

Work and Pensions Committee

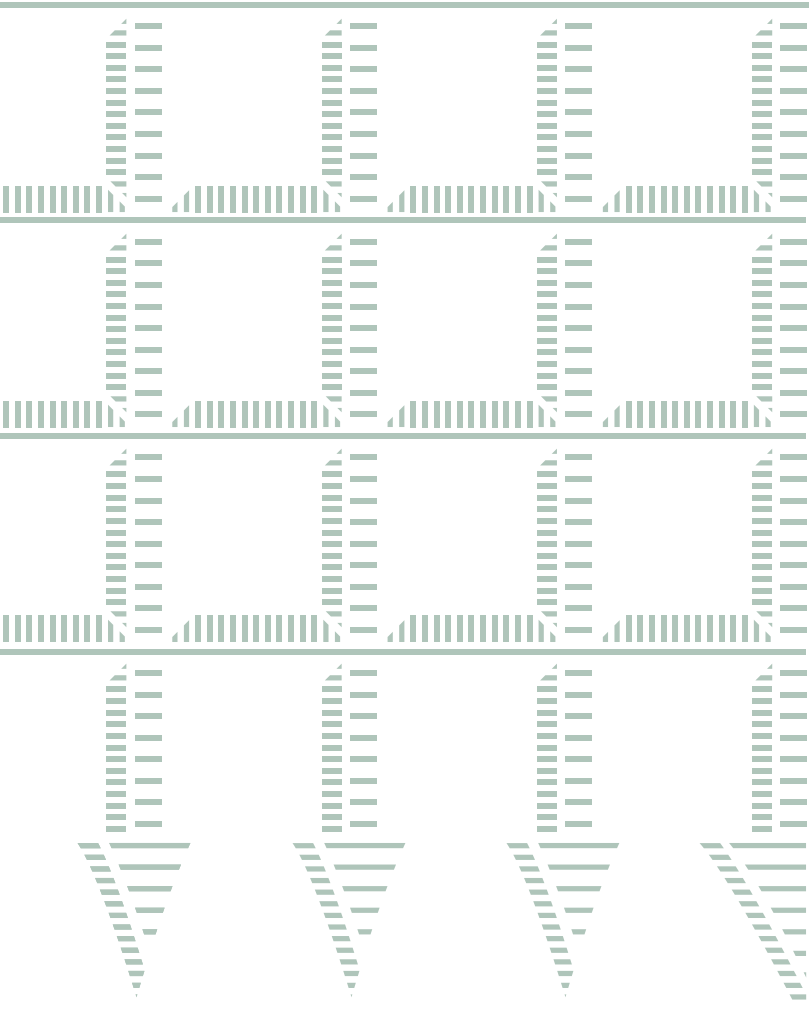
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# Statutory Sick Pay: Government Response

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First Special Report of Session 2024–25

HC 787



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# Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

## Current membership

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## Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

## Publication

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# First Special Report

The Work and Pensions Committee in the previous Parliament published its [Fourth Report of Session 2023–24, Statutory Sick Pay, \(HC 148\)](#), on 28 March 2024. On 6 March the Department for Work and Pensions provided a Response to that Report. The Committee issued its Report during the previous Government. The new Government has responded to the Report. The Government Response is appended below.

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## Appendix: Government response

The Government thanks the Committee for its report as part of the previous Work and Pensions Select Committee’s inquiry into Statutory Sick Pay (SSP).

Since the publication of the original report there has been a change in Government. We are pleased to state that this Government firmly believes that there is a case to strengthen SSP, and we are delivering important changes to the SSP system as part of the Employment Rights Bill.

Businesses and working people in Britain deserve a secure and supportive working environment that will in turn boost growth and productivity. This Government is committed to fair work, in which good employers and good employees thrive. Our Plan to Make Work Pay will support more people to stay in work, make work more family-friendly and improve living standards.

The pandemic exposed how precarious work and life is for those on acute low incomes. No one should be forced to choose between their health and financial security, which is why we have brought forward legislation to strengthen SSP, so it provides a safety net for those who need it most.

