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Work and Pensions Committee

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Summary

The UK is experiencing relatively high rates of sickness absence and ill health, including high rates of mental health problems among young people, and there is growing concern about levels of ill health-related economic inactivity. Whilst this has prompted much debate about what the Government can do to reduce rates of ill health in the workplace, an issue that has received less attention is access to sick pay. The majority of workers benefit from occupational sick pay (OSP) provided voluntarily by employers, but a significant minority rely only on Statutory Sick Pay (SSP), which is less generous than OSP, and some are not entitled even to SSP. The cost of paying SSP is borne entirely by employers, but to qualify a worker must be classed as an employee and earn above the lower earnings limit (LEL). Even then, SSP is not paid for the first three days of sickness absence.

Successive Governments have consulted on the need to reform SSP, in response to criticisms that the rate is too low and too many people are excluded, either because they do not earn enough, or because their period of sickness absence lasts fewer than four days. In 2019, the then Government proposed removing the LEL and making SSP more flexible to enable employees to receive a combination of SSP and their usual wages and so facilitate phased returns to work. In 2021, the next Government decided not to make any changes, on the grounds that the Covid-19 pandemic was the wrong time to introduce reforms that would have placed immediate additional costs on businesses, many of which were already struggling to survive. We launched our inquiry in November 2023 to explore whether the time had arrived to reconsider and make reforms that many organisations were calling for.

We conclude that SSP does not provide adequate support for those who most need protecting from financial hardship during periods of sickness absence. In particular, we raise concerns about the SSP rate and the LEL. We find that the former is too low and suggest that a modest increase to the SSP rate in line with Statutory Maternity Pay would strike a reasonable balance between providing additional financial support to sick workers and not placing excessive extra costs on businesses. We also conclude that all employees, not just those earning above the LEL, should be entitled to SSP.

Despite having heard concerns about the impact of the three-day waiting period, we believe that removing the waiting days would have the most unpredictable consequences of all the proposed reforms, since it could result in significant behavioural change by employees. In particular, there is no way of

knowing whether removing the waiting days would increase or decrease sickness absence rates. We consequently recommend that the Government retain the waiting days.

We understand why the Government decided that the Covid-19 pandemic was the wrong time to introduce changes to SSP, as they would obviously have placed immediate additional costs on employers. We conclude, however, that this argument is now less valid. Given how many employers permit phased returns where they can, as part of their own occupational sick pay arrangements, we can only assume they find them a useful tool in supporting employees back to work. The evidence is clear that phased returns increase the chances of people making a full return to work. We recommend that the Government amend legislation to enable SSP to be paid in combination with usual wages. This could also allow people with fluctuating health conditions

to reduce their hours periodically in order to manage their conditions better, where this is in the interests of both them and their employer.

A central part of many of the arguments in favour of reforming SSP is that, despite the direct additional costs to employers, it would ultimately result in a net benefit to business, as it would result in lower levels of sickness absence and presenteeism and incentivise employers to manage sickness in the workplace better. We find that the overall impact on business of reforming SSP is difficult to predict but that, even if it did not result in the kind of net benefits some have predicted, larger businesses would be able to absorb the costs of the modest reforms we have recommended. For smaller businesses, however, a rebate of SSP costs would have to be an essential component of any set of reforms, and could itself help to reduce rates of sickness absence if it was made conditional

on businesses demonstrating better sickness absence management. Accordingly, we urge the Government to consult small and medium-sized businesses on the design of a small business rebate for SSP to be introduced alongside our other proposed reforms.

Far too many people lack a financial safety net during periods of ill health as a result of being self-employed. We recognise that self-employed people cannot be made eligible for SSP, but we strongly believe that the Government must do more to ensure they are no worse off financially during periods of sickness than employees on SSP. We therefore conclude that the Government should establish a contributory sick pay scheme for self-employed people to provide them with the same level of income protection as would be available under SSP.

1 Introduction

Background

1. Rates of sickness absence and ill health in the UK have increased in recent years, particularly since the Covid-19 pandemic. According to the Office for National Statistics (ONS), in 2022 the sickness absence rate rose by 0.4 percentage points to 2.6%, the highest since 2004, and a record 185.6 million working days were lost to sickness or injury. According to the Chartered Institute of Personnel and Development (CIPD), the level of reported sickness absence per employee rose from 5.8 days in 2009 to 7.8 days in 2023, the highest in a decade, although rates tended to be lower in smaller organisations. Recent research has drawn particular attention to the significant rise in mental health problems among young people and its impact on their ability to find and stay in work.

2. Most employees, when they are sick, benefit from occupational sick pay (OSP) provided voluntarily by their employer. Those who do not have OSP rely on Statutory Sick Pay (SSP), although not everyone qualifies, since to be eligible a person must be classed as an employee for tax purposes (in other words, they must be getting paid on a pay-as-you-earn (PAYE) basis) and earn over a certain amount every week. Particularly in the current context of relatively high sickness rates, the provision of SSP has become a subject of debate, with many organisations and campaigners arguing it is an insufficient safety net for those who have to rely on it, and no use at all to those who are not eligible. The Safe Sick Pay Campaign, for example, hosted by the Centre for Progressive Change and supported by many others, including former Secretaries of State, is calling for a complete reform of the SSP system.

3. The then Government consulted on reforming SSP in 2019, as part of a wider set of

proposals aimed at reducing ill health-related job loss. In its consultation document, *Health is everyone's business*, it described SSP as “not reflecting modern working practices” and proposed amending it in several ways, including by extending eligibility to everyone, no matter how much they earned. The then Government published its consultation response in 2021, by which time it had implemented several temporary reforms to SSP in response to the Covid-19 pandemic. In its response, the Government said the pandemic was not the right time to introduce permanent changes to SSP, as they would have placed an immediate and direct cost on employers at a time when most were struggling.

Our inquiry

4. We launched our inquiry on 9 November 2023 with a call for evidence seeking written submissions on whether SSP needed reforming and if so how it should be reformed. We

have published nearly 35 written evidence submissions. We followed up by taking oral evidence from academics, groups representing employees, disabled people and employers, as well as the Minister for Employment (Jo Churchill MP). We are grateful to all those who contributed to our inquiry.

5. In Chapter 2, we describe the legislative framework for SSP and how it interacts with OSP and the benefit system. After that, we briefly set out the then Government's 2019 proposals for reforming SSP and the following Government's response to both the Covid-19 pandemic and the consultation. On the basis of the evidence we received, we then explore SSP in more detail from the perspective of employees and the impact that reforming SSP could have on employers, particularly smaller businesses. Finally, having considered all the arguments, we set out what changes we think the Government should make. In Chapter 3, we deal with four slightly separate matters on which

we also received evidence: the enforcement regime; the exclusion of self-employed people from SSP; the role of group income protection in helping smaller businesses manage sickness absence; and the operation of SSP in respect of agency workers.

2 Statutory Sick Pay

Introduction

6. In this chapter, we describe how SSP works, including the rate at which it is paid and the eligibility criteria. We then discuss how it interacts with other forms of income protection before setting out successive Governments' positions on reforming SSP and the temporary changes made in response to the Covid-19 pandemic. In the rest of the chapter, we consider the arguments for and against making changes to SSP before setting out our proposals.

The statutory framework

7. The legislative framework for SSP is mostly set out in Part XI of, and Schedule 11 to, the Social Security Contributions and Benefits Act 1992. Employers are responsible for paying SSP to employees from the fourth day of sickness (the first three days are known as 'waiting days') and for days on which they are contracted

to work or be available to work (known as ‘qualifying days’). An employee is entitled to SSP for 28 weeks (the ‘period of entitlement’), and where two periods of sickness absence are separated by not more than eight weeks, the two periods form part of the same period of entitlement. In such cases, the waiting days provision does not apply to the second period of sickness absence, or to any further periods forming part of the same period of entitlement. An employee cannot receive a combination of SSP and their usual wages.

8. An employee is ineligible for SSP if their “normal weekly earnings” are less than the lower earnings limit (LEL) for the purposes of national insurance contributions. The Statutory Sick Pay (General) Regulations 1982 define “normal weekly earnings” as someone’s average earnings over the eight weeks preceding a period of sickness absence. The LEL has been set at £123 a week since April 2022. The 1992 Act sets out the rate at which SSP is to be paid

and empowers the Secretary of State to alter it by secondary legislation. The rate for 2023–24 is £109.40 a week. The amount of SSP payable for any one day is the rate divided by the number of days in that week that are qualifying days. The SSP rate is the rate that any one employer in respect of a single employment contract is liable for; it is not a limit on the amount of SSP an individual can receive.

