

Consultation Response

Making Work Pay: Strengthening Statutory Sick Pay

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors. We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Employment Law sub-committee welcomes the opportunity to consider and respond to the UK Government's Consultation on Making Work Pay: Strengthening Statutory Sick Pay.¹ The sub-committee has the following comments to put forward for consideration.

¹ [Making Work Pay: Strengthening Statutory Sick Pay](#)



Consultation Questions

2. Thinking about employees earning below the current weekly rate of Statutory Sick Pay (£116.75 per week), what percentage of their average weekly earnings should they receive through the Statutory Sick Pay system?

Number must be between 0 -100

65% (or anything between the 60% to 70% range)

3. Why do you think the percentage rate of earnings should be set to this level? *There is no minimum word limit for this question, however we strongly encourage a maximum limit of 500 words. Given the volume of responses expected, submissions exceeding this recommended length may not be read in their entirety.*

We believe this is an appropriate figure based on the following assessment:

- The proposed rate, taken together with the abolition of 3 waiting days, represents a strong and positive step forward to protect those on low incomes suffering ill health at work.
- Of main concern are those employees who currently earn just over the flat rate, and who may be worse off based on a percentage of earnings model (rather than receipt of the flat rate). Based on the Government's own internal modelling, employees overall would not be worse off with a proportionate rate of 60% or above (given the removal of 3 waiting days, this offsets any potential loss for most short-term absences). However, longer term absences for those who earn just over the flat rate may be negatively impacted by the new model (paragraph 26, SSP paper).
- It would take 2 to 3 weeks based on the information given in table 1 of the SSP paper for an employee on the rate of 65% to be worse off under the proposed new system. Our understanding is that the average absence of an employee is 5.7 days per annum² so, should that be the case the majority of employees / absences would not be negatively impacted under the new system.
- The proposed 65% figure while of benefit to employees, would be less likely to incentivise longer term absence than a higher rate.

² See ONS 2022:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/labourproductivity/articles/sicknessabsenceinthelabourmarket/2022#cite-this-article>



- For those higher paid employees who are in receipt of a flat rate, which in many cases is markedly less a percentage rate of salary than that proposed for those under the LEL, it represents less of a discrepancy with their position than a higher rate would.
- Employers who are already footing the bill in terms of removal of waiting days may be happier with a rate of 65% than, say, 80% (based on table 2 of the SSP paper this would be a cost of £1.05 billion compared to £1.07 billion).
- Our understanding is that the 65% figure represents an average figure for SSP entitlement in Europe.³

³ See <https://www.eurodev.com/blog/sick-leaves-in-europe-2022> - we would highlight that this is not an official source or statistic.





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