

NHS Wales
COVID-19 Sickness Absence Arrangements
From 1 July 2022 (revised December 2022)

Background

Specific arrangements were put in place in March 2020, in response to the exceptional sickness absence situation prevailing as the COVID-19 outbreak took hold across Wales. To support NHS Wales staff, both from a control of infection measure and to facilitate recovery, open ended sickness absence arrangements were put in place which provided for full pay from day one. This was an immediate response and provided staff, managers and organisations with a clear and unambiguous categorisation of the absence. It also enabled NHS Wales organisations and Welsh Government time to understand how the infection was impacting on the workforce and to assess the emerging consequences on individuals following infection and the extent to which recovery and rehabilitation were compromised.

From 1 July 2022, the management of COVID-19 sickness absence changed to bring it into line with the latest Welsh Government guidance and the arrangements as set out in the All Wales Managing Attendance at Work (MAAW) Policy.

To support this change three elements were developed to facilitate the transition from the previous arrangements which were in place since the start of the pandemic. These were: -

- i) Handling short term absences from a control of infection perspective
- ii) Supporting individuals with Long COVID-19
- iii) Support for individuals absent as a result of delayed treatment

i) Short Term Absences and Control of Infection

From 1 July 2022, individual staff members who have symptoms and suspect that they may have COVID-19 should take a lateral flow test and upload the result to the Government portal. If the test is positive, they should stay off work for at least 5 days and provide their line manager with evidence of the result (text or on app) and then follow the Welsh Government guidance on the link below: -

<https://gov.wales/self-isolation>

Given the significance of this as a control of infection issue, any sickness absence in the interests of control of infection will be disregarded in respect of the cumulative absence and prompts which operate within the Managing Attendance at Work (MAAW) Policy for the first 10 days or longer in the event that the individual staff member continues to test positive (in line with the Welsh Government's advice with regard to self- isolation). This absence from work confirmed as a sickness due to the

effects of a COVID-19 illness/infection will be paid at full pay from the first day of absence for up to 10 days or longer in the event that the individual staff member continues to test positive (in line with the Welsh Government's advice with regard to self-isolation), calculated on the basis of what an individual would have received had they been at work, including any enhancements that they would have received. It will therefore include regularly paid supplements, including any recruitment and retention premia and payments for work outside of normal hours. This will apply regardless of length of service or previous absences which may have affected occupational sick pay entitlements. Continuation of full pay for COVID-19 illness/infection is dependent on individuals providing ongoing evidence to their line manager of positive LFT tests results.

ii) Supporting Individuals with Long Covid

The pay arrangements for long term absence following infection with COVID-19 were extended beyond the arrangements as set out in the agreed terms and conditions of service for both AfC and Medical and Dental staff, so as to provide time to support recovery and for interventions to be in place to support, enable and facilitate individuals to return to work.

To assist staff to return to the workplace following a lengthy period of COVID-19 related sickness absence, a programme of specific support has been put in place. This includes: -

- the development of bespoke phased return plans which may enhance the provisions currently outlined in the MAAW policy, e.g. multiple phased returns on full pay if an individual needs to combine their return with several episodes of sickness absence as part of their managing and sustaining their return to work. Phased returns on full pay are a key tool in supporting an individual in returning to work and can be a key part of the recovery process;
- highlighting with managers the importance of regular communication with the individual and arrangements for them to visit the workplace to keep in touch with colleagues;
- increased access to health and wellbeing/occupational health services for the individual;
- arranging refresher skills courses and;
- holding career conversations.

To support this approach, guidance for managers to support employees on a long term absence with COVID-19, including a detailed section on phased returns, has been developed in partnership: -

<https://www.nhsconfed.org/publications/nhs-wales-guidance-managers-supporting-employees-long-term-sickness-absence-diagnosis>

Arrangements from 1st July 2022

a) Individuals who received full pay for 12 months or more on 1st July 2022

From 1st July 2022, individuals who had received full pay for 12 months or more moved to a half-pay position for the length of time corresponding to each individual's

contractual entitlement to half pay i.e., based on their length of service. In addition, organisations are being actively encouraged to explore, on a case by case basis, whether the level of sick pay should be increased in line with the provisions in place to extend sick pay i.e., under paragraph 14.13 in the AfC terms and conditions of service and paragraph 225 of the M&D handbook, which allows for discretion to extend sick pay up to full-pay, particularly to facilitate a phased return to work. Organisational arrangements should be in place, in line with these provisions, for such discretion to be exercised based on an individual's circumstances and the wider rehabilitation/return to work prospects.

b) Individuals who were absent for less than 12 months on 1st July 2022

From 1st July 2022, all individuals who were absent for less than 12 months with COVID sickness absence, will continue to receive full pay up to the anniversary of the commencement of their sickness absence with half pay re-instated at the end of the full pay "top up" period for the length of time corresponding to each individual's contractual entitlement to half pay i.e., based on their length of service. If individuals remain absent with COVID sickness absence at the end of the half pay extension organisational discretion may be applied to extend sick pay as outlined in the paragraph above.

c) Individuals develop long COVID-19 after 1st July 2022

Where individuals develop long COVID-19 after 1st July 2022 and their absence extends beyond the contractual entitlement to full pay, organisations should consider whether it is appropriate to provide ongoing support above half pay or no pay. It is recommended that this consideration is undertaken proactively on a case by case basis and any additional pay support would either fall under paragraph 14.13 in the AfC terms and conditions of service and paragraph 225 of the M&D handbook or under the provisions outlined in Section 22ⁱ (Injury Allowance) in the AfC terms and conditions of service or paragraph 238ⁱⁱ of the M&D handbook.

iii) Support for Individuals on prolonged sickness absence as a Result of Delayed Treatment

Some individuals, currently on prolonged sickness absence, may have had an operation or other treatment cancelled which would have supported a return to work. Such individuals, as a result of the cancellation may move into a half pay or no pay situation.

If the delay to treatment is as a direct result of the COVID-19 pandemic, then the existing provisions, allowing the flexibility to maintain full or half pay, set out in Section 14.13 of the Terms and Conditions of Service Handbook: Sickness Absence and paragraphs 225-244 of the Medical and Dental Terms and Conditions of Service (Wales), may apply. Organisations should actively consider using this discretion and it is important that arrangements are put in place to consider the use of this provision through the consideration of an individual's circumstances on a case by case basis rather than through the operation of a blanket organisational approach.

ⁱ 22.3 Eligible employees who have injuries, diseases or other health conditions that are wholly or mainly attributable to their NHS employment, will be entitled to an injury allowance, subject to the conditions set out in this section. The injury, disease, or other health condition must have been sustained or contracted in the discharge of the employee's duties of employment or an injury that is not sustained on duty but is connected with or arising from the employee's employment.

22.4 The attribution of injury, illness or other health condition will be determined by the employer who should seek appropriate medical advice. In all cases the employer should use the civil burden of proof - "on the balance of probability" (more likely to than not) - to determine the outcome. Where the employee disagrees with the employer's decision then they are entitled to appeal the decision through local grievance procedures

ⁱⁱ 238 Injury sustained on duty - A period of absence due to injury sustained by a practitioner in the actual discharge of his or her duty and without the practitioner's own default shall not be recorded for the purposes of this scheme.