The cost of paying SSP

9. The cost of paying SSP is borne entirely by employers. Until 2014, they could claim reimbursement under the percentage threshold scheme (PTS) if the costs exceeded 13% of their national insurance contributions liability in any tax month. That year, in response to a 2011 government-commissioned independent review of sickness absence, the PTS was abolished on the ground that it created a “perverse incentive to employers by providing compensation for sickness absence rather than

supporting them to actively manage sickness absence in the workplace”. At the same time, partly consequent on the abolition of the PTS and partly to reduce the administrative and cost burden on employers, the Government also removed the requirement on employers to keep records of when they had paid SSP. According to Unum UK and WPI Economics, the removal of this requirement has made it more difficult to calculate the cost to employers of paying SSP.

Occupational sick pay

10. The majority of workers who earn above the LEL receive more generous sick pay (OSP) provided voluntarily by their employer. According to analysis by the Fabian Society of the Family Resources Survey 2019–20, of the 500,000 people off sick and entitled to SSP in the week they were surveyed:

- 330,000 (66%) were receiving OSP and on full pay;

- 60,000 (11%) were receiving OSP and getting something between full pay and 50% of pay;
- 40,000 (7%) were receiving OSP and getting something between SSP and 50% of pay; and
- 80,000 (16%) were on SSP only.

These figures differ slightly from the findings of a government-commissioned survey in 2023. Of the 4,435 working adults surveyed:

- 26% said they would receive SSP during a period of sickness absence;
- 57% said they would receive OSP; and
- 9% said they would receive a combination of both.

Those in the public sector and those on higher incomes are more likely to receive OSP.

According to TUC polling, roughly one in three private sector workers were entitled only to SSP in 2021.

Interaction with the benefit system

11. Some employees who are eligible for SSP will also be eligible for Universal Credit (UC). Where an employee who is already in receipt of UC falls sick and starts receiving SSP, their UC payments will be adjusted automatically. Employees not already in receipt of benefits might become eligible when they begin receiving SSP or as they approach the end of their period of SSP entitlement. As an employee approaches the end of their period of SSP entitlement, they could apply for UC or Employment and Support Allowance (ESA). ESA is available to those with a disability or health condition that affects how much they can work. For those in the work-related activity group, ESA is paid at a rate of up to £84.80 a week in 2023–24, and the Government says that since ESA can be claimed three months before SSP ends, ESA claimants can start receiving it as soon as their SSP ends. Those with a long-term physical or mental health condition or disability can also

apply for Personal Independence Payment (PIP) if their condition means that they have difficulty doing certain everyday tasks or getting around. People are eligible for PIP even if they are working.

The Government's position on SSP

Government consultations

12. In October 2016, the then Government launched a consultation on its Green Paper, *Improving Lives: The Future of Work, Health and Disability*, in which it proposed making SSP more flexible. As an employee cannot receive a combination of normal wages and SSP, it is more difficult to arrange a phased return to work. In 2017, in its consultation response, the then Government said it wanted to make SSP more flexible, in part “to help support phased returns to work including spacing out working days during a return to work, managing a long-term health condition, or recovering from

illness”. It said SSP was inflexible and created “a financial disincentive for employees to consider some forms of phased returns to work”.

13. In July 2019, the then Government consulted on proposals for reducing ill health-related job loss as set out in *Health is everyone’s business*. In that document, it described SSP as “inflexible and not reflecting modern working practices” and suggested several reforms, including:

- enabling an employee returning from a period of sickness absence to agree a flexible, phased return to work;
- extending protection to those earning less than the LEL; and
- introducing an SSP rebate for small and medium-sized businesses.

It said any legal changes would need to be reasonable and proportionate, “not only to retain the flexibility within the UK labour market which

has been crucial to its success, but also to recognise the differences in employer capability and capacity to act”. Further, it said changes would have to be balanced by improved government support, which it said needed to be alert to potential unintended consequences that the implementation of the proposals could create. It also said it had no plans to reform the rate and duration of SSP, although it was interested in how such changes might drive employer behaviour.

14. The then Government published its response to the 2019 consultation in 2021, following the introduction of the temporary Covid-19 measures (see following paragraph for a description of these). In that response, it said it did not plan to make any changes to the SSP regime, arguing that the pandemic “was not the right time to introduce changes to the rate of SSP or its eligibility criteria”, as it would have placed an “immediate and direct cost on employers” at a time when most were struggling,

and could have put more jobs at risk. It added though: “As we emerge from the pandemic, there is space to take a broader look at the role of SSP”.

The Government’s response to Covid-19

15. In response to the Covid-19 pandemic and consequent lockdowns, the Government introduced several temporary changes to SSP under the Coronavirus Act 2020. At the time, it said the existing system did not “provide the flexibility required for the response to managing and mitigating the effects of the Covid-19 pandemic, during which the number of people off work may increase significantly”. It said this would present “a significant financial burden on employers through increased SSP costs” and that the Act would enable the Secretary of State for Work and Pensions to make changes to provide relief to employers, particularly small

and medium-sized enterprises (SMEs). The relevant measures introduced under the 2020 Act were:

- an extension of eligibility for SSP to employees self-isolating in line with public health advice;
- a Coronavirus Statutory Sick Pay Rebate Scheme for SMEs (employers with fewer than 250 employees), applying only to Covid-related absences, and refunding the cost of SSP up to a maximum of £192.70 per employee; and
- a temporary suspension of the three-day waiting period in respect of Covid-related absences, so as not to “discourage people from taking sick days in order to prevent the spread of Covid-19”.

The purpose of SSP

16. One of the main purposes of SSP is to provide a reasonable level of income

replacement. As emerged during the inquiry, however, it is difficult to say what that means in practice. In 2018, in response to the *Taylor Review of Modern Working Practices*, the Government said that when people were sick they “should feel able to take the necessary time off to recover without suffering detriment”. Tina McKenzie, UK Policy and Advocacy Chair, Federation of Small Businesses (FSB), said SSP should ensure that if someone falls ill “they are not in any way penalised”. Rebecca Deegan, Head of Health and Protection Insurance, Association of British Insurers (ABI), said it needed to be “set at a level that keeps people above the poverty line and enables them to look after themselves and their health”. Similarly, Rachel Suff, Senior Policy Adviser, CIPD, said its purpose was to provide “basic income protection”. According to Dr Gareth Millward, historian of the UK welfare state, University of Southern Denmark, one of the fundamental principles of SSP when it was introduced was

that the rate should be set at a minimal level and that employers would be incentivised to cover additional sick pay to attract workers. The Minister for Employment told us that SSP needed to strike a balance between supporting an individual during a period of sickness absence and being fair to employers.

The case for reforming SSP

17. The majority of those who submitted evidence to our inquiry argued strongly that SSP was in urgent need of reform, and several expressed disappointment at the Government's decision not to proceed with the proposals in the 2019 consultation. The TUC called the decision "grossly irresponsible". Those calling for reform said SSP was inadequate as a means of providing financial support to employees during periods of sickness absence, and was therefore failing to meet its main purpose. They said it was causing financial hardship, either because people were excluded from SSP altogether,

whether because of the LEL or the waiting days, or because the amount paid was not enough to maintain an adequate standard of living. This meant many low-paid workers were choosing to work when sick, as a result of which they were taking longer to recover, and potentially having to take off longer than they otherwise would have. The Women's Budget Group told us that it was "putting the most vulnerable in our society at further risk and exacerbating existing health inequalities". According to surveys by the CIPD and the Chartered Institute of Payroll Professionals (CIPP), a majority of employers also believed SSP was insufficient.

18. The Centre for Progressive Change (CPC), which leads the Safe Sick Pay campaign, said SSP was causing severe financial hardship for millions of workers each year. In response to a survey it conducted of people earning below the real living wage, nearly all of those who had received SSP reported having trouble paying essential bills. Several submissions told us

women, disabled people and people from ethnic minority backgrounds were disproportionately affected as they were more likely to be in low-paid and insecure employment. Tavistock Relationships, a counselling provider and research institution, conducted a study in 2022, commissioned by Legal & General, into the health and wellbeing of people providing cleaning, security, housekeeping and other services in the City of London. Based on its findings, it said the workers it spoke to were living “hand to mouth”. For them, any reduction in income caused “significant stress and anxiety”, and it was rare for such workers to take time off for health-related reasons they felt did not justify a cut in income”.

19. We received several written submissions from disability charities telling us about the disproportionate negative impact SSP was having on disabled people. Thomas Hamilton-Shaw, Policy Manager for Work and Welfare, Scope, said SSP was “broken for disabled

people”. Based on Scope’s research, he said 37% of disabled people who left work said they would have stayed in work had they had unrestricted access to sick pay, and 75% had felt it necessary to work when they were sick. The cost of living is also higher for many disabled people, and so the low rate and eligibility criteria have a particularly negative impact on them. According to analysis by Scope, households with at least one disabled adult or child need, on average, an additional £975 a month to maintain the same standard of living as household with no disabled people. Professor Chris Rauh, Professor of Economics and Data Science, University of Cambridge, said policymakers, in designing SSP, should consider the situation of a disabled person weighing the certainty of disability benefits against the inadequacy of SSP. “You have to imagine”, he said, “if you are vulnerable and you have the safety of disability benefits; even if that is not a comfortable life, it is a safe one if you are

vulnerable”, whereas if you work “you are always at risk of having to fall back on to statutory sick pay”.

