

The Royal College of Physicians and Surgeons of Glasgow although based in Glasgow represents Fellows and Members throughout the United Kingdom. While this consultation is related to proposed regulation by HM Government at Westminster, many of the areas considered are applicable to all devolved nations including Scotland. They should be considered by the relevant Ministers of the devolved governments.

The College welcomes this consultation on ill health related job loss. Sudden onset of illness can be devastating and all too often continuation in employment is not considered. Yet a continuing income is vital to maintain good health and state benefits may not be enough to maintain the missing income. In addition, employment is important for self-esteem and maintaining mental health.

Annex: questions

Q1. Do you agree that, in addition to government support, there is a role for employers to support employees with health conditions, who are not already covered by disability legislation, to support them to stay in work?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree.

The College believes that employers should consider it the norm for their employees to remain in work when they develop illness or disability. Adaptation to work patterns and style of work should be considered part of normal practice. With the increasing age of retirement changes to work style should be considered purely because of age in that employees may not be physical or mentally able to cope with the work pattern of a younger person. In the past employers have retired these employees early but they should have statutory guidance to avoid this.

The governments of the UK are one of the largest employers in the country. However, many government employees experience a tough attitude from their employer if they develop illness or disability. The NHS and the armed forces are examples where poor practice exists.

Q2. Why do you think employers might not provide support to employees with health conditions not already covered by disability legislation to help them stay in work?

The employer may plead cost and disruption to the workplace as a reason. They may feel that an employee with a disability is not cost effective. They may also hope by being "hard" or "considering that it is not their problem" that the employee concerned will get fed up and leave.

Q3. Do you agree that a new 'right to request work(place) modifications' on health grounds could be an effective way to help employees to receive adjustments to help them stay in work?

Yes

No

Don't know (with reasons)

The College entirely agrees with this view. It would also support changes on purely age grounds. Reasonable adjustments are not necessarily costly if they are planned with workplace development or upgrades.

Q4. If the government were to implement this new right to request work(place) modifications, who should be eligible?

- *XAny employee returning to work after a period of long-term sickness absence of four or more weeks;*
- *Any employee with a cumulative total of 4+ weeks sickness absence in a 12-month period;*
- *Any employee returning to work after any period of sickness absence;*
- *XOther, Any employee who is able to demonstrate a need for a work(place) modification on health grounds;*

All these options would be reasonable but to start the above options are recommended.

Q5. How long do you think an employer would need to consider and respond formally to a statutory request for a work(place) modification?

- 0-4 weeks;
- *X5-8 weeks; or*
- *9-12 weeks?*

Q6. Do you think that it is reasonable to expect all employers:

- **To consider requests made under a new 'right to request' work(place) modifications?**

X yes

No

If no – why?

- **To provide a written response setting out their decision to the employee?**

X Yes

No

If no – why?

Q7. Please identify what you would consider to be legitimate business reasons for an employer to refuse a new right to request for a work(place) modification made on health grounds:

- *XThe extent of an employer's financial or other resources;*
- *XThe extent of physical change required to be made by an employer to their business premises in order to accommodate a request;*
- *XThe extent to which it would impact on productivity;*
- *Other – please state.*

Please give further views in support of your response.

Any one of the above might be legitimate if the cost or disadvantage to the employer goes beyond what is reasonable or practical. This may require some investigation and setting of standards. Clearly this could be very expensive. However, in practice, it is often only minor adjustments when equipment is renewed which is necessary.

Q8. The government thinks there is a case for strengthened statutory guidance that prompts employers to demonstrate that they have taken early, sustained and proportionate action to support employees return to work. Do you agree?

Yes

No

Maybe

Don't know

While the Health and Safety at Work Act has had some effect on changing practice (eg the Regulation relating to Keyboard (VDU) workers) the effects are very slow and there is a need for a statutory requirement.

Q9. If no, please give reasons for your answer.

Q10. If yes, would principle-based guidance provide employers with sufficient clarity on their obligations, or should guidance set out more specific actions for employers to take?

- *Principle-based guidance provides employers with sufficient clarity;*
- *Guidance should set out more specific actions for employers to take;*
- *Don't know;*
- *Other – please state.*

Employers will need specific guidance. Without the employee will simply be ignored.

Q11. The government seeks views from employers, legal professionals and others as to what may be the most effective ways in which an employer could demonstrate that they had taken – or sought to take – early, sustained and proportionate action to help an employee return to work. For example, this could be a note of a conversation, or a formal write-up.

Human Resources Notes and Occupational Health (OH) records appear generally to protect the employer. They are rarely helpful to an employee. There needs to be change of emphasis on the role of HR and OH. In the right environment a simple pro-forma to fill in should do unless the issue becomes complicated or contentious.

Q12. As an employer, what support would you need to meet a legal requirement to provide early, sustained and proportionate support to help an employee to stay in work or return to work from a long-term sickness absence?

- *Better quality employer information and guidance;*
- *More easily accessible employer information and guidance;*
- *Easier access to OH services.*

Employees need easier access to OH but these services need to be geared to being advocates the employee.

