

# Sick pay and sickness absence policies

*Sickness absence policies are common particularly in the public sector and generally focus on reducing absence from work and cutting costs to employers. Recent reports for trade unions show that there is no evidence of an alarming increase in the amount of time taken off work because of sickness<sup>i</sup> with a Workplace Employment Relations survey showing the average rate of absenteeism fairly steady at approximately 5% of working days per establishment for the last ten years<sup>ii</sup>, although the TUC did find worrying evidence that 75% of workers struggle into work when they are too ill.*

The Advisory, Conciliation and Arbitration Service (ACAS) in a discussion paper published this year says; "there are too many 'unhealthy' workplaces and high absence levels can often be caused by deeper organisational issues."<sup>iii</sup> This paper points out that the Health and Safety Executive has evidence that small employers, especially in the private sector, do not record all absences, so the figures are unreliable. ACAS also says employers should try to investigate underlying root causes of sickness absence and that "If dissatisfaction with particular work issues such as poor job design, work overload, relationship conflict, ineffective line management or bullying – is the real reason for the absence, it is vital that these are teased out and discussed with the employee".

Many workers do not know their basic entitlements to sick pay and sickness benefits. This factsheet covers some basic points including information on benefits available for workplace

injuries and diseases which many fail to claim.

## Sick Pay

Your entitlement to sick pay should be given in your **written statement** of employment particulars. This should be provided within two months of starting work. The details do not have to be in your contract, but you should be shown it and able to read it at work; eg in the staff handbook.

## Statutory Sick Pay

Do you earn an average of £87 per week<sup>iv</sup>?

- ▲ If so you should be paid statutory sick pay (SSP) in the same way you are paid wages. 2007/08 the rate is set at £72.55 for a maximum of 28 weeks. After this you may be eligible for other benefits.
- ▲ The first three days of sickness absence are "waiting days" and are unpaid.
- ▲ SSP is only paid for days you would normally work.
- ▲ To start claiming you have to be off sick four days in a row and this includes weekends and bank holidays.
- ▲ If you are off sick again within eight weeks, and off for four or more days, the two periods of sickness absence are linked and you do not have to go through the unpaid waiting days again.

To make a claim you or someone on your behalf has to notify your employer. Note that:

- ▲ Employers cannot insist you notify them in person.
- ▲ Cannot insist on a doctor's certificate to cover the first seven days' absence for the purpose of SSP.
- ▲ Pregnant women getting Statutory Maternity Pay or Maternity Allowance cannot claim SSP at the same time. But they can claim SSP in the earlier stages of pregnancy before they are eligible for these benefits.

## Occupational sick pay

Employer or company sick pay schemes are better than the statutory scheme and form part of your contractual rights. In the public sector the schemes typically increase the period sick pay will be paid – according to length of service:

### First year of employment

one month's full pay, and two months half pay after 4 months

### After five years service

Six months' full pay followed by six months' half pay

In the private sector some companies follow similar schemes with additional sick pay being given according to length of service. This does not necessarily go against the new age equality regulations - although these say any age discrimination must be "justified" – benefits based on length of service up to and including 5 years are exempt from this legislation.

Although some employers are trying to reduce sick pay benefits for those with longer service to comply with age equality regulations, some trade unions have negotiated a reduction on the qualifying service for maximum sick pay. Labour Research Department have examples of this.

If the employer **refuses to pay sick pay**, they must have a clear contractual right to do this and the circumstances should be stated clearly: for example failing to provide a medical certificate where required.

If your doctor says you are fit to return but your employer wants further medical checks, you must be paid your full wages while these are carried out.

## Accidents and illness caused by work

The numbers claiming industrial injuries benefits from what is now the Department of Work and Pensions (DWP) has steadily fallen over the last 10 years.

