



NORTH WEST LONG COVID-19 CHARTER

TAKING ACTION ON LONG COVID-19

What trade unions, safety reps and workers need to know about Long Covid-19, where to get information from and the demands needed to be made to your employer about Long Covid-19

Compiled by the North West Trade Union Covid Support Group

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Online version: <https://gmhazards.org.uk/wp-content/uploads/2022/10/Long-Covid-Charter-2022-online-version-2.pdf>

Long Covid-19 Charter Guidance

What every worker should know?

Thousands of workers who have been infected with Covid-19 have been left with long-term and life-impacting ill health. It doesn't seem to matter how ill the person was when they contracted the disease. Some people were fine initially, but recurrent infections have now left them disabled or some people have it mildly and recover initially but then develop more severe ill-health in subsequent weeks.

In a landmark legal case involving a school caretaker, an Employment Tribunal recently ruled that symptoms brought about by Long Covid may be classed as a disability under the Equality Act 2010. It is important for employers to consider this decision and provide reasonable adjustments and support for employees with symptoms.

The National Institute for Health and Care Excellence (NICE) defines Long Covid as on-going symptomatic covid (signs and symptoms from 4-12 weeks) and post covid syndrome (signs and symptoms that develop during or after an infection and continue for more than 12 weeks).

Symptoms can include viral fatigue, aching muscles and bones, blinding headaches, impaired vision, breathlessness, abdominal pains, nausea, vomiting, diarrhoea, skin rashes, dizziness pins and needles/numbness; brain fog (including lack of concentration), chest tightness and associated symptoms of anxiety and depression. In some cases, apparent organ failure or malfunction. Some people develop organ damage including damage to their heart, lungs, kidneys, pancreas, and liver. Conditions can also include difficulties swallowing and changes to the voice, severe weakness and PTSD impacted by treatment or hospitalisation.

A snapshot of the challenges frontline NHS staff with Long Covid face as they try to return to work was revealed in research published by UNISON at a health conference in Liverpool. Staff reported returning to work early because they're afraid of losing their jobs.

In a wider survey of health workers, 1,900 of the respondents reported having had or still having Long Covid symptoms. The respondents included healthcare assistants, nurses, porters and clinical support staff.

- More than two in three (68%) were back in the workplace while suffering with symptoms including breathlessness, fatigue, brain fog and aching joints.
- Eight per cent of those surveyed have been so poorly they've not been able to go back to work at all.
- More than four in 10 (46%) said that although their employer was initially supportive, this changed as time went on.
- Almost one in 10 (9%) had been asked to attend a formal absence hearing and
- 2% report being threatened with disciplinary action or even the sack.

Strengthening the link between equality and safety

Long Covid can impact on your ability to return and/or remain in your post. Workers' organisations want employers to do more to support staff to prevent re-infection, remain on supportive absence, access ill-health early retirement or return to work.

For staff who want to return to work its crucial reasonable adjustments to their roles take place prior to any return. Long Covid adjustment plans can help members remain in work as well as protecting them

from further reinfection. Adjustment plans can be made under the Equality Act 2010 to protect workers from disability discrimination if the symptoms meet the legal definition of a disability. Even if the member doesn't meet the formal criteria under the Act many unions are still making successful adjustment requests to protect their members. It may also be helpful to ask public sector employers to carry out an Equality Impact Assessment to determine what systematic barriers disabled workers face.

It has been shown in a number of research documents that there has been a disproportionate impact on some workers from Covid-19 infections. In particular, women and black workers have been exposed to the virus more because of the work they do, because of the contracts they work under, because of the lack of PPE available or because of the systemic racism and sexism they face at work. This has resulted in them being infected in a higher proportion, infected more times and then they have died in higher numbers and more likely to experience Long-Covid.

Employers also have a legal duty under the Health and Safety at Work Act 1974 to ensure the physical and mental health of workers. The collective and individual risk assessment process will be vital in supporting all staff, especially those who are suffering from Long Covid. See Appendix 3 for further information.

This charter has been compiled to provide advice to workers and employers. It will call on managers to be given training on what Long Covid-19 is, how workers can be impacted and what reasonable adjustments can be made to keep them in work.

Identifying occupational exposure and pursuing Covid claims

One issue for workers is whether their employer has been negligent in them contracting the virus and whether they are able to legally challenge them for compensation to improve their quality of life. This is known as a Personal Injury claim. To do this, individuals and trade union reps need to prove that the employer's breach of duty caused the infection on the balance of probability. Unions who are looking to consider claims will need to record and gather information about what was happening in the workplace. See appendix 1 for further information.

Another issue for workers with Long-Covid, is that of potential discrimination cases and it is important that trade union representatives actively seek out help and advice, to identify and establish cases that can challenge discriminatory and unfair practices.