20. The main criticisms raised in the evidence to our inquiry were of the SSP rate, the LEL, the waiting days and the lack of flexibility. We take each of these in turn.

The SSP rate

21. SSP is paid at a flat rate (that is a percentage of an employee’s normal salary) and is therefore more difficult to describe in terms of a single replacement rate. As Unum UK, an employee benefits provider, explained, for employees earning just enough to qualify for SSP, the replacement rate is nearly 80%, but after that, as a person’s income increases, the replacement rate falls quickly. For those earning £18,000 a year, it is less than 30%. According to the Fabian Society, the SSP rate has fallen as a percentage of average earnings over the past 30

years. In the third quarter of 2023, it was worth 16% of average weekly earnings, compared with 26% in 1990.

22. Most other countries, including in Europe, pay SSP at a replacement rate, which makes international comparisons more difficult. Despite this, we heard that the UK's rate was one of the lowest in Europe, and even the world. The ABI said it equated to a replacement rate of 17% of UK median earnings, which was the lowest of all G20 and OECD countries, except for the United States and South Korea, which do not provide any statutory sick pay. There was also almost complete agreement among witnesses that it was too low and not enough to live on. CIPP surveyed its members and found that 90% thought it insufficient. Peabody, a housing provider, said it resulted in a "huge cliff edge" for those not entitled to additional benefits. In its 2019 consultation, the then Government said that the "fall in earnings when receiving SSP

may pose a significant risk to an individual's financial security and ability to recover from serious illness”.

23. We took oral evidence from Professor Matthew Padley, Co-Director of the Centre for Research in Social Policy (CRSP), Loughborough University. The CRSP's research into minimum income standards (MIS) calculates the level of household income needed to support an acceptable standard of living and is used to set the real living wage. Professor Padley told us that, judged against the MIS, SSP fell well short of what someone needed to maintain a “socially acceptable standard of living”, and that the longer someone was on SSP, the greater the shortfall became. However, he did not think this meant SSP should match the MIS. Instead, he said SSP should be “linked in some way to an assessment of need”. He said this would be very difficult, because there was no one way of assessing need, but that there needed to be some evidence base,

“rooted in people’s experiences” and “a shared understanding of what we all need to take part in the world”.

24. The evidence to our inquiry included several proposals for increasing the SSP rate. The main ones were:

- a) a flat rate in line with the national living wage (£10.42 an hour in 2023–24, or £375 a week, assuming a 36-hour week);
- b) a replacement rate of 100% of earnings capped at the real living wage (£12 an hour outside London and £13.15 in London in 2023–24, or £432 and £473 a week);
- c) a flat rate of 75% of the national living wage (£281 a week);
- d) a replacement rate of 60% of earnings, or national living wage, whichever is highest;
- e) a replacement rate of 80% of earnings;
- f) a flat rate in line with the national living wage for the first 10 hours of sickness

absence per week, followed by a replacement rate of 35%, capped at £250 a week; and

- g) a rate in line with Statutory Maternity Pay (SMP) (£172.48 a week or 90% of average weekly earnings, whichever is lower).

25. Proposals (a) and (b) would result in 100% replacement rates for lower earners. As with any flat rate, they would become less generous as a person's income increased, although, as already highlighted, the likelihood of someone receiving OSP also increases with income. Unum UK has previously argued, however, that a 100% replacement rate would create a "moral hazard" effect that could undermine its acceptability to business. In addition, proposal (b) would require two separate rates (one for in and one for outside London). Proposal (c) would avoid any potential 'moral hazard' whilst still representing a significant increase in the SSP rate.

26. On the other hand, proposals (d) and (e) would result in those earning just above the LEL getting less SSP than they do now, and proposal (e) could also result in some higher earners getting considerably more than the current rate, although, as already pointed out, most of them will already be receiving higher rates through OSP. Proposal (f) would be more complicated than the other proposals but would, according to Unum UK and WPI Economics, result in replacement rates of between 50% and 70% for most workers and provide the greatest protection for those on the lowest incomes. The weekly cap would limit overall costs and keep the focus on SSP as a statutory minimum, instead of trying to replace OSP by providing income replacement for higher earners. The Fabian Society suggested proposal (g) as an interim measure ahead of a more ambitious rate increase. This would be more affordable than the other proposals whilst still representing a significant increase on the current rate. The

90% replacement rate for those earning less than the flat rate of SMP would also ensure, as the current SSP system does, that no one could receive more in SSP than they do in usual earnings.

Extending eligibility

Lower Earnings Limit

27. We heard different estimates of the number of people excluded from SSP because they earned below the LEL, ranging from 1.3 million to 1.5 million and 2 million. According to the TUC and the ABI, 70% of those excluded are women. Among those who submitted evidence and expressed an opinion, there was unanimous support for removing the LEL. Rachel Suff, CIPD, argued that the LEL meant “some of the most vulnerable in our society not having basic income protection”. As Nicola Smith, Head of Rights, Social and Economics, Trades Union Congress, and Amanda Walters, Director, CPC, pointed out, the LEL also excluded anyone with

more than one job earning more than £123 overall but not in respect of any one employer. The Money and Mental Health Policy Institute, echoing the conclusion of the *Taylor Review of Modern Working Practices*, published in 2017, concluded that SSP should be a basic employment right and not contingent on a person's earnings level.

28. In 2019, as part of its consultation, *Health is everyone's business*, the then Government said it was concerned that employees on lower incomes were “missing out on the protection that SSP provides”. For this reason, it thought there was a case for removing the LEL, although it said if this happened, it would propose that those earning below the LEL would be paid 80% of their normal earnings, as it would be “inappropriate to pay them the full rate of SSP”. In 2021, in its response to the consultation, the then Government said 75% of respondents agreed with extending SSP to those earning below the LEL, and that it was supported by

large and small employers too, partly as a means of incentivising employers to manage sickness absence actively. Nonetheless, as already noted, the Government concluded that the pandemic was the wrong time to make changes to SSP, and so it did not proceed with the proposal.

29. In oral evidence, the Employment Minister defended the LEL on the grounds that anyone earning below it would probably already be receiving benefits and that, in the case of UC, the amount received would increase when they took time off sick. She also said the Government had held the LEL at its current rate in 2022 and 2023 and planned to do so again in 2024, which had made an additional 500,000 people eligible for SSP. Sean Povey, Deputy Director, Fit Note and Statutory Sick Pay, Department of Health and Social Care (DHSC), said the rationale behind the LEL was “to maintain the incentive for individuals to stay in work” and that the Government would not want “to encourage

people to take additional time off for sickness absence when that was not necessary". The Minister also said removing the LEL would make SSP overly complex in respect of those with multiple jobs, as it would not be clear which employer or employers would be responsible for paying and how that responsibility would be apportioned.

Waiting days

30. According to the ABI, 70% of all sick days are not qualifying days for SSP as they fall within the first three days of a period of sickness. We note that a number of European countries have no waiting period, or have a waiting period shorter than the UK's. Analysis by Unum UK and WPI Economics shows that removing the waiting days would double the number of SSP-eligible sick days to 36 million. Much of the evidence to our inquiry was strongly in favour of making SSP available from day one of a period of sickness absence, primarily

on the grounds, first, that it was causing financial hardship for those who did take time off and, secondly, that it was prolonging periods of sickness absence and increasing the transmission rates of infectious diseases in the case of those who kept working for fear of the financial consequences of taking time off. Peabody said it seemed “to only add to the financial distress for lower income employees who will only be on SSP”. The TUC said SSP might have deterred attempts to slow the spread of Covid-19, as the Government itself appeared to acknowledge at the time.

31. A minority of those who submitted evidence did not agree with removing the waiting days. Unum UK said it would be “inordinately expensive”, as the majority of periods of sickness absence lasted for fewer than four days, although it said the question could be revisited in the future. CIPP, which did not itself argue for or against the waiting days, cited the results of its survey of members:

47% of respondents supported removing the waiting days (either on principle, to remove an administrative burden, to provide clarity, or because it encouraged presenteeism); and 40% supported keeping the waiting days as a deterrent to absenteeism. The Association of Labour Providers (ALP) did not support a change either. It called the waiting days “a compromise between providing support and encouraging employees to use sick leave responsibly”. It said it helped to reduce the cost of sickness to businesses, especially small businesses, and deterred employees from taking SSP “for minor ailments that don’t require time off”.

32. In oral evidence, the Minister told us that removing the waiting days could have unintended consequences, that not every illness was communicable and that it could significantly increase costs for employers. She also disputed the claim that it would reduce the number of sickness days in the long run, pointing to

evidence showing that sickness rates in the public sector (where employees are more likely to have access to day-one sick pay) were much higher than those for people working for small firms. Lorraine Jackson, Director, Joint Work and Health Directorate, DHSC, repeated the point about unintended consequences, raising the concern that people might take time off when they did not need to and the possibility that employers might be reluctant to hire people with disabilities for fear of the extra SSP costs.