In 1997-1998 there were 93,700 new claims, but this fell to 49,000 for 2005/06. Also, in 2005/06 9,260 claims were subject to clawback by the Compensation Recovery Unit.<sup>v</sup> The numbers claiming benefits for industrial accidents and diseases have always been lower than the numbers suffering from work related conditions. Seek advice from your union, a welfare rights worker, Citizens Advice, disability charities such as Disability Alliance or, if you are making a claim for compensation for damages and loss of earnings, from a personal injury lawyer. In addition to basic disablement benefits there are also benefits to cover reduced earnings and the need for constant attendance.

#### Industrial Injuries Disablement

**Benefit for accidents** at work. This is dealt with by Jobcentre Plus. Claim this benefit if you are disabled because of an accident at work, after you have been off work for two months. The amount you receive depends on how serious the disability is. You may be asked to go to a medical carried out by a doctor acting for the DWP. This is to assess your level of disability and how long it is likely to last. Take along a welfare rights adviser, a trade union representative or a friend. If deemed eligible for this benefit guideline weekly payments range from £127.10 a week if assessed at 100% disabled down to £25.42 a week if 20% disabled, but with under 18s with no dependents receiving less.

#### Industrial Injuries Disablement

**Benefit for diseases including deafness** caused by work.

The disease must be on the list of prescribed industrial diseases and often must be linked to a particular industry or job. The list of prescribed industrial diseases is divided into:

- A Conditions due to physical agents: for example noise or vibration
- B Conditions due to biological agents: for example leptospirosis
- C Conditions due to chemical agents: for example asthma, cancer, dermatitis
- D Miscellaneous conditions

The full list can be viewed on the Industrial Injuries Advisory Council website: [www.iiac.org.uk](http://www.iiac.org.uk)

If assessed as being eligible for this benefit the weekly payments are the same as for accidents and range from £127.10 for 100% disabled down to £25.42 a week if 20% disabled, again with under 18s with no dependents receiving less.

The numbers of new claims for many common diseases is falling: HSE say that there are around 1,000 new claims a year for vibration white finger and for carpal tunnel syndrome.

#### Some other state benefits

Some accident and disease victims will be eligible for constant attendance allowance which is paid at different rates:

Exceptional	£101.80
Intermediate	£76.35
Normal Maximum	£50.90
Part-time	£25.45

For some cases there is also an exceptionally severe disablement allowance of £56.90 and an unemployment supplement of £78.50.

#### Sickness Absence Policies and Agreements

These concern employer policies and procedures to monitor and manage sickness absence and often the aim of the employer is to use sickness, be it

lots of frequent absences or long term sickness, to get rid of an employee under "capabilities". UNISON has produced a guide for safety reps and others *Making us better: sickness absence agreements*. This can be downloaded from [www.unison.org.uk](http://www.unison.org.uk) Some points to note:

- ▲ Monitoring and review procedures should not be used to penalise someone when they are ill
- ▲ Policies should support sick workers – focusing on welfare not disciplinary action.
- ▲ Financial incentives should not be used to reduce sickness absence.
- ▲ For long term illness the employer has an obligation to keep in touch and to make it as easy as possible for the worker to return to work. But contact should not be intrusive and they should have the worker's consent before visiting them at home.
- ▲ Return to work interviews are not disciplinary hearings and their focus should be rehabilitation, considering things like: a phased return to work; changes in hours (by mutual consent); adaptations to equipment or to the workplace; transport arrangements.
- ▲ Ongoing treatments may need to be discussed/provided by the employer: counselling, physiotherapy and access to occupational health, possibly outside the organisation

- i See Labour Research Department, *Sickness absence and sick pay*, September 2007 and the TUC report *Sicknote Britain? 2005*.
- ii Workplace Employment Relations Survey, 2004.
- iii ACAS, *Health work and wellbeing: rising to the public sector attendance management challenge*, May 2007.
- iv 2007/2008
- v Jim Murrey, Hansard 14.3.2007 column 372w

Factsheets online [www.lhc.org.uk](http://www.lhc.org.uk) London advice 020 7794 5999

