

Equality Analysis for The Coronavirus Act 2020 (Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay) (England and Wales and Northern Ireland) Regulations 2022(Coronavirus)

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Equality Analysis for the delay in expiry of the SSP provision in Northern Ireland 2022

Introduction

1. This document records the analysis undertaken by the Department for Work and Pensions to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.
2. The PSED requires the Minister to pay due regard to the need to:
 - a. eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act,
 - b. advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not. The Protected characteristics are:
 - i. age
 - ii. disability
 - iii. gender reassignment
 - iv. pregnancy and maternity
 - v. race
 - vi. religion or belief
 - vii. gender
 - viii. sexual orientation; and
 - ix. marriage and civil partnership
3. In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and in particular the three parts of Article 19 which recognise the equal right of all disabled people to live in the community, with choices equal to others, and that the Department should take effective and appropriate measures to facilitate full enjoyment by disabled people of this right and their full inclusion and participation in the community.
4. The Department has also taken account of the United Nations Convention on the Rights of the Child (UNCRC), in particular Article 3 which requires the best interests of children to be a primary consideration; ensure the child such protection and care as is necessary for his or her well-being and that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities and at the forefront of a decision-maker's mind when making a decision which may have an impact on children.

Brief outline of policy or service:

5. These regulations will extend five provisions of the Coronavirus Act 2020 (the Act), these are sections 30, 43, 53, 54 and 55. This Equality Analysis concerns the extension of section 43 of the Act which disapplies Statutory Sick Pay (SSP) waiting days for absences related to COVID-19 in Northern Ireland only. The Equality Analysis for the extension of sections 30, 53, 54 and 55 of the Act is not included within this document but instead covered in the Police, Crime Sentencing and Courts Bill and the Judicial Review and Courts Bill.
6. The Minister for Communities in Northern Ireland has decided to extend section 43 of the Act so that SSP can remain payable from day one to eligible employees in Northern Ireland with absences related to COVID-19, for a further six months from 25 March 2022. The Secretary of State for Work and Pensions has agreed to facilitate this decision as SSP is a transferred matter in Northern Ireland. The Department for Work and Pensions (DWP) can facilitate this extension on behalf of the DfC as the legislative competence for the power lies with DWP. The territorial extent of the application is for Northern Ireland only.

Evidence and analysis:

5. The UK Government does not mandate the reporting of SSP from employers and so does not hold data on COVID-related absences from work and as a result the SSP received for those absences across the UK, including in Northern Ireland. Government will not have such data available at any time in the foreseeable future.
6. The impact of extending this provision depends on several factors, in addition to whether individuals who share protected characteristics are more or less likely to be to be eligible for SSP, it will depend on:
 1. Whether individuals are disproportionately more or less likely to get COVID-19 or be in contact with others who have COVID-19
 2. If individuals have symptoms of COVID-19 or test positive for COVID-19, whether they are more or less likely to require time off from work. This will depend on the severity of their illness (potentially impacted by whether individuals are vaccinated or not) amongst other things.
 3. How employers would choose to act in relation to this situation, was this provision not enacted, for example if employers decided to pay sick pay to their employees from day one of a sickness absence regardless of SSP policy, should an employee take time off work due to COVID-19.
7. For some of these aspects, information is available for most protected characteristics. This is set out in paras 10-32.
8. However, for the remaining factors, there is limited information on pertinent issues, for example:

1. COVID-19 infection patterns are now different from those seen in the earlier part of the pandemic¹, and this is expected to change again with the recent changes to rules and guidance and the effectiveness of the vaccine rollout.
 2. It is likely that patterns of infection and resulting absence among those who are eligible for SSP will differ from patterns among those sharing that characteristic who are eligible for Occupational Sick Pay (OSP) or not eligible for sick pay. This is a significant limitation on the possible analysis.
 3. The data available looks at SSP recipients at one specific point in time and so it is very difficult to have surveys that explore all the details needed to assess the impact of the removal of this policy.
9. UK Government has limited data for this Equalities Analysis on the specific impacts of the extension of the SSP provision to employees in Northern Ireland, due to limitations with SSP-related survey data at lower geographical levels. Government will continue to monitor overall absence rates and the use of SSP across the UK through surveys. However as noted, there are no reporting requirements for employers to provide data on SSP to Government, there is unlikely to be forthcoming data sources which would provide robust estimates of any disproportionate impact of the removal of these provisions on groups with protected characteristics.