Bargaining for Improvements - Charter Demands

This Charter has been compiled in response to the Covid-19 health emergency and the Government's failure to support workers who have been infected or to prevent re-infection.

Employer Charter Commitments

1. **Engage with trade unions and workers on Long Covid-19 prevention and management planning**
– Engage with safety and equality representatives in Long Covid-19 policy discussions.
Establish Long Covid-19 as a standing agenda item on safety committees and as an agenda item on consultation and negotiation forums.
2. **Control risks of infection and re-infection** - Continue to assess and control the risks of infection and investigate underlying causes where workers have become infected. Maintain organisational covid assessments and establish individual Long Covid assessments.
3. **Identify infection levels to support assessment and control** – Establish proactive systems such as:
 - a. In-house access to free Lateral Flow Test for individual use
 - b. Transparently record positive cases in the workplace, including mapping infections to departments, jobs, buildings etc.
 - c. Share infection rate data with workers, trade unions, safety committee
 - d. Share workload/productivity impact assessments
 - e. Share other data which is relevant to occupational exposure of Covid-19
 - f. Agreeing, signing and displaying the [Covid Safety pledge](#)
4. **Support Long Covid adjustment requests** – Consider requests reasonably whether or not they fall under the Equality Act. **Be proactive and** work with Equality and Safety representatives to identify workers who may be eligible in advance.
5. **Prioritise symptom focussed adjustments** –Undertake timely actions prior to workplace returns. Review existing duties and adjust to support individual needs, including:
 - different working hours
 - working from home or moving workplace location
 - support with workload
 - temporary redeployment to a more suitable role
 - physical adjustments to the working environment
 - assisted equipment
 - flexible working
 - alternative work where necessary
6. **Establish supportive rehabilitation programmes**– Prioritise personal rather than operational needs:
 - a. Enable individuals to return on a supportive phased return basis. Return plans should aim to prioritise reducing relapses and not lengthening the recovery process. Recovery

for some workers can last up to 2 years and may involve several reviews and changes to the original return to work plan.

- b. Support medical appointments and or disability leave for ongoing treatment and recuperation.
 - c. Utilising Occupational Health services to support Long Covid adjustment plans – provide workers with easy quick or self-referral access to occupational health for an individual assessment of reasonable adjustments needed along with dates for review and record this in a 'reasonable adjustment' passport type document:
 - d. Ensure individual risk assessment and reasonable adjustment plans are part of return-to-work discussions. With arrangements being agreed and established prior to the workers return.
7. **Not act punitively** - Identify policy and actions that directly and inadvertently cause detriment
- a. Review relevant policies and any Equality Impact Assessment actions
 - b. Support workers isolating without any repercussions when they are infectious/infected
 - c. Disregard Covid-19 related illness and self-isolation in sickness absence records that contribute to trigger points within the sickness absence policy
 - d. Suspend performance management arrangements relating to Long Covid absences or reasonable adjustments
 - e. Support workers caring for people with Long Covid and/or Covid
8. **Engage with workers and trade unions** – work collaboratively to identify and remedy potential occupational exposure and disability discrimination cases. Work to reduce the stress associated with Covid claims.
9. **Monitor and audit coverage** - Keep auditing systems to enable the recording and identification of:
- a. Infection rates and health impacts within work locations and activities.
 - b. Staff shortage impacts on workload structures and policy.
 - c. Risk Assessment coverage and application
 - d. Reasonable adjustment coverage and application
10. **Inform, Educate and Instruct** – Provide **information** about infection control and current transmission rates as accurate as possible. **Educate** on how to ensure inside spaces are ventilated and how air filtration supports better air quality and impacts positively on health. Provide **instructions** on acceptable air quality, use of FFP2/3 masks and other public health measures such as staying at home if unwell or working from home if in close contact with someone else who is infected.

Appendix 1: Covid Claims - Checklist of questions for workers to help pursue personal injury claims

Covid personal injury claims can be broken down into 3 elements any claim requires success at all of the 3 elements. We've identified the types of questions you may wish to consider to help pursue a claim under each stage. It's important to identify as much independent evidence as possible such as witness statements and Assessments. Also record dates where applicable. This is not an exhaustive list.

