



Department
for Work &
Pensions

Jo Churchill MP
Minister for Employment

Rt Hon Sir Stephen Timms MP
Chair, Work and Pensions Select Committee
House of Commons

27 February 2024

Dear Sir Stephen,

Thank you for the opportunity to give evidence in front of the Work and Pensions Select Committee on your inquiry into Statutory Sick Pay (SSP) and for your letter.

I have decided to answer each of your questions in turn.

Lower Earnings Limit and Benefits

You asked about how SSP interacts with different parts of the benefits system, in particular with sickness benefits. Comparisons between rates of SSP and health and disability benefits are not straightforward to make as there are a variety of possible scenarios of benefit entitlement and award.

Many of those who are not eligible for SSP, are already in receipt of an income replacement benefit. Depending on their circumstances, individuals may be able to claim Universal Credit (UC) and/or Employment and Support Allowance, to support them when they are unable to work.

The current rate of SSP is £109.40 per week. An individual's rate of New Style ESA (NS ESA) varies depending on the outcome of a Work Capability Assessment. Universal Credit entitlements depend on an individual's personal circumstances, including family, disability and housing needs as well as household income.

Using data from the Labour Force Survey in Quarter 1 of the financial year 2022/23 there were around 1.5 million employees in the UK who earned below the Lower Earnings Limit, therefore would not have qualified for SSP. This figure does not include workers who are self-employed. The department does not have an estimate as to what percentage of this 1.5 million are not claiming sickness benefits.

Case Studies

You also gave two different situations and asked if an individual in these scenarios would be eligible to claim UC. I have given a response on both of these below.

Case 1

Individuals who are in receipt of SSP from their employer may also be able to make a claim for UC during a period of sickness absence resulting from a long-term health condition, subject to meeting other eligibility criteria. SSP is treated as employed earnings for UC customers and therefore it will be taken into account in their UC calculation. This helps the individual by making such payments subject to the work allowance and taper rate in line with household earnings.

Case 2

If an individual voluntarily leaves their employment to claim work-related benefits without good reason, they may be subject to a high-level sanction for a fixed period of 91 days.

Before determining whether a benefit sanction is warranted, impacted individuals have the opportunity to provide their reasons for voluntarily leaving their employment. In addition to considering these reasons, specialist DWP Decision Makers will also take into account the individual's circumstances, including any health conditions, illnesses, or disabilities, before reaching a sanction decision.

If a sanction is applied and the individual disagrees with the decision, they can ask for this to be looked at again by way of a mandatory reconsideration. If they further disagree with the outcome of the mandatory reconsideration, they can raise an appeal for the decision to be looked at by an independent tribunal. Where a claimant demonstrates that they cannot meet their immediate and most essential needs as a result of a sanction, we have a well-established system of hardship payments. These needs can include heating, food, and hygiene.

Phased Returns to Work

You asked about the role that phased returns to work can have and the relationship they have with SSP. Figures from the DWP Employer Survey 2022: research report shows that 55% of employers who responded reported offering their employees a phased return to work following long-term sickness absence. These proportions are of all employers not just those participating in Occupational sick pay schemes.

The government does not regulate or mandate what specific actions employers should undertake to form a phased return to work.

We know that many employers offer their employees part wage and part sick pay during a phased return, as well as offering staff reduced hours or alternative work patterns to support this return. The Health and Safety Executive (HSE) published principle-based, non-statutory guidance in 2022, that employers would be expected to apply to support disabled people and those with long-term health conditions in work. This includes agreeing a return to work plan.

In the 2019 Health is Everyone's Business consultation the government set out the benefits that reforming the SSP system to allow for phased returns to work to take place could bring, this included, promoting quicker returns to work, reduce the likelihood of an individual falling back out of work, and maintaining a link to the workplace, which reduces the risk of an individual becoming detached from work and not returning. As I set out during my appearance at the committee's evidence session in January, now is not the right time for structural reform of SSP but the government continues to keep this under review.

Enforcement of SSP

This is a policy area that currently sits with both His Majesty's Revenue and Customs (HMRC) and the Department for Business and Trade (DBT).

If you would like more clarification on the enforcement of SSP and the specifics, I would encourage you to get in touch with these departments.

Data Clarification

From my Oral evidence session there are a couple of data points that I would like to clarify.

- **104** – At the time I gave evidence to the committee the Labour Market statistics showed that (as of ONS data on the 13 January 2024) we are dealing with 33 million people in employment, as well as 1.4 million who are unemployed, and 8.6 million inactive people. This makes the situation very complicated as no two workplaces and no two individual cases look the same.
- **106** - £525 million is the figure given by the WPI just for the removal of waiting days, for the removal of both Lower Earnings Limit (LEL) and waiting days the WPI expect that it would put £650 million onto business.

Kind regards,

A handwritten signature in black ink, reading 'Jo Churchill', with a decorative flourish underneath.

Jo Churchill MP
Minister for Employment



Work and Pensions Committee

09 February 2024

Jo Churchill MP

Minister for Employment
(By e-mail only)

Dear Jo,

Statutory Sick Pay

Thank you very much to you and the officials for giving evidence to the Committee on 31 January as part of our inquiry into Statutory Sick Pay (SSP). We recognise the time and effort required to prepare for these sessions and the number of people involved in doing so. We are very grateful to you for detailing the Department's plans for reviewing and reforming SSP, as well as the wider work being done on fit notes and in other related policy areas.

In the session, we discussed, among other things, how the SSP and benefits regimes interacted and, in particular, how sickness benefits compared to SSP. It would be helpful if you could provide further information on:

- the level of financial support provided by sickness benefits to those earning below the Lower Earnings Limit (LEL), and how this compares to SSP;
- DWP's estimate of the number of employees who earn below the LEL who are not claiming sickness benefits to which they are entitled; and
- whether in the following circumstances a person would be eligible for Universal Credit:
 - they were receiving SSP during a period of sickness absence resulting from a long-term health condition; and
 - they felt unsupported by their employer and unable to maintain an adequate standard of living on SSP, and so left work voluntarily.

Also in the session, we discussed the possibility of reforming SSP to facilitate phased returns to work, and you said many employers were already providing this flexibility in respect of occupational sick pay (OSP). You said these employers considered phased returns a "useful tool". I would be grateful if you could provide us with any information you have on:

- the proportion of OSP schemes that enable phased returns, and how they are designed so as to enable phased returns;
- whether the Department considers the existence of such flexibility in OSP schemes to be an argument in favour of introducing such flexibility into the design of SSP; and
- whether any employers use the flexibility allowed for in OSP to enable employees with long-term health conditions to reduce their hours periodically, in order to manage their condition, and to receive some sick pay during those periods when they are working reduced hours.

We also discussed the Department's work to raise awareness among employees of their right to SSP and how to complain if they are not getting SSP to which they believe they are entitled. You offered to write to us with all the information you had on this subject and any assessment made of the effectiveness of the Government's investment in this area. I look forward to receiving this in response to this letter.

I would be grateful for your response to these questions by Wednesday 21 February. As is usual practice with the Committee's correspondence, I will be publishing this letter and your response on the Committee's website.

Yours sincerely,

A handwritten signature in black ink, reading "Stephen Timms". The signature is fluid and cursive, with the first name "Stephen" and the last name "Timms" clearly distinguishable.

Rt Hon Sir Stephen Timms MP
Chair, Work and Pensions Committee