The current SSP system fosters economic insecurity at work, particularly for the lowest earners. Through the Employment Rights Bill, we are extending eligibility to those earning below the Lower Earnings Limit. We have brought forward a Government amendment to the Bill to set the percentage rate of

earnings that will be paid up to the flat rate of SSP at 80%. The Government is confident that an 80% rate strikes the right balance between providing financial security to employees who need it, whilst limiting additional costs to businesses.

By removing the waiting period and making SSP available from the first day of sickness absence, we are providing security to those who need it most from the moment they need it. As set out in the SSP Regulatory Impact Assessment,<sup>1</sup> there are likely to be some positive impacts in reducing presenteeism which benefits businesses.

These are important priorities to strengthen Statutory Sick Pay. However, the Government notes that many stakeholders are keen to see further reform of the SSP system.

The Government will continue working closely with employees, stakeholders and businesses to implement a system that is fair, supportive and effective for all. We remain committed to monitoring the impact these measures to strengthen Statutory Sick Pay have, and how SSP is used by employers and how it supports employees. The Government's response to the Committee's recommendations is set out below.

## Recommendation 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)*

## Response

SSP has always been designed to balance support for an individual when they are unable to work due to sickness or ill health, with the costs to employers of providing this support. It provides the minimum level of income that employers must pay to eligible employees; but we know that most employees are eligible for more than the statutory minimum through contractual or occupational sick pay arrangements with their employer.<sup>2</sup>

The Government agrees that the current SSP system fosters economic insecurity at work. We are providing wider and better access to Statutory Sick Pay through our New Deal for Working People. Our commitment to extend eligibility to those earning below the Lower Earnings Limit and for

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1 [Impact assessment: Improve access Statutory Sick Pay removing Lower Earnings Limit and waiting period](#)

2 Employee research Phase 2: Sickness absence and return to work. Quantitative research.

this group to receive 80% of their normal weekly earnings will mean the safety net of SSP is available for up to 1.3 million additional employees, particularly benefiting women, young people, and those in part-time work. By removing the waiting period so that SSP is paid from the first day of sickness absence, we are benefitting around 25% of employees who rely on Statutory Sick Pay only, who will now receive SSP on the first day that they need it.

It is important to note that SSP is not the only safeguard in providing a basic level of income protection. Government support through the welfare system, including Universal Credit, is also available for those on low incomes who need extra financial help when they are sick and incapable of work, depending on individual circumstances.

## Recommendation 2

*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)*

### Response

As set out in our response to recommendation 1, we are providing wider and better access to Statutory Sick Pay by extending eligibility to those earning below the Lower Earnings Limit and removing the waiting period so that employees can access Statutory Sick Pay from their first day of sickness absence.

Statutory Maternity Pay (SMP) is paid for entirely different reasons to SSP and allows for a notice period of at least 15 weeks for the employer before the individual takes leave. Employers are therefore able to better prepare and plan for individuals taking time off work for maternity leave.

Employers are also able to claim back up to 92% of employees' SMP, with some employers able to claim back up to 103% of their SMP payments if their business qualifies for Small Employers' Relief. In contrast, employers pay the full cost of SSP paid to their employees. DWP modelling<sup>3</sup> estimates that a move to a flat rate of SSP in line with SMP would add an additional cost of c.£500 million per year onto business. This is in addition to the estimated costs of removing the waiting period and Lower Earnings Limit,

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3 Internal modelling based on DWP Employee Survey 2023 and Family Resources Survey 2022/23. Methodology in line with what is set out in Statutory Sick Pay Regulatory Impact Assessment.

bringing the total annual estimated costs of SSP to around £1.6 billion. There is no mechanism for employers to reclaim these costs. Further information on this is provided in our response to recommendation 6.

It should be noted that the reforms to SSP this Government have introduced in the Employment Rights Bill will increase the amount of sick pay employees in total receive by around £400 million a year.