Age

10. In Great Britain, those aged 16-24 are more likely to be eligible for SSP only compared to other groups of working age². Government does not currently have analysis on SSP eligibility by age in Northern Ireland but there is no reason to believe this pattern would be any different. It could therefore be the case that individuals aged 16-24 in Northern Ireland are more likely to be positively impacted by the extension of the SSP provision, if are absent from work due to COVID-19 and eligible for SSP.
11. As of 17th March 2022, in Northern Ireland, around 80% of those aged 18-29 have had their first COVID-19 vaccination compared with almost all of those aged 60-69³. Vaccinations should reduce the chance of catching COVID-19 and the severity of the disease for those who do catch it. Therefore, as less of those aged 18-29 are vaccinated it may increase the likelihood of this group having a period of absence related to COVID-19 compared to older workers. Those aged 18-29 may therefore also be more likely to benefit from the extension of this provision.

¹ [Coronavirus \(COVID-19\) latest insights - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/coronavirus)

² Of those who knew what sick pay arrangement they had, [Source: Health and wellbeing at work: a survey of employees, 2014](#)

³ [NI Covid-19 Vaccinations Dashboard - COVID-19 \(Coronavirus\) Northern Ireland \(hscni.net\)](https://hscni.net/covid-19-vaccinations)

12. In England, older employees are more likely to have underlying health conditions than younger employees⁴. This in isolation would tend to increase the likelihood of older workers infected with COVID-19 to have sufficiently severe symptoms to take a COVID-19 related sickness absence, compared to younger workers infected with COVID-19, and so increase the extent to which they are affected by the extension of this provision. Government does not have this analysis for Northern Ireland but there is no reason to believe the pattern would be any different.
13. In addition, it is unclear how infection rates will vary across age groups in the future, and whether those who will take a COVID-19 related sickness absence during the relevant period will have a different age structure to the general population.

Disability

14. In Great Britain, data shows that employees with a long-term health condition, illness, injury, or disability are more likely to be eligible for SSP only (as oppose to OSP) than employees with no long-term health condition, illness, injury or disability⁵. This would tend to increase the likelihood that those with a long-term health condition, illness, injury, or disability will be positively impacted by the extension of this provision should they have an absence related to COVID-19. Government does not currently have analysis of SSP eligibility for Northern Ireland but there is no reason to believe this pattern would be any different.
15. In addition, Government does not hold data on specific types of health condition and therefore cannot determine whether employees with a specific type of health condition or disability are more or less likely to be impacted by the extension of this provision should they have an absence related to COVID-19. This is due to small sample sizes within the data which means that specific sub-group analysis is not reliable.
16. From September 2020 to July 2021 and across the second and third waves of the pandemic, COVID-19 case rates in England were highest among non-disabled people and lowest for disabled people who reported that they were “limited a lot” in their day-to-day activities⁶. If this remains the case in future, it suggests disabled people are less likely to be affected by the changes as they may be less likely to have an absence related to COVID-19. However, it is expected that this pattern may change in the future as individuals with certain health conditions were expected to ‘shield’ during earlier parts of the pandemic which limited their exposure to COVID-19. Government does not currently have analysis of COVID-19 case rates split by those with or without a disability

⁴ [Health inequalities: Age and gender and COVID-19 | Local Government Association](#)

⁵ Of those who knew what sick pay arrangement they had, [Source: Health and wellbeing at work: a survey of employees, 2014](#)

⁶ [Coronavirus \(COVID-19\) case rates by socio-demographic characteristics, England - Office for National Statistics \(ons.gov.uk\)](#)

for Northern Ireland but there is no reason to believe this pattern would be any different.

