anyone who is required to self-isolate after returning to the UK from abroad.

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 Definitions used in the legislation

2.1 "Extended household" means:

- a) In Scotland - two households which have chosen to be treated as a single household, and do not already form part of another extended household.
- b) In Wales - two households in relation to which the adults in those households have agreed to be treated as a single household in accordance with public health guidance.

2.2 "Isolation period" means:

The period ending on the day that a relevant notification is received advising that they person with the symptoms of coronavirus is not in fact infected or contaminated with coronavirus.

2.3 "Linked household" means:

In England - applicable from 26 March 2020 to 3 July 2020 - a household with one adult or one adult and one or more people under the age of 18 which chooses to be linked with another household which is not already linked to another household. There is no limit on how many adults and children can be in the second household.

2.4 "Pre-surgery notification" means:

A written notification telling the person that they have to have a particular surgery. The notification must be sent by a medical practitioner or a person or body who is allowed to send such notifications.

2.5 "Relevant notification" means:

A written notification sent to, or in respect of, a person telling them to self-isolate for 14 days from the latest contact with the infected person and sent by –

- a) The Department of Health and Social Care; or
- b) Public Health England; or
- c) Public Health Wales National Health Service Trust (commonly known as Public Health Wales); or
- d) The Common Services Agency for the Scottish Health Service (commonly known as NHS National Services Scotland); or
- e) Someone employed or engaged for the purposes of the health service in England or Scotland; or
- f) Any other person employed or engaged by a government department or other public authority in communicable disease surveillance.

2.6 "Shielding notification" means:

A notification in writing sent to, or in respect of, a person by any person or body who may send a relevant notification, namely:

- a) The Department of Health and Social Care; or
- b) Public Health England; or
- c) Public Health Wales National Health Service Trust (commonly known as Public Health Wales); or
- d) The Common Services Agency for the Scottish Health Service (commonly known as NHS National Services Scotland); or
- e) Someone employed or engaged for the purposes of the health service in England or Scotland; or
- f) Any other person employed or engaged by a government department or other public authority in communicable disease surveillance.

Or sent by:

- a) the Chief Medical Officer; or

- b) the Scottish Ministers; or
- c) the Welsh Ministers.

2.7 "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.
 - a. **This now includes a loss or change to your sense of smell or taste** - this means you've noticed you cannot smell or taste anything, or things smells or taste different to normal.

3 What medical evidence is needed to get SSP?

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.

If someone is 'self-isolating' under the test and trace system, a copy of their relevant notification should be sufficient.

If someone has tested positive for coronavirus, their test results will suffice.

4 From what date is SSP payable?

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. SSP can be retrospectively applied back to Friday 13 March 2020 for people who had symptoms, were self-isolating due to living with someone who has symptoms or who developed symptoms themselves whilst they were self-isolating with someone who had symptoms.

People who are officially 'shielding' in line with a government letter can have SSP paid from the first day of their absence, if eligible, from Thursday 16 April 2020 onwards.

People who are self-isolating via the test and trace system can have SSP paid from day one of their absence, if eligible, from Thursday 28 May 2020 onwards for the period of their relevant notification.

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.

5 Can I pay SSP to someone who is 'shielding'?

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.

6 Can I put a 'shielding' person onto furlough?

Yes but only if they have been on furlough for at least 3 continuous weeks prior to 30 June 2020.

You can 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, '[if your employee's health has been affected by coronavirus...](#)' section.

You can access the relevant public health guidance for more information on shielding:

[England](#)

[Scotland](#)

[Wales](#)

7 Can I reclaim SSP from HMRC?

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 opened on Tuesday 26 May 2020. Access the [reclaim portal on the Government's website](#).

7.1 How much can I reclaim?

The repayment will cover up to two weeks of SSP starting from the first day of their sickness absence related to coronavirus - see the [eligible conditions](#) above.

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.

7.2 What are the claim periods?

You can backdate your claims to:

- Friday 13 March 2020 - for employees unable to work due to having symptoms or self-isolating because someone in their household has symptoms; or
- Thursday 16 April 2020 - for employees who were shielding.
- Thursday 28 May 2020 - for employees who are self-isolating under the test and trace system.

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.

8 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](#) and access the [reclaim portal](#) on the government website too.