

LONG COVID

Introduction

Reporting in July 2022, the UK Government's Office for National Statistics published findings that estimated 2 million people living in private households across the country were experiencing self-reported long COVID.¹

The ONS' estimates were derived from nearly a quarter of a million responses to a Covid infection survey in the four weeks to 4th June 2022. The survey gathered information about whether individuals had COVID symptoms that had lasted beyond four weeks after the first suspected coronavirus (COVID-19) infection, and which could not be explained by 'something' else.

In this Bulletin we will be looking at Long Covid which has blighted the lives of 3% of the UK population, with the largest age group, according to the ONS, being those people aged between 35 and 69. Many working people will have been affected by Long Covid in this and other age groups given the large numbers of people involved. You may have partners, friends, colleagues or neighbours who have Long Covid.

From the start, it is worth making clear that TSSA is not qualified to give medical opinions and neither have we sought such information from professional health care practitioners. What we are, though, is in the business of highlighting the information and advice available about what Long Covid means for members and how employers should be treating those people with the condition.

What is Long Covid?

The National Institute for Health and Care Excellence (NICE) and the NHS² identify two types of long COVID:

- **Ongoing symptomatic COVID:** When COVID symptoms carry on for 4 to 12 weeks
- **Post-COVID Syndrome:** When COVID symptoms carry on for over 12 weeks

Long Covid is still being studied and there are many elements that are not fully understood yet.

¹

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/7july2022> NOTE: the survey outcome does not include clinically diagnosed ongoing symptomatic COVID-19 or post-COVID-19 syndrome in the full population

² <https://www.yourcovidrecovery.nhs.uk/what-is-covid-19/long-covid/>

How long have people had Long Covid for in the ONS' figures?

The ONS figures cover different lengths of time and break down as follows:

- 405,000 (21%) first had (or suspected they had) COVID-19 **less** than 12 weeks before 4th June 2022
- 1.4 million people (74%) at **least** 12 weeks before 4th June. Of this group:
 - 807,000 (41%) at least **one year** previously
 - 403,000 (21%) at least **two years** previously.

Who is most affected by Long Covid?

The ONS found that self-reported long COVID was greatest in people:

- aged 35 to 69 years,
- female
- people living in more deprived areas,
- those working in social care, health care, or teaching and education,
- those with another activity-limiting health condition or disability.

How have people been affected by Long Covid?

From their findings, the ONS estimates 1.4 million people (72% of those with Long Covid in the ONS figures) have found their day-to-day activities have been adversely affected. A further 409,000 people (21%) reported that their ability to undertake their day-to-day activities had been "limited a lot".

What are the common symptoms of Long Covid reported by the ONS?

Over half (56%) of individuals reported fatigue (extreme tiredness) as the most common symptom in their experience of long COVID. Other symptoms included:

- shortness of breath (31%),
- loss of smell (22%),
- muscle ache (21%).

What other research is available?

The TUC carried out a survey in 2022 across the trade union movement asking question about Long Covid and the symptoms sufferers were experiencing.

In common with other research, workers reported³ experiencing a range of symptoms. Nine out of ten respondents experienced fatigue whilst other symptoms included:

- brain fog (72%)
- shortness of breath (70%)
- difficulty concentrating (62%)
- memory problems (54%).
- Over four in five respondents (83%) reported experiencing at least one of a range of pain-related symptoms
- 32% experienced depression.

³ "Workers experience of Long Covid: A TUC Report" at: <https://www.tuc.org.uk/sites/default/files/2021-06/Formatted%20version%20of%20Long%20Covid%20report%20-%20v1.3.pdf>

What does the NHS say about the symptoms of Long Covid?

The NHS confirms the ONS and TUC findings about the common symptoms and goes on to list a lot of others that can occur after a CV19 infection, including:

- chest pain or tightness
- heart palpitations
- difficulty sleeping (insomnia)
- feeling sick, diarrhoea, stomach aches, loss of appetite
- a high temperature, cough, headaches, sore throat, changes to sense of smell or taste.

