

STUC Response - Coronavirus: Fair Work Statement Review

Supporting all workers to follow public health guidance

We believe the commitment to ‘no detriment’ is key to the principles of Fair Work and is essential to protect workers who may be unable to return to work following vaccination. Therefore, we would propose this section is amended:

Public health guidance is updated regularly; it is there for a reason - to help save lives – and above all else employers should support workers to follow it. The [Test and Protect programme](#) will require workers and employers to monitor their own health closely and to isolate in accordance with guidance. No one should feel under pressure to breach public health advice and workers should not be put at risk, nor should they put others at risk of infection. Our success in managing the virus at this critical stage depends on employers supporting workers to self-isolate and attend for vaccination when advised to do so, without any financial detriment. Where a worker is unable to return to work after receiving the vaccine due to any side effects, such an absence should [not result in the worker suffering any detriment](#) ~~be treated sympathetically~~ regarding pay and formal attendance management.

Paying workers while they are sick, self-isolating or absent from work following medical advice relating to COVID-19

Further, we have significant concerns regarding the proposed changes around payment which remove protection for workers suffering from post-COVID-19 (long covid). We request the existing wording around the “no detriment” principle should remain and apply to all Covid related absences; those arising from isolation, short-term illness and long-covid. Allowing employers to treat absences related to long covid in the same way as other long term illnesses leaves workers at risk of rigorous attendance management processes, financial detriment and potential capability dismissals. We would welcome the opportunity to discuss this further and offer these initial comments for consideration:

Occupational impacts

- Essential and key workers who were unable to work from home have had a higher exposure to covid as a result of their attendance at work during the pandemic and will be disproportionately impacted by this change
- These risks were, and still are, greater for workers who are unable to socially distance due to the nature of their occupation e.g. fire and rescue service & health workers
- Reference should be made regarding the potential for this to be classified as an industrial injury

Equality impacts

- Evidence shows a higher incidence of Covid in the BAME workforce who would also be adversely impacted by removal of any ‘no detriment’ principle
- Further research is required on the occurrence of long covid and workers with disabilities

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- The equalities impact of long covid is as yet unknown and reference needs to be included to manage long covid in relation to the definition of a disability in line with the Equality Act
- Any change to the Coronavirus: Fair Work Statement should be subject to an Equality Impact Assessment
- Please also note submission by Unison Scotland
<https://www.unison-scotland.org/human-rights-equalities-committee-impact-of-covid-19/>

Diagnosis

- Concerns regarding accurate diagnosis and the impact on absence management and resulting changes in sick pay. During the early stages of the pandemic testing was not widely available and as a result GPs can only therefore state on a fit note that illness is 'probably (rather than definitively) as a result of Covid
- Other potential health impacts of Covid are not included and should be referenced and policies updated as evidence emerges e.g. work related PTSD, occupational stress
- We understand that employers may face difficulties in treating long covid differently to other long term and would recommend that no significant changes are made and policies are kept under review as new research emerges

Timing of changes

- We remain in the middle of a global pandemic and the science surrounding the long term effects of the virus is still developing given this we do not believe it is appropriate to treat this like any other illness at this time and there is a legitimate reason for not doing so
- Affiliates have raised concerns that some public agencies including COSLA and Fire and Rescue Service are taking this forward before it has been agreed

Implementation of the Fair Work statement

- How will the Scottish Government use public sector procurement to ensure employers follow any guidance?