

Living with Covid-19

From Thursday 24th February 2022 all remaining Covid-19 restrictions in England will start to be removed.

What Does This Mean?

The removal of these restrictions will have an impact on an employer and their employees. These will include;

Self-Isolation

From Thursday 24th February 2022 the legal requirement to self-isolate in England for people who test positive will end. The legal requirement will be replaced with guidance to stay at home for at least 5 days until they have received 2 negative lateral flow test results on consecutive days.

Those who are fully vaccinated and have been in contact with someone who later tests positive will no longer need to take daily lateral flow tests. Those who are not fully vaccinated and have been in contact with someone who later tests positive will no longer need to self-isolate.

Individuals are no longer required to tell their employer that they have been told to self-isolate.

From April 1st, the Government will provide updated guidance setting out the ongoing steps that people with COVID-19 should take to minimise contact with other people.

The £500 Covid-19 support payment for those on low incomes will also end.

Statutory Sick Pay (SSP)

The day 1 entitlement to SSP when testing positive for Covid-19 will end on 24 March 2022.

Contact Tracing

Close contact tracing will end on March 24th. Contacts will no longer be required to self-isolate or advised to take daily tests.

Testing

From April 1st free testing will be scrapped for everyone in England except for those who are high risk or vulnerable. Those who are no longer eligible for a free test will be able to purchase a testing kit.

Covid Passports

From April 1st, Covid Passports will no longer be required other than for international travel.

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Workplace Risk Assessments

From April 1st the health and safety requirement for every employer to explicitly consider COVID-19 in their risk assessments will be removed.

Q & A

What Does This Mean For SSP?

In respect of Covid-19 symptoms the rules and eligibility for SSP will revert to the normal application of SSP. These are;

By law, employers must pay Statutory Sick Pay (SSP) to employees and workers when they meet eligibility conditions, including when:

- they've been off sick or for at least 4 days in a row, including non-working days
- they earn on average at least £120 a week, before tax
- they've told their employer within any deadline the employer has set or within 7 days

Can I Continue to Ask For Lateral Flow Tests From My PA?

ILG Support recommend that the employer carries out a careful assessment of the need to continue with lateral flow tests for PA's.

ILG Support believe that the assessment of whether it is reasonable to insist on continued testing is determined by the degree of risk that is posed to all parties who would be working in the household. The harder it is to provide protection for those at risk, the more likely the instruction to continue with regular testing will be a reasonable work instruction.

Can I Send My PA Home If They Have Covid-19 Symptoms?

Sometimes an employee may have symptoms of Covid-19 but still feel fit enough to carry out their duties and wish to attend work. If you have assessed the risk to householders and other employees and believe that allowing Covid-19 symptoms into the home is an unmanageable risk, then you may decide to send your PA home. The question you must consider then is what happens about the pay which is due to the worker for the shift they are missing?

Is it Reasonable to Ask My PA to Tell Me If They Have Covid Symptoms?

It is no longer a legal requirement for individuals to tell their employers if they have Covid symptoms and should therefore not be in the workplace. Whether it is reasonable to ask if your PA has Covid symptoms is determined by the degree of risk that is posed to everyone who would be working in

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the household. The harder it is to provide protection for those at risk, the more likely the instruction to be told of Covid symptoms would be seen as a reasonable work instruction.

[Sending Workers Home on Full Pay](#)

For workers with agreed shifts remember that you are contractually bound to provide that work and pay them for it. Most PAs will be happy to be sent home when you offer them full pay for the shift. If this is your decision, then you can simply contact the PA in advance to let them know they do not need to attend, and they will be paid in full for the time. Make sure you are absolutely clear about how long they are required to stay away from work, this will help reduce any confusion as to when the expected return to work date is. Also be clear on your instructions before their return; for example, you may choose to ask that they have a clear lateral flow test and must provide you confirmation of this before attending on the return to work date. If you employ PA's using a Direct Payment you will need to consider the financial impact on your Personal Budget/Personal Health Budget and may be required to seek authorisation from your funding body due to the additional cost of providing cover

[Can I Put the Worker on SSP Instead of Full Pay When I Send Them Home?](#)

SSP regulations require that the employee certify their own absence for the first 7 days and thereafter have continued absence supported by a fit note. Employers are generally not considered to be the best judge of when a worker is physically or mentally unfit to work because it involves knowledge of the individual's symptoms and treatment requirements. An employer may have a degree of understandable bias in their decision making due to the needs of the workplace, so it is not usually sensible for an employer to be responsible for deciding when a worker is fit or not. In the absence of an alternative agreement (see below) you should not enforce sick leave and SSP on a worker and should instead consider paying them in full for any time you are asking them not to attend.

If you have already agreed your right to determine when they are 'fit for work' then it may be possible to ask them not to attend and put them on sick pay. This agreement should be provided for in the contract of employment. Such clauses explain the effect of your decision and should ideally give examples of when you will use this right. If you have a clause like this you should be careful how and when you chose to use it, particularly where the employee believes they are well enough for work. If you are unsure if you already have a contract clause that covers your right to send home a worker on SSP please call ILG Support on 01476 512 192 so our advisers can review the contract with you.

[I Don't Have a Clause Allowing Me to Decide the Employee's Fitness for Work. Can I Now Include One So it Covers Covid for Future Cases?](#)

Check to see if you have a clause in the contract of employment which allows you to make changes without further consultation or agreement. If this is the case, you may include a clause giving the right to make the change. This should be confirmed in writing and state when the change will be

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effective.

If you do not have the right to unilaterally vary the terms of the employment contract, you should seek an agreement with your PAs to make the change. This is an overview of the steps to take:

1. Give notice of a consultation discussion
2. Consult with PAs – Hold a meeting to explain the changes that you want to make. Take the time to explain that you have properly assessed the risk to the householders and all workers, and whilst the Government have changed the legal rules your risk assessments have identified Covid-19 symptoms as a hazard. Explain that health and safety at work is essential and you believe that it is necessary to continue to take precautions and why.

Explain the changes you want to bring in, with focus on any contract changes, and when you expect them to take place. Good, transparent communication with employees often results in favourable outcomes so have patience and respond carefully to any objections that are raised during your consultation.

3. Timeout to consider and address objections – This may be needed if you haven't had an immediate agreement to the contract changes. Remember that contracts form legally binding obligations on both parties so a change should be agreed. By including a clause that gives you the right to reduce pay based on your own assessment of fitness for work, it is you the employer who benefits from this change, not the employee. If needed take the time to carefully consider the objections raised, consider alternatives and re-convene the consultation another time should you need to so you can follow up with the worker.
4. Issue confirmation of the change – Set out in writing the contractual changes to each worker and get their signature. Make sure to give the employee a copy and keep a copy for your records alongside the contract of employment.

If you cannot get an agreement for the variation of terms it is essential that you speak to a specialist employment adviser who will ask you for information about your work situation, review your contract and will want to understand exactly how any consultation with your workers has gone and what are their grounds for objection. Depending on the facts of your case ILG support may be able to support you to insist on a change with or without the agreement of your workers. Please call 01476 512 192 for further support.

You can call ILG Support for a sample clause giving the right to decide on fitness for work along with letters you can use to help at each step of the way. Alternatively, members of the ILG Community can find a suite of documents [here](#).

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[Do I Have To Pay SSP If I Send My PA Home With Covid-19 Symptoms?](#)

If you have sent your PA home and asked them to follow the current government guidance, then SSP will be payable subject to them earning on average at least £120 a week before tax and they are off sick for at least 4 days in a row.

[You can call us on 01476 512192 for further information.](#)

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