17. In England around 85% of those aged 16-64 who are identified as being an 'at risk'⁷ group have had at least two COVID-19 vaccinations⁸. Therefore, this group may be less likely to get COVID-19 and, if they do, have milder symptoms and be less likely to have an absence related to COVID-19. However conversely, it is expected that 'at risk' employees to have worse symptoms than similar people those who aren't in this 'at risk' group. Government does not currently hold data on vaccinations split by those with or without a disability for Northern Ireland but there is no reason to believe this pattern would be any different.
18. It is unclear which of the above effects will dominate, and therefore whether those with a long-term health condition, illness, injury or disability will be more or less affected by this provision.

Marriage/Civil Partnership

19. Government does not hold any data on marriage or civil partnership and COVID-19 related SSP absences however there is no reason to expect a disproportionate impact across these groups.

Pregnancy and maternity

20. Studies from around the world show that pregnant women are no more likely to get COVID-19 than other healthy adults⁹ and therefore should not be disproportionately impacted by this provision as they are no more likely to take a COVID-19 related sickness absence than employees who are not pregnant.

Sex

21. In Great Britain, data shows that women are more likely to be eligible for SSP only than men¹⁰ and so could be more likely to be positively impacted by this provision should they have an absence related to COVID-19. However, Government does not currently have analysis of SSP eligibility for Northern Ireland but there is no reason to believe this pattern would be any different.

⁷ This includes those who have been identified as 'at risk' by using the QCOVID assessment tool which allows clinicians to identify how at risk an individual is from COVID-19. Those identified as at risk in this way have been added to the shielded patient list but are separate to the Clinically Extremely Vulnerable cohort.

⁸ [NHS](#) Covid-19 Vaccinations, from National Immunisation Management Systems (NIMS) published 10th February 2022.

⁹ <https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/#pregnancy>

¹⁰ Of those who knew what sick pay arrangement they had, [Source: Health and wellbeing at work: a survey of employees, 2014](#)

22. Recent data shows higher rates of positive tests for COVID-19 for women than for men in Northern Ireland¹¹, but it is unclear whether this will continue in the future.
23. Overall, therefore, it is unclear whether there will be any disproportionate impact by sex in future.

Sexual orientation

24. Government does not hold any data on sexual orientation and SSP, however there is no reason to expect a disproportionate impact across these groups.

Gender reassignment

25. Government does not hold any data on gender reassignment and SSP, however there is no reason to expect a disproportionate impact across these groups.

Race

26. Evidence suggests that, in England, COVID-19 had a disproportionate impact on people from Black, Asian and minority ethnic (BAME) groups¹², hence these groups may be more likely to have an absence related to COVID-19 and be positively impacted by these powers. Age standardised COVID-19 case rates were highest for the Bangladeshi and Pakistani ethnic groups and lowest for the Chinese ethnic group from September 2020-July 2021¹³. However, it is unclear whether these patterns will change in the future. Government does not have analysis of data on SSP eligibility for Northern Ireland but there is no reason to believe this pattern would be any different.
27. Government do not have robust data on whether employees who are from ethnic minority groups are more likely to receive SSP only, or when comparing ethnic minority groups to those of a White ethnicity, due to small sample sizes. Government does not expect to have this information in the near future.
28. In England 74% of those of a White British ethnicity aged over 18 have had a third vaccination/booster compared with 34% of those from a Black/Black British ethnicity from a Caribbean background¹⁴. Differences between other groups were not statistically significant. This means that those of Black/Black British ethnicity from a Caribbean background may be more likely to contract COVID-19 and, depending on the effectiveness of the vaccines and SSP

¹¹ [COVID-19 - Statistics | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/statistics/covid-19). Cases identified through testing during 7 days previous to 15th March 2022, used as rates per 100k population.

¹² Disparities in the risk and outcomes of COVID-19 (publishing.service.gov.uk)

¹³ [Coronavirus \(COVID-19\) case rates by socio-demographic characteristics, England - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/coronavirus/covid-19/case-rates-by-socio-demographic-characteristics)

¹⁴ [NHS](https://www.nhs.uk) Covid-19 Vaccinations, from National Immunisation Management Systems (NIMS) published 10th February 2022.

eligibility, be more likely to have an absence related to COVID-19. This would tend to increase the likelihood that they are positively impacted by these powers. Government does not currently have analysis of vaccinations by race for Northern Ireland there is no reason to believe this pattern would be any different.

