

# Information from NHS trade unions

## **NHS Joint Trade Unions' Briefing – Updated August 2022** **Long Covid Guidance for NHS Trade Union Reps** **Background**

Most people who have contracted COVID-19 are expected to recover within 12 weeks. However, some people, including those who were not initially unwell or hospitalised with COVID-19, experience a variety of ongoing health complications and symptoms that may continue for many more weeks or months. Long Covid is also more likely to affect women, those of working age, disabled people and those working in health or social care<sup>1</sup>.

It is important for reps and union branches to get employers to recognise Long Covid and the impact it has on NHS workers' health and take the necessary steps to support staff who may be experiencing difficulties.

At a national level, the Department of Work and Pensions is considering a recommendation by the Industrial Injuries Advisory Council, on which there is trade union representation, to add complications of Covid as a prescribed an industrial (occupational) disease for those working in health and social care.

In England, Scotland and Wales COVID-19 workforce guidance that has been in place during the pandemic is being withdrawn, in Northern Ireland guidance remains in place (see resources at the end of this briefing for relevant links and timelines). However, the following principles can be applied in any workplace:

### **Key Principles**

**Risk assessments:** Ensuring suitable and sufficient individual risk assessments are undertaken and regularly reviewed. Including individual risk assessments for when a staff member returns to the workplace. Multi-disciplinary input into risk assessments may be necessary, including infection prevention and control, occupational health and health and safety, whilst respecting the individual member of staff's right to confidentiality at all times.

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<sup>1</sup> ONS. Prevalence of ongoing symptoms following coronavirus (COVID-19) infection in the UK: 6 May 2022  
<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/6may2022>



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**Occupational health and wellbeing:** Good occupational health advice and support is central to the management of individual cases and should be sought as early as is reasonably practical. Occupational health advice will guide conversations between the individual and the employing organisation and help to manage expectations in relation to what is and is not possible. Additional support may also include access to specialist Long Covid clinics, peer support networks and welfare support.

**Phased return to work:** Organisations should support individuals to work towards fulfilling their role. Employers should take a flexible approach, specifically to extending a phased return period for longer than a standard policy allows. This can include the exploration of modified shifts, reduced and flexible hours. When supporting a phased return, the NHS terms and conditions of service handbook (Annex 26) makes provisions for staff to receive their normal pay. Please note that some medical contracts may not contain or refer to this clause.

**Reduced or amended duties:** Explore whether the individual's existing duties could be reduced or amended (temporarily or permanently, taking into account the needs and wishes of the individual) to facilitate a return to work. Conversations to explore how duties may be adapted to enable individuals to work from home for a specified period may be required. Approaches should include allowing staff autonomy to determine when rest breaks, working from home and further time off is necessary, to manage fluctuating symptoms. Temporary changes should be reviewed intermittently in consultation with the worker and occupational health to consider a return to normal duties. Where a phased return is not completed due to a relapse in the condition or the development of new symptoms, the organisation should look at supporting subsequent phased return(s) when appropriate to do so.

**Redeployment:** To support the retention of staff, redeployment on a temporary or permanent basis, may need to be considered, taking into consideration the needs and wishes of the individual. This should be explored as an alternative to ill health retirement.

**Rehabilitation:** Identifying appropriate treatments and interventions to support staff return to work at the earliest opportunity. In relation to Long Covid this includes the option to refer individuals to rehabilitation and Long Covid clinics to support the management of their symptoms, both physical and psychological.

**Equality Impact Assessments:** As defined by the Equality Act 2010 and the Disability Discrimination Act 1995 in Northern Ireland, an individual has a disability if they have a

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physical or mental impairment which has a substantial and long-term detrimental impact on their ability to carry out normal day to day activities. Consequently, Long Covid may be considered as a disability under the terms of the Equality Act 2010, and in Northern Ireland the Disability Discrimination Act 1995.