The full list appears at: <https://www.nhs.uk/conditions/coronavirus-covid-19/long-term-effects-of-coronavirus-long-covid/>

In addition, the NHS also recognise that for a person with Long COVID, there are lots of different problems which can change over time and go on to list a series of symptoms⁴ before guiding a person where to **seek help** from, describing how a GP will carry out tests, etc, and may refer a sick person to the Post Covid Service.⁵

Do you have to have a positive test for Covid to have Long Covid?

The Faculty of Occupational Medicine of the Royal College of Physicians advises that “diagnosis of long-COVID is not dependent on having had a positive test for COVID-19”.⁶

Have workers with Long Covid experienced poor treatment from their employers?

Yes. In their report “Workers’ experience of Long Covid”, the TUC has collected survey evidence that shows that far too many people have experienced poor treatment from their bosses, with 52% saying they had been the victim of some form of discrimination or disadvantage.

Union members responding to the survey reported:

- facing disbelief and suspicion, from their employers with some being questioned about the impact of their symptoms or whether they had Long Covid at all
- concern about what the future might hold for them at work given the amount of sick leave they had been forced to take due to their long Covid symptoms:
 - for nearly 1 in 5 (18%), this feeling was compounded by their sick leave triggering absence management or other HR processes.
 - 9% of respondents who had used all of their sick leave were warned about negative consequences if they took more sick time
 - one in 20 respondents (5%) had been forced out of their jobs because they had long Covid.

⁴ See: <https://www.yourcovidrecovery.nhs.uk/what-is-covid-19/long-covid/>

⁵ See: <https://www.yourcovidrecovery.nhs.uk/i-think-i-have-long-covid/your-road-to-recovery/when-do-i-need-to-seek-help/>

⁶ See: https://www.fom.ac.uk/wp-content/uploads/longCOVID_guidance_managers_04_small.pdf

Absence from work because of Long Covid

Earlier in this Bulletin we highlighted how people can experience the effects of Long Covid for weeks, months and even years. At the same time, the symptoms of the conditions can also vary over time whilst individuals may be affected differently. Some people can continue to work despite having Long Covid whilst others may need to take time off to recover. For those who need to go sick, the period away from work can mean that they are unable to return for a long continuous period whilst for others the severity of the symptoms is generally less, and they may only find themselves needing to take shorter periods of sick leave, but potentially on more than one occasion.

For those people who find that they need to go sick, ACAS advice is that they will be subject to the usual sickness absence and sick pay arrangements.

This point is important because during the worst parts of the Covid Pandemic, TSSA and the other rail unions were able to negotiate arrangements with a number of railway companies that meant Covid absence was not part of sickness monitoring (eg, Managing for Attendance (MFA)) but that arrangement has now been withdrawn.

Members will also be aware that in many companies TSSA deals with, sick pay has been enhanced to the level of basic pay rather than Statutory Sick Pay (SSP) through long standing collective agreements incorporated into individuals' contracts of employment.

What reps need to know: how employers should manage staff who have Long Covid?

ACAS⁷ has produced advice for employers about how they should deal with sickness and absence due to Long Covid. It begins by highlighting how the employers should be aware of how the condition can be experienced by workers with symptoms that can:

- come and go over time
- sometimes get better but at others get worse
- that when the symptoms get worse, the employee might need to be off work again.

ACAS acknowledge that for some people who are off sick, feelings of isolation may arise, and they may need support to return to work. Consequently, they suggest employers should:

- agree how and when to make contact during any absence
- make sure their work is covered and shared out appropriately while they're off
- talk about ways to support them as they return to work where and when possible.

⁷ <https://www.acas.org.uk/long-covid#:~:text=The%20employer%20should%20talk%20with,such%20as%20different%20working%20hours>

In terms of support when the employee feels able to return to work, ACAS suggests the employer could talk to the employee about:

- getting an occupational health assessment
- making changes to the workplace or to how the employee works, such as different working hours
- a phased return to work
- what they want to tell others at work about their illness.

The ACAS advice also looks at the situation where an employer feels the employee is not able to do their work or is taking a lot of time off sick in which case, they should seek to establish what they can do to help. That could take the form of a further occupational health assessment which may identify what additional support is needed.