Covid Claims - Checklist of questions for workers to help pursue personal injury claims		
1	On the balance of probability the member was infected at work	
1.1	Is there clear exposure to symptomatic or positive individuals?	
1.2	What workplace location and activities allowed Covid-19 to be caught?	
1.3	What care was taken while undertaking such activities?	
1.4	Did the exposure take place within the incubation period?	
1.5	How are non-workplace exposure routes less likely to be the cause of the infection?	
1.6	Is there a record of testing positive and was this declared to the employer at the time?	
1.7	Have you a diagnosis from a medical professional?	
1.8	What is the short- and long-term prognosis?	
1.9	If you are taking medication what would happen if you stopped? Have you informed your employer of your Covid-19 diagnosis and symptoms?	
1.10	What mitigation was in place, at the place of work to control transmission and infections? – i.e. distancing, improved ventilation, air filtration, hybrid and remote working, PPE – and what monitoring and reviews were carried out to ensure that mitigation was working? (See Appendix 3 for more detailed questions)	
2	The employer (or some other party who owes a duty) has breached their duty of care in some clear way	
2.1	Which specific Covid-19 health guidance was breached?	
2.2	Which collective and individual risk assessments were not sensible, or if they were sensible weren't followed?	
2.3	Has there been an outbreak of cases at work and there was failure to take steps?	
2.4	Did your employer fail to apply a reasonable adjustment plan that increased the chance of reinfection?	
2.5	Did you submit any complaints to the employer and/or relevant body regarding safety controls and/or failed reasonable adjustments?	
2.6	Did your employer undertake an equality impact assessment?	
2.7	Was it an adequate equality impact assessment?	
2.8	Did you receive adequate support from Occupational Health?	
3	The breach identified above, on the balance of probability caused the infection:	
3.1	To what extent did the breach stop covid controls reducing the infection?	
3.2	Did the worker need higher levels of protection?	
3.3	Should the worker have been moved to a less risky environment due to personal risk factors such as pre-existing high risk health issues?	

Appendix 2 : Additional information

- **Timelines of Govt action:**
 - [Scotland](#) - Scotland timeline of key milestones from Dec 2019
 - [UK](#) - March 20 - March 21
 - [UK Parliament](#) - HofC Lockdowns up to Dec 21
 - [Wales](#) - Wales Gov timeline from Dec 2019
- **Case law**
 - [Burke v Turning Point – ET case](#)
- **Trade Union Information:**
 - [GMB](#)
 - [NEU](#)
 - [UCU](#)
 - [USDAW](#)
 - [UNISON](#)
 - [UNITE](#)
 - [Teaching Unions](#)
 - [TUC](#)
- **Long Covid-19 support groups:**
 - [Long Covid SOS](#)
 - [Long Covid Support](#)
 - [Long Covid Kids](#)
 - [Manchester](#)
 - [Merseycare](#)
 - [Warrington](#)
- **Supporting Initiatives/information:**
 - [Covid Action](#)
 - [Covid Safety Pledge](#)
 - [Hazards Magazine](#)
 - [Hazards Magazine Ventilation](#)
 - [Independent Sage Scores on the Doors](#)
 - [Hazards Campaign Ventilation Presentation](#)
- **Other relevant information:**
 - [Access to work](#)
 - [British Heart Foundation](#)
 - [British Medical Journal](#)
 - [CIPD](#)
 - [NICE](#)
 - [Public Inquiry](#)
 - [Protect Covid 19](#)
 - [Society of Occupational Medicine](#)
 - [WHO](#)

Appendix 3: Assessment Mitigation Questions about Employer actions

	Questions	Notes
1	Are the people assessing the risks from Covid-19 competent ?	
2	Has a Covid-19 Risk Assessment been carried out and when? Has it been reviewed?	
3	Is a control hierarchy approach taken to controlling the risks?	
4	Is the Covid-19 Risk Assessment still in place and if not when was it revoked?	
5	Has ventilation been improved? If so when and how? How is this monitored?	
6	Is the air filtration system maintained and improved to ensure 100% outside air and adequate for the space? If so, how and when? If not, why not?	
7	Is physical distancing used to support dissipation of virus? Is it still in place? If not when was it removed?	
8	Are CO2 monitors in place to monitor air quality? Who monitors and what is in place to react to high levels? What dates were they introduced and are they still in place?	
9	Was hybrid or remote working introduced and when? If so, are they still in place and if not when was it changed?	
10	What policies/procedures are in place and when for testing? Has this changed and if so from when?	
11	What sickness absence procedures are in place for Covid-19 infections and when? Has this changed and how? If so when did it change?	
12	What standard of PPE or face masks were or are used and when?	
13	What information is shared with Safety Reps about Covid-19 infections? Are these investigated for work-related transmission? If so, is there evidence of improvements made?	
14	Are infections mapped to buildings/departments etc?	
15	Has there been any Covid-19 deaths in your workplace and when? And were they reported through RIDDOR? If not why not?	
16	Are Covid-19 infected workers able to stay home and isolate if they test positive, have symptoms or are in close contact with someone who has tested positive?	
17	Are workers who care for someone or live with someone who is vulnerable to Covid-19 infections, able to work remotely? If not why not?	