Ill health retirement: For those in the NHS Pension Scheme, provisions exist within the scheme which can be used as a mechanism to support individuals who, despite best efforts of both parties, are not able to return to work due to permanent ill health. Where conversations of this nature take place, the involvement of the individuals trade unions representative, where requested, should be facilitated. Full details about the benefits of the NHS Pension scheme should be made available to individuals to ensure they have all the necessary information to make an informed decision. Applications can be made before a decision to leave employment is made and may help the individual in their decision making.

## **Action Points for Safety Reps**

Long Covid can, in some cases, put workers more at risk of harm e.g. fatigue or brain fog in shift workers or those making safety critical decisions, increased muscle and joint pain for those who are moving and handling and increased susceptibility to infections.

- Request that employers conduct an individual and environmental workplace risk assessment and develop a return to work plan for the staff member, which includes reasonable adjustments, amended duties and any other measures in place to support any member who has been diagnosed as having Long Covid.
- Ensure that you are consulted on anything affecting members' safety including the outcomes of any risk assessments.
- Ensure the employer facilitates easy access (including the ability to self-refer) to occupational health services and sources of mental health support.

## **Action Points for Stewards/Staff-side**

- Ensure that the employer is following any relevant country specific guidance (the links can be found under further information).
- Ensure employers are following Annex 26 of the NHS terms and conditions handbook on phased return which makes provisions for staff to receive their normal pay. Please note that some medical contracts may not contain or refer to this clause.

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- Negotiate paid time off for medical appointments including attending Long Covid clinics, rehabilitation and mental health support.
- Request reasonable adjustments for members who are likely to be considered as being disabled workers under the Equality Act 2010/Northern Ireland Disability Discrimination Act 1995.
- A member of staff who does not meet the definition of a person with a disability under the Equality Act 2010/Northern Ireland Disability Discrimination Act 1995, should still be supported and any necessary reasonable adjustments put in place to facilitate return to work, where appropriate. Ask the employer to put in place workplace adjustments, where it is unclear if the member is can be considered as disabled
- Sign post members to the Government's [Access to Work](#) scheme for Britain or Northern Ireland [Access to Work - practical help at work | nidirect](#) who may be able to provide a grant for practical support e.g. equipment or a taxi to and from work
- Support members through ill health retirement conversations with their manager.
- Support members who have caring responsibilities for family members/dependents with Long Covid to negotiate flexible working arrangements and/or carers' leave where necessary.
- Ensure that any new policy or practice related to the support of staff with Long Covid is subject to an equality assessment, and that the results are shared and analysed in partnership with local trade unions.
- Monitoring, evaluation and updating in light of experience must be done in partnership.
- Members who contracted COVID-19 at work can be signposted to union legal advice on potential personal injury claims
- Where the member is eligible, you can support them to pursue a claim for injury allowance in line with section 22 of the terms and conditions handbook

## Action Points for Learning Reps

- Support the member to access learning opportunities that they may have missed due to being off work.
- Where members are being temporarily or permanently redeployed ensure the employer is aware of their duty to assess, provide and support any additional training needs to allow them to safely work in that environment.

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## Further Information

NHS Staff Council guidance following the withdrawal of DHSC's terms and conditions COVID-19 guidance: <https://www.nhsemployers.org/covid-19-nhs-staff-council-joint-guidance>

NHS Staff Council guidance management of long term COVID-19 Sickness Absence: <https://www.nhsemployers.org/sites/default/files/2022-07/Management-of-long-term-sickness-absence-july-2022.pdf>

[Sickness and absence because of long COVID: Long COVID – advice for employers and employees - Acas](#)

Scotland [Coronavirus \(COVID-19\) | Scottish Terms and Conditions Committee](#)

Wales: [Staff Area: Coronavirus updates - NHS Wales Shared Services Partnership](#)

NHS Wales COVID-19 Sickness Absence Arrangements: <https://www.nhsconfed.org/sites/default/files/2022-06/NHS%20Wales%20COVID-19%20Sickness%20Absence%20Arrangements%20-July%202022%20Final.pdf>

Northern Ireland: [Covid-19 Guidance for HSC Staff - Terms and Conditions | Department of Health \(health-ni.gov.uk\)](#)

NHS England Supporting Colleagues affected by Long Covid [NHS England » Supporting colleagues affected by Long COVID](#)