

UK's sick pay scheme is unfit for purpose

Britain continues to have one of the worst sick pay schemes of any advanced capitalist country, often leaving workers with little choice but to attend work when ill.

It should not have taken a lethal global pandemic to focus attention on the fault lines in Britain's Statutory Sick Pay scheme, which have been apparent since its inception under Margaret Thatcher's premiership 40 years ago in April 1983.

But that's what happened in 2020 and 2021, when British workers were asked to self-isolate if either they, or someone in their household, tested positive for Covid-19.

Around two million of them found that if they complied with that instruction, they did not qualify as of right for any sick pay whatsoever, as they fell below an arbitrary minimum earnings threshold then set at just £120 a week.

Even those who did earn enough were initially left high and dry, thanks to the built-in, three-day waiting period that must elapse before a claim can be made.

And when SSP finally did kick in, it did so at rates that were, and still are, among the least generous in Europe. The floor was less than £20 a day which, on the TUC's estimate, represented less than a fifth of average weekly earnings.

More than two years later, things stand little better. SSP is increased minimally to £99.35 a week, with the earnings threshold up by £3 at £123. It is due to rise to £109.40 in April this year, with the weekly earnings requirement frozen.

This does little to make up the substantial erosion in the value of SSP over the decades. When introduced in 1983, it paid up to 35% of average earnings, which employers could, until the 1990s, reclaim from the government.

Had that figure been updated in line with inflation, it would now be offering something like £200 a week.



What we are left with instead is a £4 billion annual gap between what workers receive in SSP and what they would have earned had they not been ill.

The pandemic fully illustrated the consequences of excessive parsimony. Countless people who tested positive – inevitably including many hospital and social care workers – had no realistic choice but to go into work, in spite of the risk of spreading a potentially lethal infection.

On TUC calculations, self-isolation was simply unaffordable for 43% of the

workforce. That percentage inevitably gets higher the further you look down the pay scale.

A more recent survey of 7,500 members of shopworkers' union Usdaw, published last December, saw 76% of respondents say they couldn't afford to take sick leave.

Alex Collinson, the TUC's policy and campaigns support officer, commented: "Quite early on in the pandemic, we started focusing on sick pay, because of just how low Statutory Sick Pay is. It's just not enough."

SICK PAY

"Our other concern is that you only start getting it from the fourth day of illness. If you're off for, say, two weeks, you don't even get two weeks' worth. If you work a typical five-day week, you only get seven days' worth, which pushes the weekly amount down even further."

There are numerous other drawbacks. SSP is classed as earned income, and thus subject to tax and National Insurance in the normal way. For those with longer-term conditions, entitlement expires after 28 weeks.

Theoretically, casual and agency workers are covered by SSP, although in practice, many don't receive it. But it doesn't cover the self-employed at all, who must turn to the even less generous Employment Support Allowance instead. For most, ESA pays a trifling £77 a week.

Critics also point out that the current design does not provide for phased returns to work on a part-time basis, which medical practitioners advise after some illnesses.

Among those disadvantaged by the workings of SSP are people with mental health issues, according to Vicki Nash, associate director of policy, campaigns and public affairs at the charity Mind.

"Many people with mental health problems return to work when they're

still unwell because our outdated and unfair Statutory Sick Pay system doesn't support us," she said.

"If the UK government is serious about closing the disability employment gap, our SSP system needs to work flexibly and reliably for us all.

"Too many people are coming back when unwell, relapsing and needing more time off, or even falling out of work altogether."

Occupational schemes

SSP is the mandatory minimum that employers must provide. It is they who foot the bill, in what marks the de facto privatisation of what was once a state benefit. Alternatively, companies can operate their own occupational sick pay schemes if they wish, as stated in employment contracts or agreed through collective bargaining.

Occupational sick pay schemes typically pay more, often 100% of salary, from day one, and for a longer duration. It's a set-up that is bound to leave good employers at a financial disadvantage to the bad. But for a full quarter of employees, SSP is all there is – and one in 10 get nothing at all.

In short, Britain's sick pay system comes preloaded with built-in class

divides that actively discriminate against the poorly paid, exactly the people who are least likely to have savings, and therefore in most need of a safety net.

Women, black and minority ethnic (BME) employees, young workers and those on zero hours contracts fare worst of all.

For example, TUC research published in February 2021, *Sick pay that works*, found that some 26% of women receive only SSP, compared to 21 per cent of men. Male employees are also more likely than female employees to receive their full pay (62% compared to 52%), and less likely to receive nothing (8% compared to 11%).

And while BME employees are as likely as white employees to receive only SSP, BME employees are more likely to receive no sick pay at all (12% compared to 9%) and less likely to receive full sick pay (53% compared to 58%).

Meanwhile, young workers are more likely to receive only SSP, and young workers and older workers are most likely to receive no sick pay at all.

Public outcry during the pandemic did force then chancellor Rishi Sunak to make SSP payable from day one. But the three-day limitation has since been reimposed. In September 2020, six

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■ SICK PAY NEEDS REFORM

It isn't only the TUC and unions who demand reform of Britain's sick pay system. The CIPD HR professionals' body also wants to see the end of the lower earnings limit, as well as payments closer to the National Minimum Wage or National Living Wage, with further consultations on wider reform.

