

**Bargaining Support Group**



**Bargaining guidance  
on supporting members  
with long COVID  
or post-COVID-19  
syndrome**

**UNISON**  
*the public service union*

# Guidance on supporting members with long COVID or post-COVID-19 syndrome

## Why is long COVID a trade union issue?

There are likely to be many thousands of workers whose health is being adversely affected in the long-term because they had COVID-19.

“The Office for National Statistics (ONS) estimates that over a million people in the UK were reporting symptoms associated with long COVID at the beginning of March 2021... An estimated 674,000 people reported that their symptoms have negatively impacted on their ability to undertake their day-to-day activities.”<sup>1</sup>

As more is discovered about these ongoing health problems, it is important that workplace reps and branches recognise that some of our members will need particular support from their employers to ensure they can return to or remain in work.

Branches may need to represent members who find themselves subjected to absence management or capability policies. Members may need workplace or work modifications or adjustments to help with recovery or working with the long-term impacts of long COVID.

## What is long COVID?

Most people who have contracted coronavirus are expected to recover within 12 weeks.

However, some people experience ongoing health complications and symptoms that may continue for many more weeks or months. It doesn't matter how ill the person was when they first got COVID-19. Even people who had mild symptoms at first may develop long-term problems.

The **NICE (National Institute for Health and Care Excellence) guideline** uses the following clinical definitions:

- **Acute COVID-19:** signs and symptoms of COVID-19 for up to 4 weeks.
- **Ongoing symptomatic COVID-19:** signs and symptoms of COVID-19 from 4 to 12 weeks.
- **Post-COVID-19 syndrome:** signs and symptoms that develop during or after an infection consistent with COVID-19, continue for more than 12 weeks and are not explained by an alternative diagnosis.
- **Long COVID** is commonly used to describe signs and symptoms that continue or develop after acute COVID-19. It includes both ongoing symptomatic COVID-19 and post-COVID-19 syndrome (defined above).

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<sup>1</sup> Prevalence of ongoing symptoms following coronavirus (COVID-19) infection in the UK: 1 April 2021  
[www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/1april2021](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/1april2021)

Some of the most commonly reported [symptoms](#) of long COVID include (but are not limited to):

- Breathlessness and cough
- Chest tightness, heart palpitations or chest pain
- Extreme tiredness
- Fever
- Cognitive impairment ('brain fog', loss of concentration or memory issues)
- Headache
- Difficulty sleeping (insomnia)
- Peripheral neuropathy symptoms (pins and needles and numbness)
- Dizziness
- Feeling sick, diarrhoea, stomach aches, loss of appetite
- Joint or muscle pain
- Depression or anxiety
- Tinnitus or earache
- Sore throat
- Loss of taste and/or smell
- Skin rashes

Some people can experience long-term organ damage including to the heart, lungs, kidneys, pancreas and liver. Post-COVID conditions also can include the longer-term effects of COVID-19 treatment or hospitalisation, including difficulties swallowing and changes to the voice, severe weakness and PTSD (post-traumatic stress disorder).

Symptoms can last for weeks or months after first being infected by the virus - the full extent is not yet known. Some people's symptoms may improve over time but then they can experience a relapse.

**More information from the NHS** [www.england.nhs.uk/coronavirus/post-covid-syndrome-long-covid](http://www.england.nhs.uk/coronavirus/post-covid-syndrome-long-covid)

**Read about real-life experiences of UNISON members in the UNISON magazine 'Long COVID: It's frightening not knowing where this will end up'**

## Long COVID and sickness absence

In these unprecedented times, it is important for reps and branches to get the agreement of employers to disregard COVID-19 related illness and self-isolation in sickness absence records that contribute to trigger points within the sickness absence policy.

Absence policies often include 'trigger points' for some kind of employer intervention including initiation or escalation of capability or disciplinary procedures.

If employers insist on continuing to operate sickness absence triggers, union reps should seek to ensure that meetings (including 'virtual' meetings) at least in the first instance, explore causes so that employees can be supported to return to work or improve their attendance.

It should also be remembered that changes to trigger levels for disabled staff can constitute a reasonable adjustment.

