



UK GOVERNMENT'S PROPOSALS AIM TO REDUCE ILLNESS-RELATED JOB LOSSES

*By Mercer's Fiona Webster and Stephanie Rosseau
5 Aug 2019*

[Proposed UK government measures](#) that aim to reduce job losses due to employees' ill health are open for consultation through 7 Oct 2019. This consultation includes proposals encouraging employers to support employees whose health conditions affect their work and to manage absences due to sickness more effectively. Certain proposals follow up on recommendations in the [Taylor Review on Modern Working Practices](#).

HIGHLIGHTS OF THE PROPOSED MEASURES

New right for employees to request workplace modifications. The government seeks input on its proposal to provide employees with a new right to request health-related modifications to work schedules or duties or the physical workplace, and the applicable eligibility criteria. This right would apply to employees who aren't already entitled to seek reasonable adjustments under the [Equality Act 2010](#).

Employers could refuse a modification request on legitimate business grounds. However, employees could use available grievance procedures or the tribunal process if they think their request had been unfairly refused or the correct process hadn't been followed. A code of practice would provide further information on the right to request modifications, including the appropriate business reasons for refusing a request.

Improved occupational health services. The government sees a need to improve occupational health services and employers' knowledge about the role of occupational health expertise. The government is considering options to help fund smaller organizations' cost of purchasing occupational health expertise.

Guidance on employees returning to work after sick leave. Stronger statutory guidance would encourage employers "to take early, sustained and proportionate steps" to support employees returning to work after an illness before they face dismissal because poor health has affected their capabilities. The government will first collate and formalize current employer obligations and best practices to provide "more legal direction," particularly on providing early support to an employee on sick leave. The government has rejected more explicit requirements — such as return-to-work plans — as "too prescriptive."

Reforms of the statutory sick pay (SSP) scheme. The government says the current SSP scheme “is inflexible and does not reflect modern working practices, such as flexible working.” Although the amount or duration of SSP would not change, the government’s proposed reforms include:

- Extension of SSP entitlement to employees earning less than the Lower Earnings Limit (LEL) – currently £118 per week. Current rules prevent employees absent due to sickness from qualifying for SSP or financial support from their employer if they earn less than the LEL. This group includes employees working multiple jobs with different employers where each job pays less than the LEL.
- More flexible SSP rules to support the phased return to work after sickness absence. Under current rules, SSP payments stop as soon as an employee returns to work, even if on reduced hours.
- Employers would have to report employees’ sickness absence through payroll systems, and employers who don’t pay SSP to eligible workers would face new fines. The SSP scheme would be enforced by the proposed new labour enforcement body.

RELATED RESOURCES

- [Information about Consultation](#) (UK Dep’ts for Work & Pensions and Health & Social Care 15 Jul 2019)
- [Consultation Proposals](#) (UK Dep’t for Work & Pensions , 15 Jul 2019)
- [Taylor Review of Modern Working Practices](#) (UK Government, updated 4 May 2018)
- [Equality Act 2010](#) (UK Government)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.