Flexibility: Phased returns

33. In *Health is everyone's business*, the then Government said the evidence suggested that phased returns to work from sickness absence could “promote quicker returns to work, reduce the likelihood of falling back out of work, and can result in more time spent at work in the long term”. It also said they could “help to maintain a link to the workplace, which reduces the risk of becoming detached from work and not

returning”. It planned to amend SSP regulations to permit phased returns. Under such a change, it said:

- an employee would be able receive a combination of some SSP and usual wages;
- such flexibility would be available to employees after two or more weeks of absence;
- it would be for the employer and employee to decide between them whether a phased return was appropriate, and if so how to arrange it;
- part days worked as part of a phased return would not count towards the 28-week limit; and
- a government online calculator would be created to help employers work out what they should be paying their employee during a phased return.

As already noted, the then Government announced in 2021 that it did not intend to make any changes to SSP, including to permit phased returns.

34. We explored this issue in our inquiry and there was significant support for enabling phased returns by allowing an employee to receive a combination of usual earnings and SSP. According to a survey by CIPP, 81% of employers who responded were in favour of allowing SSP to be paid for part days. The ABI said phased returns should be standard practice in employers' sickness policies and that according to government-commissioned research in 2023 phased returns were the most desired adjustment for people returning to work after sickness, with 70% of participants saying they facilitated quicker returns to work. The ABI also cited research from Germany, where statutory sick pay allows and promotes phased returns, showing that employees with long-term mental health conditions were more

likely to make a full return to work following a phased return. Mind, the mental health charity, referenced the experience of Finland, as well as 2022 research by the OECD, which suggested that phased returns reduced the time it took for an employee to make a full return to work and the likelihood of them falling out of employment altogether.

35. Disability charities told us that the inflexibility of SSP combined with the waiting days was having a particularly adverse impact on disabled people, as managing a disability, especially a fluctuating condition, could require periodic but short (shorter than four days) periods of absence. It was suggested that if SSP could be paid at an hourly rate and in combination with usual earnings at any time, not just following a period of long-term sickness absence, those with fluctuating conditions could manage their condition more easily by reducing their hours periodically as required. This, in turn, could help more disabled people remain in employment.

36. We asked the Minister about the Government's decision not to reform SSP to permit phased returns to work. She told us that many firms already allowed phased returns under their own OSP arrangements because they viewed them as "a useful tool". In follow-up correspondence, she said 55% of employers who responded to the 2022 DWP employer survey offered phased returns following long-term sickness absences as part of their OSP provision. She acknowledged the benefits of reforming SSP to allow for phased returns, as set out in *Health is everyone's business*, and cited non-statutory guidance from the Health and Safety Executive that employers were expected to follow to support disabled people and those with long-term health conditions. Nonetheless, the Minister repeated the Government's position that it was not the right time for structural reform of SSP.

The employer perspective

The direct cost to business of reforming SSP

37. Since employers are solely responsible for paying SSP, any reforms to the SSP rate and/or the eligibility criteria would result in additional direct costs to them. The two most useful sets of estimates of those costs that we have seen have been produced by WPI Economics and the Fabian Society. Table 1 collates the available estimated direct costs to business of proposals for increasing the SSP rate. Table 2 does the same for the available estimates of other reforms, as well as a limited number of combinations of reforms. As the estimates in Table 2 illustrate, the addition of day one SSP increases the direct costs to business significantly, since the majority of days of sickness absence last for fewer than four days.

Table 1: Estimated direct costs to business of reforming SSP rate

Proposal	Estimated direct costs to business per year
Flat rate in line with national living wage	£825 million to £850 million
Replacement rate of 100% of earnings capped at the real living wage (£12 an hour outside London and £13.15 in London, or £432 and £473 a week)	£900 million (based on previous RLW of £10.90 outside London and £11.95 in London, or £392 and £430 a week)
Flat rate of 75% of national living wage	£550 million
Replacement rate of 60% of earnings, or national living wage, whichever is highest	Over £825 million (based on estimate for first proposal)
Replacement rate of 80% of earnings	£280 million

Proposal	Estimated direct costs to business per year
Initial rate in line with the national living wage, for the first 10 hours of sickness absence per week, followed by a replacement rate of 35%, capped at £250 a week	£400 million
Rate in line with statutory maternity pay (£172.48 a week or 90% of average weekly earnings, whichever is lower)	£200 million (based on 2022–23 SMP rate of £156.66 a week)

Table 2: Estimated direct costs to business of additional reforms to SSP

Proposal	Estimated direct cost to business
Removing LEL only	Lower estimate: £60 million Upper estimate: £125 million
Day one sick pay only	Between £130 million and £525 million
Removing LEL and mirroring SMP rate	£250 million
Removing LEL and 80% replacement rate	£780 million
Removing LEL, day one sick pay and SSP rate in line with NLW	£4 billion
Removing LEL, day one sick pay and SSP rate up to RLW	£4.2 billion
Removing LEL, day one sick pay and SSP rate in line with 75% of NLW	£2.9 billion

Potential benefits to business

38. A critical part of many of the arguments made to us in favour of reforming SSP was that the direct costs would be outweighed by the benefits to business. There were four main arguments. First, the TUC and Scope, among many others, argued that the current system, especially the waiting days, made it less likely that people would take time off as soon as they got sick, as a result of which their condition could worsen and they could end up taking more time off overall. Similarly, it could force people to return to work before they were fully recovered, which could result in their condition returning and further periods of sickness absence.

39. Second, we heard that many of those coming to work when sick would have an infectious disease that they could then spread to their co-workers, who could then end up taking time off sick themselves. It was argued that if

the waiting days were scrapped, many of these workers would take time off straightaway, which would reduce both the spread of illness and overall sickness rates. The CPC said studies had estimated that between 9% and 33% of influenza-like illnesses were contracted in the workplace and modelled estimates suggested the illness of a single employee resulted in an average of 12% of staff falling ill through primary or secondary transmission.

40. Third, we were told that reforming SSP could reduce levels of presenteeism (defined as showing up for work while sick and being less productive as a result) and therefore increase productivity. According to the ABI, presenteeism was responsible for 750 million lost working days a year and was “resulting in a substantial loss of productivity to businesses and the economy”. There is a lot of recent research estimating the financial cost to employers and suggesting levels of presenteeism have increased in recent years. Finally, some of those

who submitted evidence said increasing the cost of SSP to employers would incentivise them to manage sickness better, including by putting in place rehabilitation and return to work plans, which in the long run would reduce levels of sickness absence.

41. A number of submissions cited a 2023 study by WPI Economics that sought to estimate the potential benefits to business based on a number of assumptions. One such assumption was that removing the LEL would result in a 12.5% reduction in sickness absence among the affected group and a 10% reduction among employees working alongside them. The basis of this assumption was a study carried out after the introduction of mandated sick pay in Connecticut, USA, in 2011. The study found a 25% reduction in the number of hours taken as sick leave by those affected by the policy and a similar reduction among those who were not affected, which it said suggested reduced levels of presenteeism had led to a reduction

in the spread of contagious illnesses. Another assumption was that increasing the SSP rate would result in a 6.25% reduction in sickness absence among those affected. This assumption was also based on the Connecticut study, the rationale being that the impact would be lower than that of expanding eligibility.

42. Table 3 brings together estimates made by WPI Economics of the net benefits to business arising from individual reforms and certain combinations of reforms.

Table 3: Estimated potential benefits to business of reforming SSP

Reform	Business cost	Business benefit	Net business benefit
Day one sick pay	£500 million	£2.9 billion	£2.4 billion
Removing the LEL	£100 million	£1.1 billion	£1 billion

Reform	Business cost	Business benefit	Net business benefit
Increase rate to NLW	£800 million	£1.3 billion	£400 million
Increase rate up to RLW	£900 million	£1.4 billion	£500 million
Increase rate to 75% of NLW	£600 million	£800 million	£300 million
Day one sick pay, removing LEL and NLW	£4 billion	£4.3 billion	£300 million
Day one sick pay, removing LEL and RLW	£4.2 billion	£4.4 billion	£200 million

Reform	Business cost	Business benefit	Net business benefit
Day one sick pay, removing LEL and 75% of NLW	£2.9 billion	£3.7 billion	£800 million

Source: WPI Economics and Centre for Progressive Change, Making Statutory Sick Pay Work, July 2023

Potential to increase rates of absenteeism

43. One counter-argument is that making SSP more generous, especially by removing the waiting days, could instead increase the number of days people take off by encouraging absenteeism. The report from WPI Economics noted this possibility but said the evidence was mixed and dealt mainly with reductions in sick pay systems with 100% replacement rates,

which made them less relevant in a UK context. Professor Chris Rauh cited one such case: he said that when Germany reduced its statutory sick pay from 100% of wages to 80% in 1996, levels of sickness absence had fallen. On the basis of such evidence, he thought labour costs could be “affected drastically” if sick pay was too high as it could increase rates of absenteeism. The Association of Labour Providers said the “correlation between a higher rate of SSP and a higher rate of misuse of the scheme will need to be considered, as will the ability of employers to pay any such increase”. Rachel Suff, CIPD, called reforming SSP a “careful balancing act”, saying “you don’t want to incentivise people to be off sick”.

