

# Scottish Terms and Conditions Committee

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Ref: STAC(TCS09)2020

15 December 2020

To: Chief Executives,  
Directors of Finance,  
Directors of Human Resource  
NHS Boards and Special Health Boards,  
NHS National Services Scotland (Common Services Agency), and  
Healthcare Improvement Scotland

CC: Members, Scottish Partnership Forum  
Members, Scottish Terms and Conditions Committee  
Members, Scottish Workforce and Governance Committee

Dear Colleague,

## **COVID-19 SICKNESS ABSENCE MANAGEMENT**

In accordance with NHS Scotland's COVID-19 arrangements for employees who are covered by either NHS Agenda for Change (AfC) or medical and dental terms and conditions, please find attached an FAQ which contains further clarification in regard to the management of sickness absence during the pandemic.

Yours sincerely



**Calum Campbell**  
**Chief Executive**  
**NHS Lothian**  
**STAC Management Side Co-Chair**



**Colin Poolman**  
**Senior Officer**  
**Royal College of Nursing**  
**STAC Staff Side Co-Chair**

## COVID-19 Sickness Absence Management FAQs

**Question 1: Due to the COVID-19 pandemic, operations, post-op rehabilitation and other treatments have been delayed or cancelled and this has impacted upon an individual member of staff's ability to return to work. Consequently, an individual may have gone on to reduced or nil pay and/or hit sickness management triggers. How should employers approach the management of such cases?**

**Answer 1:** Employers should always be supportive where staff have not been able to access timely treatment or support to aid their recovery and return to work, and particularly now as a result of the pandemic.

The [AfC Terms and Conditions Handbook](#) states that periods of sick pay on full pay or half pay can be used in order to 'materially support a return to work': or 'in any other circumstances' ([section 14.12](#)). Using section 14.12, flexibilities will mean sick pay is maintained and staff do not hit nil pay where treatment or rehabilitation is delayed by COVID-19. However, if any staff have dropped to nil pay while the local absence management processes have been paused by the employer, [section 14.10 - 14.12](#) mean they are entitled to have half sick pay reinstated after 12 months' continuous absence until such time as local processes have concluded.

The terms and conditions of service for medical & dental staff make similar provision for the extension to normal periods of sick pay entitlement.

Employers should use these flexibilities, where possible, as a means of supporting staff whose treatment or recovery has been delayed because of the exceptional circumstances of the pandemic. Employers need to treat each case on an individual basis and consider what options are available to avoid an individual going on to reduced or nil pay such as, home working, or redeployment into an alternative role or changes to working hours.

As detailed in [DL\(2020\)5](#) issued on 13 March 2020, if an employee's symptoms are consistent with COVID-19 their absence must be recorded as Special Leave and this absence will not be counted towards sickness absence triggers.

**Question 2: Where members of staff are required to undergo pre-op or post-op self-isolation, what should they be paid?**

**Answer 2:** In the first instance, an employer should explore all options regarding an individual's ability to work from home with or without work role reallocation. If an individual is unable to work from home then because self-isolation is an official requirement, due to infection control measures, staff would be entitled to be paid COVID-19 special leave for the duration of their requirement to self-isolate.

The same approach, including the opportunity to undertake work from home (even if not in their substantive role), should be applied where the NHS has advised a member of staff that they must self-isolate because someone in their household is undergoing an operation.

Any post-operation recovery would be paid as per normal sickness entitlement, except where the individual was fit to return sooner than the duration of the self-isolation where the difference would be paid as COVID-19 special leave.

**Question 3: How should we use a phased return to support a member of staff who is returning to work after being off sick with COVID-19?**

**Answer 3:** The general provisions for phased return for all NHS staff are set out in the [NHS Scotland Workforce Attendance Policy](#), as amended by [STAC\(TC02\)2020](#). Occupational Health advice should be sought, where appropriate, as to the duration and adjustments need to support the individual in their return to work.

In some cases, occupational health may advise a longer than normal period of phased return in order to successfully support an individual who has been ill with COVID-19, or has had COVID-19 work-related mental/psychological illness, back to work. In such circumstances, an extension to the usual maximum of four weeks normal contractual pay may be required.

Injury Allowance (as set out in Section 22 of the [AfC Terms and Conditions Handbook](#)) can also be paid to eligible staff (including medical and dental staff) who seek to return to work but who may exhaust the full pay provision normally offered locally due to the length of the phased return required.

**Question 4: If an employee returns to work following a period of being off sick with COVID then becomes unwell again, which may be as a consequence of having had COVID-19, what provisions apply?**

**Answer 4:** If the Employees fit note confirms that their subsequent absence has been caused by COVID, they will be paid COVID-19 Special Leave as detailed in [DL\(2020\)30](#).