The Government continues to review the rate of SSP each year as part of the annual uprating process.

## Recommendation 3

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

### Response

The Government's Plan to Make Work Pay includes the commitment to remove the Lower Earnings Limit from the SSP system. The proposed changes to primary legislation we have introduced through the Employment Rights Bill will ensure that the safety net of sick pay is available to those who need it most.

Removing the Lower Earnings Limit from the SSP system will mean up to 1.3 million more employees are now eligible to receive SSP. Many of this group previously did not receive any financial support from their employer during a sickness absence, and we are changing this.

We committed to introducing a fair earnings replacement for the lowest earners. The Government ran a consultation from October to December 2024 on what this new percentage rate should be. After carefully considering responses to the consultation, we have brought forward a Government amendment to the Employment Rights Bill to set this new rate at 80% of average normal weekly earnings, or the flat rate, whichever is lower. We believe that this percentage rate strikes the right balance between providing the financial security that employees need, not discouraging people to return to work when appropriate, and limiting the costs to businesses.

## Recommendation 4

*The Government should maintain the three-day waiting period while keeping it under periodic review. (Paragraph 53)*

## Response

The Government acknowledges that this recommendation was given under the previous administration. We are determined to strengthen SSP and ensure that no one should be forced to choose between their health and financial security. That is why, as set out in our Plan to Make Work Pay, we will remove the three-day waiting period from the SSP system through the Employment Rights Bill.

The Government believes that it is important to enable millions of employees to access the safety net of SSP on their first day of sickness absence. This means that employees should feel better able to take the time they need to recover from short term illness, without struggling through work and often risking the spread of infectious diseases such as influenza. Similarly, employees with long-term or fluctuating conditions, should feel able to take a day of sickness absence to manage their condition to prevent it from worsening. Removing the waiting period will also better enable more flexibility in supporting phased returns to work after a period of sickness absence, which we set out in further detail in recommendation 5, as employees will be entitled to SSP for all days of work missed due to sickness.

Taken together, these measures will help reduce presenteeism and help increase overall productivity and can also contribute to a positive work culture that better helps recruit and retain staff. We recognise, as set out in our Regulatory Impact Assessment, that these changes may result in increased absenteeism, however there are also likely to be positive presenteeism impacts as employees take shorter periods of sick leave overall therefore, we do not expect a substantial change in total sickness absence. Additionally, if employers have the right policies and practices in place, risks of inappropriate absenteeism can be mitigated.

## Recommendation 5

*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)*

## Response

The Government agrees with and recognises the effectiveness of employers offering a phased return to work. In the DWP Employer Survey 2022: research report 55% of employers who responded reported offering their employees a phased return to work following long-term sickness absence.



Separately our employee survey showed of those who had a phased return to work, almost three-quarters felt this helped them return to work quicker than otherwise.

Through the Employment Rights Bill we are amending the Period of Incapacity for Work so that it arises where a person has a day of incapacity for work, as opposed to where a person has four consecutive days of incapacity. This will mean employees will now be able to return to work, or work alternate days, without having to be off for 4 consecutive days to continue receiving SSP.

As evidenced within the Regulatory Impact Assessment, phased returns to work can be an effective tool in helping people to return to and stay in work, thus helping to reduce the flow into economic inactivity and reducing cost on business of sickness absence.

## Recommendation 6

*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)*

## Response

Employers having responsibility for paying sick pay helps maintain the strong link between the workplace and the employee, with employers encouraged to support employees to return to work when they are able. By reducing presenteeism and the spread of infectious diseases and allowing employees the time off work they need to recover, the Government believes that Strengthening Statutory Sick Pay will increase productivity.

Until 2014, the Percentage Threshold Scheme was in place to enable employers to reclaim any amount of SSP which exceeded 13% of their National Insurance contributions bill for the month. The scheme was seen as administratively complex and was underused.

The Government recently published the Get Britain Working White Paper which announced an independent review, Keep Britain Working, which will consider how UK employers can be supported in promoting healthy and inclusive workplaces and help more people to stay in, or return to, work.