44. The Minister echoed these concerns. She said sickness rates were lower in the SME sector than the public sector, where sick pay provision was more generous, and concluded:

If you were to give people more time to take sick the argument is you would have less sick. Where things are more generous you in fact get more sick, so I would be very careful of a statement like that.

Impact on small businesses

45. There were 5.6 million private sector businesses in the UK at the start of 2023. Of these, 5.51 million were small businesses (0 to 49 employees). There were 36,900 medium-sized businesses (50 to 249 employees) and 8,000 large businesses (250 or more employees). While witnesses, such as the ABI and the Fabian Society, argued that reforming SSP would result in a net saving to business overall, many said that smaller businesses would find it particularly difficult to cover the costs, especially in the current economic climate of high inflation and increased interest rates. As we heard, small businesses would not

only have less existing capacity to cover the work of the employee on sickness absence, but be the least able to afford the necessary additional cover. Tina McKenzie, FSB, said they were “really struggling” and that sickness and associated costs to businesses had increased since the Covid-19 pandemic. Simply Business, a business insurance provider, told us that one-fifth of small businesses regularly worried about the survival of their business.

46. For this reason, there was widespread agreement among witnesses that the Government should introduce a rebate for smaller businesses alongside reforms to SSP. Tina McKenzie said the FSB would support an increase in the SSP rate so long as there was a rebate for the “smallest businesses”. Exactly how small a business should be to qualify for a rebate was not always clear from the evidence, although several witnesses emphasised the difference between the financial resilience of medium-sized businesses and

that of small businesses. Simply Business identified micro-businesses (0 to 9 employees) as being particularly vulnerable to increases in SSP. CIPP, based on responses to a survey of members and non-members, recommended that SMEs be allowed to reclaim 103% of their SSP costs via the Small Employers' Relief, which reimburses qualifying businesses for the cost of paying Statutory Maternity Pay and other forms of statutory pay. To qualify, a business has to have paid £45,000 or less in Class 1 National Insurance in the last complete tax year.

47. There was a broad consensus that a rebate should be conditional on small businesses demonstrating they were managing sickness absence effectively, including by putting in place rehabilitative and back to work plans and through the provision of occupational health services. The ABI said a conditional rebate could support businesses while “maintaining the incentive for businesses to invest in prevention, early intervention and rehabilitation

services”, although it thought the conditions, however designed, would need to be simple to understand and administer. At the same time, however, the CPC pointed out that small businesses, as well as being the worst affected by increases in SSP, were also less likely to have the means to invest in occupational health and other such provision, and that the Government would need to provide support and financial incentives, including tax incentives, along with a rebate, especially if it was to be conditional. The CPC said such government support would ensure small businesses did not miss out on the “significant” benefits to business of SSP reform, and that it could be paid for out of the Treasury savings likely to arise from such reform. According to analysis by WPI Economics, removing the waiting days and the LEL and increasing the SSP rate in line with the national living wage could save the Government £1.7 billion a year in reduced medical costs and

benefit payments and increased tax receipts from both employees and employers (the latter as a result of improved productivity).

48. The Government has already set out plans to improve access to occupational health services for employees of small businesses, which it says are five times less likely to invest in them than large employers. In 2021, it announced an SME subsidy pilot, and at Spring Budget 2023 it announced an expansion of the pilot along with plans to consult on occupational health tax incentives and on increasing occupational health coverage, including by boosting the supply of occupational health professionals and kitemarking. We looked at this issue in our report, *Plan for Jobs and employment support*, published in July 2023 and we concluded that access to occupational health services was inadequate, especially for those working for small businesses. We welcomed the

measures in the Spring Budget but said DWP needed to produce a more detailed timeline for when the initiatives would be rolled out.

49. The Government launched the two consultations announced in the Spring Budget the day after we published our *Plan for Jobs and employment support* report. In *Occupational Health: Working Better*, it said occupational health was “not being utilised to its full potential” and that some businesses, particularly SMEs, were “sceptical about the business case for the quality and impact of OH”. It said it would introduce a voluntary minimum framework for quality OH provision and consider introducing an SME group purchasing framework to enable SMEs to “pool their purchasing power to benefit from economies of scale”. The second consultation, run by the Treasury, explored proposals for tax incentives for employer-provided occupational health services. Lorraine Jackson, Director, Joint Work and Health Directorate, DHSC, said the Treasury was still

considering its response to the consultation and that the voluntary minimum framework would be published in summer 2024.

Our proposals for reforming SSP

50. Statutory Sick Pay does not currently provide adequate protection for those who most need protecting from financial hardship during periods of sickness absence. It consequently fails to perform its primary function of providing a basic level of income protection.

51. The rate of Statutory Sick Pay is too low. Of all the proposals for increasing the SSP rate, we think a rate in line with the flat rate of Statutory Maternity Pay would strike the best balance. It would increase the rate to £172.48 per week (using the 2023–24 rate), or 90% of earnings, whichever was lower. This would be considerably more than the 2023–24 SSP rate of £109.40 but not so much as to place unreasonable additional costs on

most employers. The 90% replacement rate for those earning below the flat rate of SMP would ensure, as the current SSP system does, that no one's SSP payments could exceed their usual earnings. *By the start of financial year 2025–26, the Government should increase the rate at which Statutory Sick Pay is paid in line with the flat rate of Statutory Maternity Pay.*

52. All employees should be eligible for Statutory Sick Pay, not just those earning above the lower earnings limit (LEL). We accept that, as the Government says, those earning below the LEL may be entitled to Universal Credit, but there remains a compelling case for removing it. It would enable people who have multiple jobs, each earning below the LEL, to receive SSP, and it would support those not claiming benefits. It would also help to maintain the link between employers and employees. Since employees with more than one job, each earning

above the LEL, already qualify for SSP more than once, we are not persuaded that removing the LEL would result in too much complexity. *The Government should remove the lower earnings limit for Statutory Sick Pay ahead of financial year 2025–26.*

53. Of all the reforms proposed to Statutory Sick Pay, removing the three-day waiting period would, we believe, have the most unpredictable consequences, since it could result in significant behavioural change by employees. It is uncertain whether removing the three-day waiting period would result in the increases in productivity across the economy that some predict, especially given the potential for levels of absenteeism to increase. *The Government should maintain the three-day waiting period while keeping it under periodic review.*

54. We understand why the Government decided that the Covid-19 pandemic was

the wrong time to introduce changes to Statutory Sick Pay, as these would have placed immediate additional costs on employers. This argument, which we believe is now less valid than during the pandemic, does not apply to enabling employees to receive a combination of SSP and usual wages in order to facilitate phased returns to work. Given how many employers permit phased returns where they can, as part of their own occupational sick pay arrangements, we can only assume, as the Minister said, that they find phased returns a useful tool in supporting employees back to work. Such flexibility, if not limited only to employees returning from periods of sickness absence, could also help people with fluctuating conditions to manage their conditions better by reducing their hours periodically, as required, where this is in the interests of both them and their employer. *The Government should amend legislation*

to permit Statutory Sick Pay to be paid in conjunction with usual wages ahead of financial year 2025–26.

55. The overall impact on business of reforming Statutory Sick Pay is hard to predict, but even if it did not result in the kind of net benefits some have predicted, we believe that larger businesses would be able to absorb the costs of the modest reforms we have recommended. For smaller businesses, however, a rebate of SSP costs would be an essential component of any set of reforms. If made conditional, such a rebate could also encourage businesses to manage sickness absences better. A conditional rebate would also align neatly with the Government's recent commitments to improving access to occupational health services for employees of small businesses, and could be introduced alongside those other changes. *The Government should consult small and medium-sized businesses*

on the design of a small business rebate for Statutory Sick Pay, including the eligibility criteria and any conditions that could apply, and introduce the rebate along with the other reforms we have recommended ahead of financial year 2025–26 .

3 Other matters

Introduction

56. During our inquiry, we received evidence on four matters, in addition to those related specifically to the legislative framework, that deserve a particular mention:

- the enforcement of SSP;
- the exclusion of self-employed people from eligibility for SSP;
- the role of group income protection in helping employers, particularly smaller business, to manage sickness absence; and
- the operation of SSP in respect of agency workers.