Q13. As an employee: in your experience, what actions has your employer taken to support your health at work? Please describe how these were effective or ineffective.

An example would be an employer with a good sick pay scheme, clean and comfortable workplace (an office), professional OH input, and provision first aiders (which should include Mental Health first aid) trained by the St John's Ambulance or St Andrew's Scottish Ambulance Service or similar.

Q14. As an employee: what further support/adjustments would you have liked to receive from your employer?

Most employees want a sympathetic reasonable employer who understands the issues. They must have a good relationship with their workforce and or unions or other staff representatives.

Q15. All respondents: in order for employers to provide effective return to work support, what action is needed by employees? Select all that apply.

- *XE To agree a plan with their employer to guide the return to work process;*
- *To engage with OH services;*
- *Other – please state.*

Q16. All respondents: do you think the current SSP system works to prompt employers to support an employee's return to work?

Yes

No

X Maybe

Don't know. Please give reasons for your answer.

It is expected, there are pockets of industry especially in the small business sector, where best practice doesn't always apply.

Q17. All respondents: what support would make it easier to provide phased returns to work during a period of sickness absence?

- *X Guidance on how to implement a good phased return to work;*
- *X A legal framework for a phased return to work which includes rules on how it should be agreed and implemented;*
- *X Clearer medical or professional information on whether a phased return to work is appropriate; or*
- *Other suggestions.*

All the above are appropriate and would be needed to change current practice and act as an exemplar. It is also important to make sure that benefits which may aid return to work are not deemed void if the employee is in employment. For people with a disability this would include disabled living allowance. There may be similar benefits for employees not classed as disabled.

Q18. All respondents: would the removal of rules requiring identification of specific qualifying days help simplify SSP eligibility?

Yes

No

Maybe

Don't know.

Please give reasons for your answer.

No expertise in this area.

Q19. Do you agree that SSP should be extended to include employees earning below the LEL?

Yes

No

Maybe

Don't know. Please give reasons for your response.

Q20. All respondents: for employees earning less than the LEL, would payment of SSP at 80% of earnings strike the right balance between support for employees and avoiding the risk of creating a disincentive to return to work?

Yes

No

Maybe

Don't know. Please give reasons for your answer.

It is not conducive to an early return to health for people already in the lowest income levels to have a fifth of their earnings taken away. To talk about barely having enough to live on being a "disincentive" to return to work is completely inappropriate. It does not reflect the extreme hardship of this group who are not able to make ends meet. The writer has never endured real hunger.

Q21. Do you agree that rights to SSP should be accrued over time?

Yes

No

Maybe

Don't know. Please give reasons for your response.

If you are injured or fall sick it makes no difference whether it's in your first week of work or the 51st - you and your family still have to eat.

Q22. Should the government take a more robust approach to fining employers who fail to meet their SSP obligations?

Yes

No

Maybe

Don't know. Please give reasons for your answer.

There are many workers nowadays who are isolated and have little bargaining power, and need outside intervention with the force of law. Where companies are having difficulty meeting their obligations, it is right that they receive positive support.

Q23. Do you think that the enforcement approach for SSP should mirror National Minimum Wage enforcement?

yes

No

Maybe

Don't know. Please give reasons for your answer.

Q24. Do you support the SSP1 form being given to employees four weeks before the end of SSP to help inform them of their options?

Yes

No

Maybe

Don't know. Please give reasons for your answer.

Q25. All respondents: how could a rebate of SSP be designed to help employers manage sickness absence effectively and support their employees to return to work?

It should make it easier for employers to keep pace with subsequent ill health.

Q26. All respondents: at this stage, there are no plans to change the rate or length of SSP. The government is interested in views on the impact of the rate length of SSP on employer and employee behaviour and decisions.

They should be designed to ensure that there is no gap in available income between wages and SSP.

Q27. In your view, would targeted subsidies or vouchers be effective in supporting SMEs and the self-employed to overcome the barriers they face in accessing OH?

Yes

No

Maybe

Don't know.

Please give reasons for your answer.

The growth of the gig economy, with many self-employed workers on low earnings, means that more people need the service when they can least afford it.

OH services need to be geared more to the employee and not the employer. They need to link into Rehabilitation medicine services and professions allied to Medicine (eg Occupational Therapy and physiotherapy).

Q28. Please provide any evidence that targeted subsidies or vouchers could be effective or ineffective in supporting SMEs and the self-employed to overcome the upfront cost of accessing OH services.

None

Q29. In your view, would potentially giving the smallest SMEs or self-employed people the largest subsidy per employee be the fairest way of ensuring OH is affordable for all?

- Yes;
- *X No;*
- *Don't know*

If no or don't know – what would be better?

Giving each employee sick pay related to their earnings.

Q30. All respondents: what type of support should be prioritised by any potential, targeted OH subsidy for SMEs and/or self-employed people?

- *XOH assessments and advice;*
- *Training, instruction or capacity building (e.g. for managers and leads);*
- *XOH recommended treatments.*

Q31. Please give reasons and details of any other categories of support you think should be included.

Q32. How could the government ensure that the OH services purchased using a subsidy are of sufficient quality?