In the circumstances of an employee not being able to do their work or taking a lot of time off sick, some employers may seek to move to dismissal. ACAS, however, warn employers to make sure:

- they have done everything they can before considering instigating a capability procedure
- they carry out a full and fair disciplinary or capability procedure.

In the event this does not happen and an employee with Long Covid is dismissed, the employer could find themselves facing an unfair dismissal claim at an employment tribunal. This may be in addition to a claim for discrimination.

Discrimination and Long Covid

Various parts of the Equality Act 2010 can apply to employees with Long Covid meaning that provided a member fulfils the requirements of the legislation, the actions (or failures to act) of their employer may fall foul of discrimination legislation:

- Disability discrimination is the most obvious example for someone with Long Covid. To claim this, you do not need to be registered disabled, but you do need to fulfil the test of having a physical or mental impairment that has a 'long-term and substantial adverse effect' on a person's ability to do normal day-to-day activities.⁸

Breaking this down, 'long term' means either:

- it will affect them or is likely to affect them for at least a year
- it's likely to last for the rest of their life.

'Substantial adverse effect' means more than just a minor impact on someone's life or how they can do normal day to day activities things. This may fluctuate or change and may not happen all the time.

For those people who fulfil the test as a disability person, one obligation on an employer is to for them to consider making "reasonable adjustments." What

⁸ <https://www.equalityhumanrights.com/en/advice-and-guidance/disability-discrimination>

constitutes a reasonable adjustment can be different for each person – for one person it may be a change in hours to start work later but for another it could be allowing them to work from home.

If the employer doesn't make a reasonable adjustment, it can amount to disability discrimination although what is reasonable is subject to several factors, including the organisation's size and administrative recourses as well as whether the change would reduce or remove the disadvantage the disabled person was experiencing.

- Claims for other forms of discrimination⁹ may also be available. For instance, Long Covid has been found to severely affect:
 - older people
 - ethnic minorities
 - Women.

This means employers may face claims for discrimination because of the protected characteristics of age, race or sex.

Is there help for making reasonable adjustments?

The publicly funded Access to Work scheme can pay for practical support to help employees remain in work. They may pay for special equipment, help with travel and help with working from home.

What it does not do is pay for reasonable adjustments that employers should be legally paying for to support an employee to do their job. Access to Work can, however, advise employers if changes should be made as reasonable adjustments.

More information about the Access to Work scheme can be found at:

<https://www.gov.uk/access-to-work>

Can people with Long Covid claim Industrial Injuries Disablement Benefit?

Known as IIDB, this benefit can be claimed by a person who becomes ill or disabled because of an accident or disease at work (or on an approved employment training course).

The Industrial Injuries Advisory Council has been considering this matter in relation to Covid-19 and Long Covid but in its latest published report¹⁰ on the subject, it has not been able to come up with an answer from the evidence and research available. Critical in its considerations has been the link between occupational exposure to CV19 and whether that is more or less likely to result in Long Covid.

Reps Action

TSSA reps should familiarise themselves with the content of this Bulletin, especially if they have colleagues with Long Covid. Reps dealing with members that have Long Covid may need to approach their TSSA organiser for guidance, especially from a legal perspective.

⁹ <https://www.acas.org.uk/long-covid/whether-long-covid-is-treated-as-a-disability>

¹⁰ Available at: <https://www.gov.uk/government/publications/covid-19-and-occupation-iac-position-paper-48/covid-19-and-occupation-position-paper-48>

Acknowledgements and further reading

In placing footnotes in this Bulletin, TSSA is seeking to gratefully acknowledge each of the publications and webpages that have been consulted to produce this document.

Further information can be found at:

The All Party Parliamentary Group on Coronavirus:

<https://twitter.com/AppgCoronavirus>

TUC Long Covid: A guide for supporting our members:

<https://www.tuc.org.uk/resource/long-covid-guide-supporting-our-members>

Long Covid Support: <https://www.longcovid.org/>

British Heart Foundation: <https://www.bhf.org.uk/information-support/heart-matters-magazine/news/coronavirus-and-your-health/long-covid#Heading4>