Enforcement

57. The Statutory Payment Dispute Team (SPDT), which sits within His Majesty's Revenue and Customs (HMRC), is currently responsible

for enforcing payment of SSP. If an employee believes their employer has not paid them the SSP they are entitled to, they can complain to the SPDT. If the SPDT finds they are eligible, they will write to the employer to resolve the dispute. If the employer still refuses to pay, HMRC will, once the appeals process has been exhausted, pay the employee the amount owed and can impose a penalty on the employer. The system is entirely reliant on employees knowing their rights and making a complaint. There is no proactive enforcement. According to the Government, 90% of disputes are resolved following a letter from the SPDT.

58. In 2019, the then Government consulted first on reforms to strengthen the regime for ensuring compliance with SSP legislation, including by increasing fines and allowing for more proactive enforcement, and then on more specific proposals for the creation of a new Single Enforcement Body (SEB) to take on these and other responsibilities. In its response

to the consultation, the then Government said a majority of respondents had agreed that the SEB should take on responsibility for enforcing SSP, and it committed to proceeding on this basis. Paul Scully MP, the then Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy, repeated this commitment in a written statement to the House on 8 June 2021. On 13 December 2022, Rt Hon Grant Shapps MP, the then Secretary of State for Business, Energy and Industrial Strategy, was asked about the SEB in oral evidence to the BEIS Committee. He replied:

Given that we have spent more than two years of this Parliament fighting covid-19, we have then seen the way that individual enforcement bodies are operating. It may be that with two years left of the Parliament, we are still able to address single enforcement bodies. As the Permanent Secretary was saying,

we are more interested in ensuring that the bodies that are already in place are operating effectively.

59. A large majority of respondents to the 2019 consultation agreed SSP needed to be enforced better. We heard the same in our inquiry. The Centre for Progressive Change conducted a 'listening project' with more than 350 cleaners and found a considerable number did not ask for sick pay for fear of losing their job and many employers simply refused to pay it. We were told by the ABI and the TUC, among others, that HMRC should have the power to carry out targeted proactive inspections of employers likely to be in breach of SSP legislation. The TUC said HMRC should develop a risk-based approach to target hidden non-compliance where no complaint had been received. The Fabian Society said enforcement activity should be targeted against sectors in which people are more likely to work flexibly and have non-standard employment contracts. The ABI said

stronger enforcement would be even more important if SSP was reformed, as the increased costs to business could incentivise non-compliance.

60. Since HMRC does not proactively monitor employers' compliance with SSP legislation, one of the biggest barriers to enforcement is employees not knowing their rights. The TUC conducted a survey of insecure workers in 2017 and found that a lack of awareness of SSP was prevalent, especially in the hospitality sector. In 2020, to increase awareness, and in response to a recommendation in the *Taylor Review of Modern Working Practices*, the Government legislated to require employers to provide all workers, not just employees, with a day one written 'statement of particulars', including SSP eligibility. According to the TUC, however, many insecure workers are still not receiving this statement. The ABI and ALP also raised concern about levels of awareness and agreed

that HMRC should do much more to ensure employees know of their entitlement to SSP and how to report non-compliance.

61. The Minister reminded us that 90% of the 3,000 disputes handled by the SPDT in 2019 (the latest date for which figures were available) had been resolved at an early stage. The Government had paused plans for an SEB as it would have been a “significant organisational change” that would have been likely to “disrupt the work of other enforcement bodies”. The Minister emphasised this did not mean that the Government did not have an appetite for ensuring enforcement was done properly, however, and highlighted a recent increase in funding for labour market enforcement bodies. She also committed to writing to us with details of what the Government was doing to raise awareness of SSP among employees and employers. When we later wrote to her requesting this information, she replied that the policy area was the responsibility of HMRC and

the Department for Business and Trade, and encouraged us to contact these departments directly.

62. According to statistics, the enforcement of Statutory Sick Pay through HMRC appears to be reasonably effective. However, there is evidence which suggests that some workers are either too afraid to ask for SSP or not aware of their entitlement, indicating that the enforcement statistics do not tell the whole story. We are disappointed that the Minister could not provide us with details of the Government's awareness-raising work. *The Government should set out what it is doing, and what else it plans to do, to raise awareness of entitlement to Statutory Sick Pay among employers and employees, and explain how it plans to measure its progress in this area.*

Self-employment

63. Self-employed people are not covered by the statutory definition of “employee” and are therefore not eligible for SSP. According to data from the ONS, the number of self-employed people in the UK rose from 3.25 million in 2000 to 5 million in the first quarter of 2020. By the last quarter of 2021, that figure had fallen to 4.2 million (the lowest level since 2013). If a self-employed person falls sick and as a result is incapable of working, or is less able to work, they can apply for Employment and Support Allowance (ESA). Whilst a person’s ESA claim is being assessed, they will normally receive the ‘assessment rate’ for 13 weeks. For under-25s, the assessment rate is up to £67.20 a week; for those aged 25 or over, it is up to £84.80, which is lower than the SSP rate. The claimant will continue to receive the assessment rate until their claim has been assessed. After that, they will be placed in either the work-related activity group or the support group and be given the full

rate. For those in the work-related activity group, that is up to £84.80 a week; for the support group, it is up to £129.50 a week.

64. We were told repeatedly that self-employed people needed better access to income protection when unable to work because of sickness. As the ABI told us, research by the OECD in 2023 concluded that social safety nets were least likely to protect those with the weakest links to the workplace, including self-employed people and those working in the “gig economy”, many of whom are classed as self-employed. The OECD recommended countries expand the coverage of their social security systems to include self-employed workers.

65. Tina McKenzie, FSB, said self-employed people should have the same benefits as employees, particularly if the country wanted to encourage and support entrepreneurship. The ABI recommended a review of statutory safety nets and said a priority should be a

sick pay system that gave self-employed people protection equivalent to that received by employees through SSP. The ABI and the Fabian Society suggested the Government increase ESA to provide the same level of protection as SSP. Alternatively, the Work Foundation, the Cystic Fibrosis Trust and again the ABI proposed that the Government establish a new contributory sick pay system for self-employed people. The Recruitment and Employment Confederation (REC) said neither recruitment agencies nor hirers should be made liable for SSP and that therefore SSP for the self-employed would only make sense if the Government provided it.

66. Self-employment is a broad category covering many different types of work. For example, the CIPD told us that someone working precariously in the gig economy should not be treated the same as a highly paid consultant. The Work Foundation, a think tank, raised a particular concern about the

‘solo’ self-employed, of whom it said there were 1.6 million in the UK, mostly comprising contractors and freelancers. On the subject of freelancers, we received written evidence from Freelancers Make Theatre Work (FMTW) and academics from the University of Essex about the findings of recent Big Freelancer Surveys. One freelancer surveyed in 2020 said: “I simply can’t afford to get ill. I’m constantly balancing the need for recovery time between projects against the need to keep earning all year round”. Like the OECD report, the survey concluded that the self-employed were subject to fewer protections than employees. In responding to the 2023 survey, many freelancers reported feeling “cheated” out of sick pay and living in fear of becoming ill. The submission called on the Government to review freelancers’ inability to access SSP in the creative and cultural sector and to consider how to enable arts organisations to pay sick pay to these workers.

67. Far too many people lack a financial safety net during periods of ill health as a result of being self-employed. In this respect, if no other, Statutory Sick Pay does not reflect modern working practices, given the increasing number of people classed as self-employed. Their exclusion is all the more egregious as many of them will be working in some of the lowest-paid and least secure parts of the economy. We recognise that self-employed people cannot be made eligible for SSP, but we strongly believe that the Government must do more to ensure they are no worse off financially during periods of sickness than employees on SSP. Our preference is for the Government to establish a contributory sick pay scheme for self-employed people. *The Government should establish a contributory sick pay scheme for self-employed people to provide them with the same level of income protection as would be available under SSP.*

Group income protection

68. We received evidence on the role that group income protection (GIP) could play in helping small businesses cover the cost of sick pay. GIP involves an employer taking out a policy to cover the payment of sick pay to employees if they cannot work for a prolonged period because of illness or injury. The length of the deferred period (the period during which the insurance provider will not pay benefits following the start of a period of sickness absence) will depend on the policy, and the longer the period, the cheaper the policy. Providers generally offer deferred periods of eight, 13, 26, 28, 41 and 52 weeks. Rebecca Deegan, representing the ABI, said the average GIP policy cost £355 per employee per year and the average claim was over £26,000. As witnesses pointed out, GIP is designed for long-term absences and is not an alternative to SSP in respect of short-term absences.

69. Group Risk Development, the industry body for the group risk protection sector, explained the purpose of GIP. In addition to sick pay, GIP can, in particular, help smaller businesses reduce rates of sickness absence by providing occupational health and other rehabilitative services, such as counselling and physiotherapy, aimed at helping employees make a sustainable return to work. Rachel Deegan said the number of organisations with GIP policies had risen by 15% compared to pre-pandemic levels, and that the ABI had commissioned research estimating the value of income protection products based on the use of services provided under them. The research estimated that in one year these services had reduced overall sickness absences by around 14 million days, saved businesses about £2.6 billion in lost output, reduced benefit expenditure by £1.5 billion and saved the NHS about £1 billion.