In a December 2021 policy paper, *What should an effective sick pay system look like?*, it also says employer compliance should be more strictly enforced, with proactive inspections

in high-risk sectors. The potential for the insurance industry to provide group income protection should be explored, as should ways to improve income protection for the self-employed.

Employers who don't already have an occupational sick pay scheme should consider introducing one.

And Fabian Society general secretary Andrew Harrop, has put forward detailed proposals for changes to SSP, *Statutory Sick Pay: options for reform*, published in June 2021.

Among the ideas it canvasses are increasing SSP to the level of Statutory Maternity Pay, currently worth the lower of £156.66 a week or 90% of average earnings; setting SSP to match the Real Living Wage; the creation of an earnings-related sick pay system; ending waiting days; paying SSP for up to 12 months instead of six; scrapping the lower earnings limit; reforms for part-time workers; an SSP subsidy for small employers; and an SSP subsidy for all employers.

months into the pandemic, Sunak also introduced £500 payments for low-paid workers required to self-isolate.

Some of the payments were at the discretion of local authorities, although lack of funding meant that the criteria to qualify were so stringent, many found themselves ineligible.

Collinson describes the one-off £500 self-isolation payments in the pandemic as "an absolute mess" that became "a postcard lottery".

A TUC Freedom of Information request to hundreds of councils in January 2021 discovered that 70% of applicants were rejected. Indeed, in some areas, just 1% were accepted.

Abandoned

There was also a brief government pledge to scrap the lower earnings limit for SSP. However, that commitment has since been abandoned.

The contrast with other European countries is stark. Britain has among the least generous schemes of any advanced capitalist country.

Unlike the UK, all EU countries link sick pay to salary. In Sweden, for example, the legal minimum is 80% of salary for up to a year, while Germans get 70% of normal wages. In Iceland, a member of the European Economic Area, employees are entitled to 12 days at 100% of their normal pay, and a lower rate after that.

By contrast, Britain's sick pay is so low it may even be in breach of the International Labour Organization's Social

Security (Minimum Standards) Convention 1952, amounting to economic coercion to work.

Keith Ewing, professor of public law at King's College London and president of the Institute of Employment Rights argues that Boris Johnson's government renewed UK obligations to abide by all ILO conventions it has ratified as part of its post-Brexit arrangements with the EU.

"It is time we honoured that obligation, by eliminating waiting days and increasing rates," he said. "Better still, it should be an obligation of the employer to pay wages when workers are sick and, if necessary, to reclaim all or part of it from the Department for Work and Pensions."

Unsurprisingly, there are widespread calls for improvements to the current arrangements. While there have been several consultation exercises, the last of them in 2019, there have been no recent reforms.

In October last year, 36 organisations wrote an open letter to then work and pensions secretary Mel Stride, urging him to set SSP to the same level as the Living Wage, and to close the loopholes that ensure low-paid workers lose out.

Signatories included the TUC, unions such as Unite, UNISON, and Usdaw, and major charities including Scope, Mind, the Child Poverty Action Group and Disability Rights UK.

The TUC, said Collinson, would like to see improvements to the existing system, which is at least universal, and which enjoys widespread awareness.

Concretely, that means abolishing the lower earnings limit, and paying SSP at the same rate as the Real Living Wage (RLW), an independent benchmark determined by the Living Wage Foundation, and paid voluntarily by 11,000 businesses.

Higher

The RLW currently stands at £11.95 an hour for London and £10.90 an hour across the rest of the UK. Both are far higher than the government's £9.50 an hour National Living Wage, the legal minimum for those over 23, and the minimum wage of £9.18 or less for under-23s.

SSP at the level of the RLW would equate to £436 for a 40-hour week, more than four times the current floor, but broadly in line with mainland Europe.

The Labour Party is agreed in principle to changing SSP for the better, although details of its plans – at least as outlined in its employment rights Green Paper, *A New Deal for Working People* – are minimal.

"Labour will raise Statutory Sick Pay and make it available to all workers, including the self-employed and those on low wages currently cut out by the lower earnings limit for eligibility," the document states. The extent of the raise is unspecified.

The three-day waiting period would also go, as would qualifying times for other basic rights such as parental leave and protection from unfair dismissal.

But while welcoming the positive aspects of the policy, some Labour politicians feel it doesn't go far enough. Andy McDonald, MP for Middlesbrough, resigned as shadow employment secretary at Labour's annual conference in September 2021, after being instructed to argue against a motion calling for SSP to match the official Living Wage.

"The commitment is to see it raised, but that isn't defined," he said. "We need to give that substance, and the way to do that is to link the commitment to the living wage. In my view, that's where we need to get to." While he was in post, McDonald called for the lower earnings limit to at least be addressed, and he would like to see it removed altogether.

Real solutions

He said: "The poorly paid are the ones removed from the system, simply because they don't earn enough. It's just exacerbating the problem. That's crazy.

"We need to have some numbers going into the next election, or at least some clear indication of the scale of the ambition. Once in government, it's got to be translated into real solutions."

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