OH Physicians should be formally trained by a medical Royal College training scheme. The service would benefit from standards regulator to monitor standards.

Q33. As an OH provider, would you be willing to submit information about the make-up of your workforce to a coordinating body?

X Yes

No

Maybe – don't know.

The College is not a provider but our reviewer does provide such services.

Q34. If no, maybe or don't know, what are your reasons for not providing your data?

- *time;*
- *cost;*
- *confidentiality;*
- *do not see the benefit;*
- *other – please state.*

Q35. As an OH provider, expert or interested party, what are your views on private OH providers' involvement in the training of the clinical workforce?

- *Private providers should be more involved;*
- *X Private providers should not be more involved.*
- *Private providers should be more involved but with additional support.*

Q36. If providers should be more involved but will need support, what additional support would be needed?

Q37. As an OH provider, expert or interested party, what changes to the training and development of the OH workforce could support the delivery of quality and cost-effective services?

There needs to be more training of ergonomics and more use of occupational therapists and physiotherapists.

Q38. As an OH provider, should there be a single body to coordinate the development of the OH workforce in the commercial market?

Yes

No

Maybe

Don't know. Please state reasons for your answer.

Q39. If yes, what should its role be?

Contributing to training, the setting of standards and best practice similar to a Medical Royal College.

Q40. As an OH provider, what would encourage providers, particularly smaller providers, to invest in research and innovation in OH service delivery?

Q41. What approaches do you think would be most effective in terms of increasing access to OH services for self-employed people and small employers through the market? Please order in terms of priority:

- *New ways of buying OH;*
- *New OH service models; and*
- *The use of technology to support OH service provision.*

Q42. If applicable, what other approaches do you think would be effective? Please explain the reasons for your answer.

Q43. As an OH provider, expert or interested party, what more could be done to increase the pace of innovation in the market?

- *Co-funding;*
- *Access to finance;*
- *Help with innovation or evaluation;*
- *Commercial advice;*
- *Don't know;*
- *Other – please state*

Q44. As an OH provider, expert, interested party, what methods would you find most helpful for finding out about new evidence and approaches that could improve your service?

Q45. As an employer, what indicators of quality and compliance arrangements would help you choose an OH provider?

- *Work outcomes;*
- *Quality marks;*

- *Process times;*
- *Customer reviews;*
- *Other – please state;*
- *Don't know;*
- *Indicators won't help*

Q46. As a provider, what indicators of quality could help improve the standard of services in the OH market?

- *XWork outcomes;*
- *Quality marks;*
- *Process times;*
- *Customer reviews;*
- *Other – please state;*
- *Don't know;*
- *Indicators won't help*

Q47. All respondents: how could work outcomes be measured in a robust way?

By comparing work outcomes pre and post-sickness.

Q48. All respondents: do you have suggestions for actions not proposed here which could improve capacity, quality and cost effectiveness in the OH market?

Q49. Do you need more information, advice and guidance?

Q50. If so, what content is missing?

- *Legal obligations and responsibilities/employment law;*
- *Recruiting disabled people and people with health conditions;*
- *Workplace adjustments, such as Access to Work;*
- *Managing sickness absence;*
- *Managing specific health conditions;*
- *Promoting healthier workplaces;*
- *Occupational health and health insurance;*
- *Best practice and case studies;*
- *Links to other organisations, campaigns and networks;*
- *Local providers of services and advice;*
- *Other – please state.*

Q51. What would you recommend as the best source of such new advice and information?

- *The main government portal ([GOV.UK](https://www.gov.uk));*
- *XThe Health and Safety Executive;*

- *Jobcentre Plus; [or](#)*
- *Other – please state.*

Q52. As an employer, where do you go for buying advice and support when purchasing, or considering purchasing, OH services?

- *Internet search;*
- *Professional/personal contact;*
- *Legal sources;*
- *HR person (in-house or external);*
- *Accountant or other financial specialist;*
- *Other – please state;*
- *Don't know;*
- *I don't seek advice or support.*

Q53. As an employer, what additional information would you find useful when purchasing, or considering purchasing, OH services?

- *Online questionnaire to help you identify what type of services you could benefit from;*
- *Toolkit that could include information on OH referral and assessment process;*
- *Basic online information on the process of buying OH services;*
- *Provider database;*
- *Comparison website;*
- *Information on the value of OH services.*

Q54. All respondents: do you agree with the proposal to introduce a requirement for employers to report sickness absence to government?

X Yes

No

Maybe

Don't know. Please give reasons for your answer.

Q55. As a small or medium sized employer, would you find it helpful to receive prompts to information or advice when you have an employee on a sickness absence?

X Yes

No

Maybe

Don't know. Please give reasons for your response.

Q56. Do you think this overall package of measures being explored in this consultation provides the right balance between supporting employees who are managing a health condition or disability, or on sickness absence, and setting appropriate expectations and support for employers?

X Yes

No

Maybe

Don't know. Please give reasons for your response.

Dr Richard Hull FRCP Glasgow with the aid of expert reviewers
Honorary Secretary
Royal College of Physicians and Surgeons of Glasgow

30 September 2019