## Recommendation 7

*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)*

### Response

The Fair Work Agency (the FWA) will bring together existing state enforcement functions into one place, so employment rights are enforced more effectively and efficiently. It will also take on enforcement for additional rights, including the right to SSP. The FWA will increase awareness and accessibility of workers' rights by providing a single point of contact, as well as providing better support to businesses to comply with the law. The FWA will also work closely with the Advisory, Conciliation and Arbitration Service (Acas) which already provides guidance for employers and workers in this area.

We know that many employers welcome clarity and guidance to enable them to support their employees when they need to take time off work to recover from sickness or manage their health conditions. The Department currently offers a digital information service, [Support with Employee Health and Disability](#), developed in partnership with small businesses and disability organisations, providing tailored guidance to employers to support their employees to remain in work. It also helps employers understand their legal obligations.

Guidance to both employers and employees regarding SSP entitlement, rules and eligibility, which advise employers on how the SSP system works and what actions employers should undertake is also provided on Gov.uk.

Government will continue to engage with employers—large and small - as well as employer and employee representative bodies and professional bodies, to further understand the challenges, particularly faced by small and micro businesses, and more that can be done to support them to implement changes being made through the Employment Rights Bill.

## Recommendation 8

*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)*

## Response

While the Committee acknowledged that self-employed people cannot be made eligible for SSP, it is important to highlight that many self-employed people already choose to take out some form of insurance or income protection to financially support them during periods of sickness absence. Further information on the Government's work in this area is provided in response to recommendation nine.

Self-employed people who are unable to work due to a health condition or disability and are without their own insurance may be eligible for New Style Employment and Support Allowance (NS ESA) if they satisfy the basic conditions of entitlement and the contribution conditions. Although it is not paid at the same rate as SSP, New Style ESA is an earnings replacement benefit for working age people who are unable to work due to a health condition or disability. Universal Credit is also available to those who are self-employed and are unable to work due to sickness, eligibility is subject to a means test and depends on individual circumstances.

## Recommendation 9

*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)*

## Response

Some insurance products, particularly Group Income Protection (GIP) policies, provide access to valuable rehabilitative and preventative support for employers and employees. Keep Britain Working is an independent review that has been established to consider the role of UK employers in reducing health-related inactivity and promoting healthy and inclusive workplaces. As part of this work, a broad range of health and work stakeholders from across the country, including insurers, will be engaged.

In relation to the specific point about salary sacrifice arrangements, the provision of a GIP policy is a benefit-in-kind and taxable in its own right. When provided outside of salary sacrifice, this is exempt from a benefit-in-kind charge. When provided via salary sacrifice the Optional Remuneration Arrangements (OpRA) rules apply resulting in a benefit-in-kind charge, and this treatment is in line with the majority of other benefits-in-kind following the previous Government's reforms in 2017.

Sick pay is always taxable as earnings as it relates to the employee's employment. Where an employee has contributed to the premiums of a GIP scheme from their taxed income, only the part of the sick pay attributable to the employer's contributions are charged to income tax.

Where employees continue to use salary sacrifice, they will be taxable in full on any sick pay paid out of the scheme in addition to incurring a benefit-in-kind charge. The contribution to the policy and any subsequent sick pay are not the same amounts, and therefore there is no double taxation, but the employee will be charged both at the point of contribution and at receipt. Employees are able to stop using salary sacrifice and make contributions out of their taxed income to ensure that they are not taxed on any sick pay received from the scheme which is attributable to these contributions.

## Recommendation 10

*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)*

## Response

The Government welcomes the insight from the WPSC and stakeholders who have provided views through the call for evidence as part of this inquiry into this complex area of the SSP system.

We will be updating our guidance in due course to account for the changes to SSP as part of the Employment Rights Bill. The department's officials will explore with representative organisations, employers and employees to understand what more can be done to improve the clarity, including guidance, regarding the operation of SSP for agency workers.