Where a worker has long COVID, has been off sick but is hoping to return to work, [Acas](#) advises employers to talk with the employee about any support they may need. This could include:

- getting an occupational health assessment
- making changes to the workplace or to how the employee works such as different working hours, working from home, paid leave for medical appointments, support with workload
- a phased return to work
- temporary redeployment to a more suitable role
- what they want to tell others at work about their illness.

[Acas](#) stresses that employers should “make sure they have done everything they can before considering a capability procedure” where a worker has long COVID.

UNISON believes that any employer that takes some form of disciplinary or capability action including formal sickness absence hearings against staff because of absence due to COVID-19 related illness (including those who are diagnosed as having long COVID) is acting unfairly.

- Help ensure employers treat all absences related to COVID-19 fairly by raising awareness amongst members and actively supporting members with long COVID.**
- Negotiate the exclusion of COVID-19 and long COVID sickness absence from any sickness absence capability triggers. Check out bargaining support’s guidance on [negotiating sickness absence agreements](#).**

**UNISON has produced a variety of guides for bargaining on behalf of members during the COVID-19 pandemic.** The full range of guides are available online, including links to guidance specific to service groups, at [www.unison.org.uk/coronavirus-rights-work](http://www.unison.org.uk/coronavirus-rights-work)

## Long COVID and health and safety

UNISON has been pressing for COVID-19 to be classed as an occupational disease so that frontline health, social care and other key workers living with its debilitating effects can be properly compensated. There is a duty on employers to report occupational diseases and specified dangerous hazards at work, but some employers may still not be taking full account of all the risks to workers.

Unfortunately, although some progress has been made with greater reference to the risk of contracting COVID-19 within certain occupations, this has still not been formally confirmed.

UNISON recommends that employers conduct individual risk assessments with any staff member who is experiencing long COVID. Employers should be encouraged to make workplace modifications for staff who are affected regardless of whether the worker fulfils the legal definition of being disabled.

Modifications may also be identified by the employee, their GP such as through a ‘Fit for Work’ statement or by an occupational health service provided by the employer.

- ❑ Request that employers conduct an individual risk assessment for any staff member who has been diagnosed as having long COVID.
- ❑ Ensure safety reps are consulted on anything affecting members' safety, including the outcomes of any risk assessments.
- ❑ Ensure employers provide workplace modifications that have been identified as required.
- ❑ Reps and branches should encourage employers to follow UNISON [guidance for disabled workers and workers with an underlying health condition](#) as good practice.

## Is long COVID a disability?

In all cases of long term sickness absence, employers should follow the [Acas](#) advice to talk with the employee about any support they may need to return to work including making changes to the workplace or to how the employee works ('reasonable adjustments').

As long Covid is a new disease, [Acas](#) also advise it would be better for employers to focus on what adjustments they can make for the employee, rather than trying to work out whether or not the member is a disabled person within the meaning of the Equality Act 2010.

**More information from Acas** [www.acas.org.uk/long-covid/whether-long-covid-is-treated-as-a-disability](http://www.acas.org.uk/long-covid/whether-long-covid-is-treated-as-a-disability)

In cases where employers are unwilling to take this advice, it will be important to understand the relevant legislation.

The Equality Act 2010 defines a disabled person as someone who has a mental or physical impairment that has lasted or is likely to last 12 months or more, and this has a substantial (more than trivial) adverse effect on their ability to carry out normal day-to-day activities.

Reps and branches may sometimes find it difficult to argue that having long COVID means that the member is disabled as some employers may argue that they haven't had the symptoms for long enough to be covered by the Equality Act.

It will be important to ask the following questions:

- 1. Does the member have a physical or mental impairment?**  
Many of the symptoms of long COVID that are recognised by [NICE](#) relate to a physical or mental impairment. It will be important to point this out to the employer.
- 2. Has the impairment lasted 12 months or more, or is it likely to do so?**  
Many members may not have had symptoms for 12 months as yet, but a medical report might be helpful in establishing this. It is also important to remember that an impairment may come and go over this period. A recurring impairment may still amount to the member being disabled.
- 3. Does the impairment have a substantial impact on the member's normal day to day activities?**  
Case law has interpreted 'substantial' to mean more than a trivial impact. Normal day to day activities could include making a meal or going shopping, for example.