29. Overall, therefore, it is unclear whether there will be any disproportionate impact by ethnicity.

Religion or belief

30. As differences in COVID-19 case rates between religious groups in England has varied since the start of the pandemic, it is unclear whether the provision would disproportionately affect certain religious groups.

31. The latest data in England shows people identifying as Muslim or Sikh had the highest COVID-19 case rates during the second wave of the pandemic, whereas the Christian group had the highest case rates in the third wave¹⁵. Therefore, they could be more likely to be positively impacted by the powers should they have an absence related to COVID-19. However, Government does not have analysis of COVID-19 case rates by religion for Northern Ireland but there is no reason to believe this pattern would be any different.

32. It is unclear how future infection rates will differ by religion, and whether those with different religions or beliefs will be more or less impacted by the extension of the powers.

Family Test

33. This provision is an extension of a temporary policy response and is not likely to impact on long-term family issues, such as the rate of marriage.

Decision making

34. The need to advance equality has been considered appropriately and Government considers that the extension of the SSP provision is a positive change which is unlikely to have significant disproportionate effects.

I. Does the policy, or the way the function is carried out, specifically exclude a particular group?

No. This is the extension of a temporary policy response to extend the disapplication of SSP waiting days for absences related to COVID-19 in

¹⁵ [Coronavirus \(COVID-19\) case rates by socio-demographic characteristics, England - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/coronavirus/covid-19/cases/coronavirus-covid-19-case-rates-by-socio-demographic-characteristics-england)

Northern Ireland only. This measure is assessed to have a positive impact for eligible employees.

II. Does the policy, or the way the function is carried out (albeit one that is applied equally) have a disproportionate impact on those with a certain, relevant protected characteristic, as compared to those who don't share that characteristic?

It is unclear whether this policy change will have a disproportionate impact on groups with particular protected characteristics due to limited data on SSP and COVID-19 related absences. In addition, Government does not currently hold robust data on SSP eligibility in Northern Ireland or detailed data on COVID-19 in Northern Ireland. Government has therefore explored general SSP eligibility and COVID-19 related data in Great Britain, England and Northern Ireland where possible, to consider the potential impact of this policy change.

35. The data has shown that people eligible for SSP only, in Great Britain, are more likely to be women, aged 16-24 or with a long-term health condition, illness, injury or disability. As there is no reason to believe this pattern would be any different in Northern Ireland, these groups are slightly more likely to benefit from the provision.

COVID-19 related data has shown that previously those with these protected characteristics are more likely to catch COVID-19, which has been used as a proxy for taking a COVID-19 related sickness absence, are non-disabled individuals, from BAME groups and people identifying as Muslim or Sikh religion. Latest data from Northern Ireland shows higher rates for women than for men. It is unclear whether other groups with protected characteristics would be more or less likely to take a COVID-19 related sickness absence due to limited data. However, it is unclear whether these trends will continue in future whether particular protected characteristics will be disproportionately impacted due to different infection rates.

III. Does the policy have a positive impact on those who share certain protected characteristics?

There will be a positive impact for impacted employees. However, due to limited data for Northern Ireland it is unclear which protected characteristics this will likely impact.

IV. Do those affected have the same opportunity to use the policy or service or benefit from it or is it more difficult for some than others?

The policy affects payments made via Employers. Groups who would be unable to use the provisions when eligible have not been identified

V. What impact does the policy, service or benefit have in terms of fostering good relations between those who share a relevant protected characteristic and those who don't?

None identified.

VI. Is there any obvious or significant negative effect? If so, describe it and the weight given to it in the decision-making process, and why?

This is the extension of a temporary policy response to disapply waiting days for SSP eligible COVID-19 related absences in Northern Ireland. The provision is not expected to have a significant negative impact. **Does the policy treat**

any persons less favourably than others because of a protected characteristic?

No.

Monitoring and evaluation

36. This provision has been extended by six months from 25 March 2022.

Government will continue to monitor overall absence rates and use of SSP across the UK through surveys. However, Government does not mandate the reporting of SSP from employers and there is unlikely to be forthcoming data sources which would provide robust estimates of any disproportionate impact of the removal of these provisions on groups with protected characteristics.

Sign off

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