70. Mathew Akrigg, Policy and Research Officer, CIPP, and Tina McKenzie, representing

the FSB, agreed that GIP could help businesses, including small businesses, to manage sickness absence better but raised concern about the ability of smaller employers to afford the premiums, especially at a time of high inflation, high interest rates and high rates of taxation, and with the latest increase in the minimum wage. The CPC suggested tax incentives as one way to encourage small businesses to purchase GIP. In our report, *Plan for Jobs and employment support*, published in July 2023, we said DWP should “consider the potential that income protection insurance has to help people experiencing illness or injury remain in employment, support their return to work and reduce the financial burden on DWP when people become unable to work”. In its response, the Government agreed that GIP could be “a valuable source of support” in helping businesses to reduce rates of sickness

absence and that it would work with the industry to improve awareness among employers, especially smaller businesses.

71. In correspondence with the then Economic Secretary to the Treasury, Andrew Griffith MP, we raised that some GIP policies could be subject to double taxation. As we noted, there are three ways in which employees can contribute to a scheme:

- they do not contribute to the employer scheme and proceeds received from the scheme are fully taxable (premiums paid by the employer are not taxable);
- they contribute to the employer scheme from net pay (post tax) and proceeds received from the scheme are normally paid tax free; or
- they contribute to the employer scheme through a salary sacrifice arrangement to secure an additional level of cover (a taxable benefit in kind arises, based on the

amount of salary foregone, and proceeds received from the scheme are also taxable).

In the third case, employees are subject to a form of double taxation, as they are taxed once on the benefit in kind and again when proceeds are received. We asked the then Economic Secretary to the Treasury what justification there was for subjecting these employees to double taxation, and whether the Government had any plans to rectify the anomaly. In response, he said it was “correct that the employee will be charged both at the point of contribution and at receipt” but that “the contribution to the policy and any subsequent sick pay are not the same amounts, and therefore there is no double taxation in this scenario”. He also said it was “important to note” that employees could stop using salary sacrifice and make contributions out of their taxed income to avoid being taxed on any sick pay received.

72. In oral evidence as part of our SSP inquiry, Rachel Deegan representing the ABI, argued that employees who contributed through a salary sacrifice scheme were subject to double taxation. When we raised this issue with the Employment Minister, she referred us to Lorraine Jackson, DHSC, who reminded us of the Treasury and HMRC consultation on tax incentives. She said the Government was still considering its response but that the issue of double taxation might be something DWP and DHSC could consider “in conjunction with those two Departments”.

73. Group income protection (GIP), though not an alternative to Statutory Sick Pay, can help small businesses to manage the cost of long-term sickness absence and increase the chances of employees making a full return to work. We welcome the Government’s plans to work with employers to raise awareness of the benefits of GIP. We still have concerns, however, about

the double taxation applied to some GIP policies. *The Government should set out in response to this report exactly what it has done, and plans to do, to promote group income protection among smaller businesses, including any proposals to incentivise take-up. It should also set out what plans it has to rectify the anomaly of salary sacrifice arrangements being subject to double taxation.*

Agency workers

74. The Recruitment and Employment Confederation (REC) submitted written evidence calling for greater clarity around the definition of qualifying days for the purposes of SSP as it relates to agency workers. As it explained, anyone paid on a pay-as-you-earn (PAYE) basis, regardless of their contract type, is counted as an employee and therefore eligible for SSP providing they earn above the LEL. This includes agency workers, who are paid by, and

therefore employees of, the recruitment agency, not the hiring company. The 1992 Act defines qualifying days as those days of the week on which an employee “is required by his contract of service with that employer to be available for work or which are chosen to reflect the terms of that contract”. The REC said that because agency workers often worked irregular or ad-hoc hours in respect of multiple hiring companies, and sometimes multiple agencies, it could be very difficult to determine when they would have been working or available to work had they not been sick, and therefore when they were entitled to SSP.

75. The REC raised a second concern. It said recent case law had established the principle that where an agency worker had worked for an agency for more than three months, the worker would be deemed to have an ongoing contract and the agency would remain liable to pay SSP. To end its liability, the agency would have to issue a notice to the agency worker ending their

assignment, but if the agency was deemed to have issued the notice solely to avoid its SSP liabilities it would continue to be liable. As a result, it said agencies could be liable for SSP in respect of employees who were no longer working for them, and therefore any reforms to SSP could “have a huge impact” and force many smaller agencies to close down. It said a balance needed to be struck between “a more generous entitlement for workers and the ability of business to afford additional increased costs”. To resolve this particular problem, it called for a “new, clearer set of regulations specifically for agency workers” clarifying “how and when agencies would be liable for SSP” and how they could end this liability in a “fair and transparent way”.

76. The statutory framework for Statutory Sick Pay is causing particular problems for recruitment companies in respect of the payment of agency workers. It is not sufficiently clear when a day is a

qualifying day for agency workers or how a recruitment company might properly end their liability for paying SSP in respect of such workers. *The Government should review the operation of Statutory Sick Pay in respect of agency workers and if necessary set out proposals for amending secondary legislation to provide the necessary clarity to those employing them.*

Conclusions and recommendations

Statutory Sick Pay

1. Statutory Sick Pay does not currently provide adequate protection for those who most need protecting from financial hardship during periods of sickness absence. It consequently fails to perform its primary function of providing a basic level of income protection. (Paragraph 50)
2. The rate of Statutory Sick Pay is too low. Of all the proposals for increasing the SSP rate, we think a rate in line with the flat rate of Statutory Maternity Pay would strike the best balance. It would increase the rate to £172.48 per week (using the 2023–24 rate), or 90% of earnings, whichever was lower. This would be considerably more than the 2023–24 SSP rate of £109.40 but not so much as to place unreasonable additional costs on most employers. The 90% replacement rate for those earning below the flat rate of SMP

would ensure, as the current SSP system does, that no one's SSP payments could exceed their usual earnings. *By the start of financial year 2025–26, the Government should increase the rate at which Statutory Sick Pay is paid in line with the flat rate of Statutory Maternity Pay.* (Paragraph 51)

3. All employees should be eligible for Statutory Sick Pay, not just those earning above the lower earnings limit (LEL). We accept that, as the Government says, those earning below the LEL may be entitled to Universal Credit, but there remains a compelling case for removing it. It would enable people who have multiple jobs, each earning below the LEL, to receive SSP, and it would support those not claiming benefits. It would also help to maintain the link between employers and employees. Since employees with more than one job, each earning above the LEL, already qualify for SSP more than once, we are not persuaded that removing the

LEL would result in too much complexity.

The Government should remove the lower earnings limit for Statutory Sick Pay ahead of financial year 2025–26. (Paragraph 52)

4. Of all the reforms proposed to Statutory Sick Pay, removing the three-day waiting period would, we believe, have the most unpredictable consequences, since it could result in significant behavioural change by employees. It is uncertain whether removing the three-day waiting period would result in the increases in productivity across the economy that some predict, especially given the potential for levels of absenteeism to increase. *The Government should maintain the three-day waiting period while keeping it under periodic review. (Paragraph 53)*
5. We understand why the Government decided that the Covid-19 pandemic was the wrong time to introduce changes to Statutory Sick Pay, as these would have placed immediate

additional costs on employers. This argument, which we believe is now less valid than during the pandemic, does not apply to enabling employees to receive a combination of SSP and usual wages in order to facilitate phased returns to work. Given how many employers permit phased returns where they can, as part of their own occupational sick pay arrangements, we can only assume, as the Minister said, that they find phased returns a useful tool in supporting employees back to work. Such flexibility, if not limited only to employees returning from periods of sickness absence, could also help people with fluctuating conditions to manage their conditions better by reducing their hours periodically, as required, where this is in the interests of both them and their employer.