Occupational health may be able to assist in advising on this, based on the member's experience.

If the above are satisfied, then the member should be treated as a disabled person. The next step is to assess whether they face a disadvantage at work as a result of this. If this is the case, then they are likely to be entitled to 'reasonable adjustments'.

A reasonable adjustment is a change to the work environment or to a workplace policy, criteria or practice that aims to remove or minimise disadvantages experienced by disabled employees and job applicants.

The Equality Act 2010 (and the Disability Discrimination Act 1995 in Northern Ireland) gives disabled workers the right to reasonable adjustments where they experience substantial disadvantage. Employers have a duty to provide reasonable adjustments where they know or should have known the employee was disabled.

Examples of reasonable adjustments that might apply to a member with long COVID could include, but are not limited to:

- Reduced hours, phased return or working a more flexible day
- Paid leave for medical appointments
- Support with workload
- A change to duties so that a member who has trouble speaking due to breathlessness or persistent cough does not have to talk to service users or other staff
- Temporary redeployment from a physically demanding role to an office or home-based role for a member who finds walking and standing difficult
- Period(s) of disability leave, not included for the purpose of sickness absence monitoring, so that the member can take time off to recover or to get through recurring symptoms
- Changes to performance targets so that a member with 'brain fog' has more time to complete tasks.

- Request reasonable adjustments for members who are likely to be disabled workers under the Equality Act.**
- Ask the employer to consider workplace modifications while it is still unclear if the member is a disabled person.**

## **Raise awareness of external support available to our members**

People who think they may be experiencing persistent or long-term effects of COVID-19 infection are advised by the NHS to contact their GP, who will determine the appropriate course of action. This may include referral to a post-COVID assessment centre.

[www.england.nhs.uk/coronavirus/post-covid-syndrome-long-covid](http://www.england.nhs.uk/coronavirus/post-covid-syndrome-long-covid)

NHS England has extensive information for those recovering from COVID-19

[www.yourcovidrecovery.nhs.uk](http://www.yourcovidrecovery.nhs.uk)

including on returning to work

[www.yourcovidrecovery.nhs.uk/your-road-to-recovery/returning-to-work](http://www.yourcovidrecovery.nhs.uk/your-road-to-recovery/returning-to-work)

NHS Inform in Scotland [www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-longer-term-effects-long-covid](http://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-longer-term-effects-long-covid)

Health Education and Improvement Wales <https://heiw.nhs.wales/covid-19/long-covid-syndrome-resources/>

Long COVID support group [www.longcovid.org](http://www.longcovid.org)

**Caught COVID-19 at work?** Or if you're the relative of a UNISON member who has tragically died from contracting the disease at work, call UNISON'S free legal helpline for advice: 0808 252 2783 [www.unison.org.uk/get-help/services-support/legal-services](http://www.unison.org.uk/get-help/services-support/legal-services)

### Quick checklist when supporting a member with long COVID

- Has the member been diagnosed by their GP or another medical practitioner as having long COVID?
- Will the employer disregard any trigger within the sickness absence policy in relation to the member with long COVID?
- How is the sickness absence policy and sick pay operating for the member? Is there flexibility on sick leave periods and provision of contractual sick pay?
- Has the employer kept in contact with the member whilst on sick leave in order to provide support and help them return to the workplace when they feel ready?
- Has the employer provided reassurance that anything the member shares about their health will be kept confidential? Is this confidentiality also being followed by the workplace rep?
- Has the employer arranged for an occupational health assessment and are they acting on its report?
- Is the employer providing temporary modifications to support the member in their return to work such as temporary redeployment, temporary change to duties, working from home or a phased return to work?
- On return to work, has the employer undertaken a risk assessment and acted upon the recommendations to reduce risks for the member?
- Is the member's circumstances reviewed in case of any recurrence or continuation of the debilitating symptoms?
- If the member is affected long-term by long COVID, is the employer providing reasonable adjustments?