The Government should amend legislation to permit Statutory Sick Pay to be paid in conjunction with usual wages ahead of financial year 2025–26. (Paragraph 54)

6. The overall impact on business of reforming Statutory Sick Pay is hard to predict, but even if it did not result in the kind of net benefits some have predicted, we believe that larger businesses would be able to absorb the costs of the modest reforms we have recommended. For smaller businesses, however, a rebate of SSP costs would be an essential component of any set of reforms. If made conditional, such a rebate could also encourage businesses to manage sickness absences better. A conditional rebate would also align neatly with the Government's recent commitments to improving access to occupational health services for employees of small businesses, and could be introduced alongside those other changes. *The Government should consult small and medium-sized businesses on the design of a small business rebate for Statutory Sick Pay, including the eligibility criteria and any conditions that could apply, and introduce the*

rebate along with the other reforms we have recommended ahead of financial year 2025–26. (Paragraph 55)

Other matters

7. According to statistics, the enforcement of Statutory Sick Pay through HMRC appears to be reasonably effective. However, there is evidence which suggests that some workers are either too afraid to ask for SSP or not aware of their entitlement, indicating that the enforcement statistics do not tell the whole story. We are disappointed that the Minister could not provide us with details of the Government's awareness-raising work. *The Government should set out what it is doing, and what else it plans to do, to raise awareness of entitlement to Statutory Sick Pay among employers and employees, and explain how it plans to measure its progress in this area. (Paragraph 62)*

8. Far too many people lack a financial safety net during periods of ill health as a result of being self-employed. In this respect, if no other, Statutory Sick Pay does not reflect modern working practices, given the increasing number of people classed as self-employed. Their exclusion is all the more egregious as many of them will be working in some of the lowest-paid and least secure parts of the economy. We recognise that self-employed people cannot be made eligible for SSP, but we strongly believe that the Government must do more to ensure they are no worse off financially during periods of sickness than employees on SSP. Our preference is for the Government to establish a contributory sick pay scheme for self-employed people. *The Government should establish a contributory sick pay scheme for self-employed people to provide them with the same level of income protection as would be available under SSP.* (Paragraph 67)

9. Group income protection (GIP), though not an alternative to Statutory Sick Pay, can help small businesses to manage the cost of long-term sickness absence and increase the chances of employees making a full return to work. We welcome the Government's plans to work with employers to raise awareness of the benefits of GIP. We still have concerns, however, about the double taxation applied to some GIP policies. *The Government should set out in response to this report exactly what it has done, and plans to do, to promote group income protection among smaller businesses, including any proposals to incentivise take-up. It should also set out what plans it has to rectify the anomaly of salary sacrifice arrangements being subject to double taxation.* (Paragraph 73)
10. The statutory framework for Statutory Sick Pay is causing particular problems for recruitment companies in respect of the payment of agency workers. It is not

sufficiently clear when a day is a qualifying day for agency workers or how a recruitment company might properly end their liability for paying SSP in respect of such workers. *The Government should review the operation of Statutory Sick Pay in respect of agency workers and if necessary set out proposals for amending secondary legislation to provide the necessary clarity to those employing them.* (Paragraph 76)

Formal minutes

Wednesday 20 March 2024

Members present

Sir Stephen Timms, in the Chair

Debbie Abrahams

Nigel Mills

Selaine Saxby

Sir Desmond Swayne

Statutory Sick Pay

Draft Report (*Statutory Sick Pay*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 76 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

Adjournment

Adjourned till Tuesday 26 March 2024 at 9.15 am.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 17 January 2024

Dr Gareth Millward, Assistant Professor, University of Southern Denmark;

Professor Matt Padley, Co-Director, Centre for Research in Social Policy, Loughborough University; **Professor**

Chris Rauh, Professor of Economics and Data Science, University of Cambridge Q1–31

Nicola Smith, Head of Rights, Social and Economics, Trades Union Congress;

Amanda Walters, Director, Centre for Progressive Change; **Thomas Hamilton-**

Shaw, Policy Manager for Work and Welfare, Scope Q32–64

Wednesday 31 January 2024

Rachel Suff, Senior Policy Adviser, Chartered Institute of Personnel and Development; **Rebecca Deegan**, Head of Health and Protection Insurance, Association of British Insurers; **Tina McKenzie**, UK Policy and Advocacy Chair, Federation of Small Businesses; **Mathew Akrigg**, Policy and Research Officer, Chartered Institute of Payroll Professionals

Q65–99

Jo Churchill MP, Minister for Employment, Department for Work and Pensions; **Lorraine Jackson**, Director, Joint Work and Health Directorate, Department of Health and Social Care; **Sean Povey**, Deputy Director, Fit Note and Statutory Sick Pay, Department of Health and Social Care

Q100–142

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

SSP numbers are generated by the evidence processing system and so may not be complete.

- 1 Access to Insurance Working Group (SSP0027)
- 2 Anonymised (SSP0005)
- 3 Association of British Insurers (SSP0011)
- 4 Association of Labour Providers (SSP0025)
- 5 Berry, Danny (SSP0033)
- 6 Centre for Progressive Change (SSP0015);
Centre for Progressive Change (SSP0035)
- 7 Centre for Research in Social Policy
(Loughborough University) (SSP0019)
- 8 Chartered Institute of Personnel and
Development (CIPD) (SSP0034)
- 9 Child Poverty Action Group (SSP0017)

- 10 Covid 19 Bereaved Families for Justice UK (SSP0030)
- 11 Cystic Fibrosis Trust (SSP0022)
- 12 Evans, Helen; Fewtrell, Lucy; Dodd, Lauryn; Locklin, Cerys; and Evans, Nicole (SSP0002)
- 13 Fabian Society (SSP0031)
- 14 Group Risk Development 'GRiD' (SSP0007)
- 15 Law Society of Scotland (SSP0016)
- 16 MS Society (SSP0023)
- 17 Millward, Dr Gareth (Assistant Professor, University of Southern Denmark) (SSP0009)
- 18 Mind (SSP0024)
- 19 Morris (SSP0004)
- 20 National Voices (SSP0013)
- 21 Peabody (SSP0001)
- 22 Recruitment & Employment Confederation (SSP0021)

- 23 Scope (SSP0006)
- 24 Simply Business (SSP0020)
- 25 Tavistock Relationships (SSP0029)
- 26 The Chartered Institute of Payroll Professionals (CIPP) (SSP0012)
- 27 The Money and Mental Health Policy Institute (SSP0010)
- 28 The Work Foundation (SSP0028)
- 29 Trades Union Congress (SSP0018)
- 30 University of Essex; and Freelancers Make Theatre Work (SSP0014)
- 31 Unum UK (SSP0008)
- 32 Women's Budget Group (SSP0032)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2023–24

Number	Title	Reference
1st	Cost of Living Support Payments	HC 143
2nd	Benefit levels in the UK	HC 142
3rd	Defined benefit pension schemes	HC 144
1st	Defined benefit pensions with Liability Driven Investments:	HC 259
Special	Government Response to Committee's Seventh Report of Session 2022–23	

Number	Title	Reference
2nd	Cost of living support	HC 485
Special	payments: Government Response to the Committee's First Report of Session 2023–24	

Session 2022–23

Number	Title	Reference
1st	The appointment of Dominic Harris as the Pensions Ombudsman and the Pension Protection Fund Ombudsman	HC 465
2nd	The cost of living	HC 129
3rd	Protecting pension savers – five years on from the pension freedoms: Saving for later life	HC 126

Number	Title	Reference
4th	Universal Credit and childcare costs	HC 127
5th	Health assessments for benefits	HC 128
6th	Children in poverty: Child Maintenance Service	HC 272
7th	Defined benefit pensions with Liability Driven Investments	HC 826
8th	Plan for Jobs and employment support	HC 600
1st	Children in poverty:	HC 328
Special	No recourse to public funds: Government Response	

Number	Title	Reference
2nd Special	The Health and Safety Executive's approach to asbestos management: Government Response to the Committee's Sixth Report of Session 2021–22	HC 633
3rd Special	The cost of living: Government Response to the Committee's Second Report of Session 2022–23	HC 671

Number	Title	Reference
4th Special	Protecting pension savers—five years on from the pension freedoms: Saving for later life: Government, Financial Conduct Authority and Money and Pensions Service Responses to the Committee's Third Report of Session 2022–23	HC 1057
5th Special	Universal Credit and childcare costs: Government Response to the Committee's Fourth Report of Session 2022–23	HC 1266

Number	Title	Reference
6th Special	Health assessments for benefits: Government response to Committee's Fifth Report of Session 2022–23	HC 1558
7th Special	Children in poverty: Child Maintenance Service: Government Response to the Committee's Sixth Report	HC 1675
8th Special	Plan for Jobs and employment support: Government Response to the Committee's Eighth Report	HC 1867

Session 2021–22

Number	Title	Reference
1st	DWP's preparations for changes in the world of work	HC 216
2nd	Disability employment gap	HC 189
3rd	Children in poverty: Measurement and targets	HC 188
4th	Pension stewardship and COP26	HC 238
5th	Protecting pension savers—five years on from the Pension Freedoms: Accessing pension savings	HC 237
6th	The Health and Safety Executive's approach to asbestos management	HC 560

Number	Title	Reference
7th	Children in poverty: No recourse to public funds	HC 603

Session 2019–21

Number	Title	Reference
1st	DWP's response to the coronavirus outbreak	HC 178
2nd	The appointment of Dr Stephen Brien as the Chair of the Social Security Advisory Committee	HC 733
3rd	Universal Credit: the wait for a first payment	HC 204
4th	The temporary increase in Universal Credit and Working Tax Credit	HC 1193

Number	Title	Reference
5th	Protecting pension savers—five years on from the pension freedoms: Pension scams	HC 648
6th	The appointment of Sarah Smart as Chair of the Pensions Regulator	HC 1358