

UKHCA response to consultation

“Health is everyone’s business - proposals to reduce ill health related job loss”

Q1. Do you agree that, in addition to government support, there is a role for employers to support employees with health conditions, who are not already covered by disability legislation, to support them to stay in work?

Strongly agree, agree, neither agree nor disagree, disagree, strongly disagree.

Agree

Q2. Why do you think employers might not provide support to employees with health conditions not already covered by disability legislation to help them stay in work?

The Homecare sector in England comprises 9,450 employers registered with the Care Quality Commission and employing 525,000 people. Homecare is a ‘people business’ delivering personal care to people in their own homes. Staffing is therefore a major cost representing around 70 – 75% of the total costs of the business. Although careworkers need to be highly skilled, homecare is a low paid sector, with around half the workers employed on zero hour contracts. Average hourly pay is below that of most UK supermarkets.

Retention, recruitment and workforce capacity are therefore major challenges in homecare and constraints on productivity and ability to meet current market demand. There is a 10% vacancy rate and staff turnover is around 40%.

In these circumstances, homecare providers face time and cost constraints in supporting employees with health conditions and in some cases, there will be a reluctance to support workers who could leave the organisation within a short period.

In addition, there are many difficulties to overcome in order to make adjustments to support those with health conditions. Workers providing direct care make up over 75% of all staff so finding alternative work within the organisation, e.g. office work is not realistic. Even where it is possible to offer office work, the employer would have to employ another careworker to deliver care to the service users.

Homecare providers cannot simply reduce hours of careworkers or swap shifts or rotas without taking into consideration the location of the clients,

whether the careworkers concerned have the right skills and experience to deliver care to clients and whether clients have expressed a preference for particular careworker, for example a client may want male only staff, or someone from a similar cultural background to their own.

Our members have reported on the lack of advice freely available to employers, particularly for small businesses encountering difficulties in managing cases of employees with mental health issues, and the overlap with disability discrimination. These are time-consuming issues for very small businesses who do not have direct access to a human resources expert.

Open question.

Q3. Do you agree that a new ‘right to request work(place) modifications’ on health grounds could be an effective way to help employees to receive adjustments to help them stay in work?

Yes / No / Don’t know (with reasons)

Yes, but the right to request must not be interpreted as a right to have modifications. Employers must be able to refuse the request in a reasonable time-frame and not be expected to spend hours explaining their reasons for refusal.

Q4. If the government were to implement this new right to request work(place) modifications, who should be eligible?

UKHCA considers that any employee who is able to demonstrate a need for a work(place) modification on health grounds should be eligible to apply for modifications. Employees must be able to demonstrate they have an impairment within the meaning of the Equality Act 2010, i.e. that the impairment is substantial and long term.

- ***Any employee returning to work after a period of long-term sickness absence of four or more weeks;***
- ***Any employee with a cumulative total of 4+ weeks sickness absence in a 12-month period;***
- ***Any employee returning to work after any period of sickness absence;***
- ***Any employee who is able to demonstrate a need for a work(place) modification on health grounds;***
- ***Other, please state.***

Q5. How long do you think an employer would need to consider and respond formally to a statutory request for a work(place) modification?

- *0-4 weeks;*
- *5-8 weeks; or*
- *9-12 weeks?*

UKHCA considers 9-12 weeks will be necessary given some requests will pose considerable complexity for employers.

Q6. Do you think that it is reasonable to expect all employers:

Yes and yes to these questions

- **To consider requests made under a new 'right to request' work(place) modifications?**
Yes / no / if no – why?
- **To provide a written response setting out their decision to the employee?**
Yes / no / if no – why?

Q7. Please identify what you would consider to be legitimate business reasons for an employer to refuse a new right to request for a work(place) modification made on health grounds:

Financial and other resources will be a legitimate reason to refuse a modification. See also our answer to question 1 which set out the backdrop against which the homecare sector is operating.

- *The extent of an employer's financial or other resources;*
- *The extent of physical change required to be made by an employer to their business premises in order to accommodate a request;*
- *The extent to which it would impact on productivity;*
- *Other – please state.*

Please give further views in support of your response.

Q8. The government thinks there is a case for strengthened statutory guidance that prompts employers to demonstrate that they have taken early, sustained and proportionate action to support employees return to work. Do you agree?

Yes – no – maybe – don't know

No.

Q9. If no, please give reasons for your answer.

This would be excessive for all businesses especially for small businesses operating with very few employees.

Q10. If yes, would principle-based guidance provide employers with sufficient clarity on their obligations, or should guidance set out more specific actions for employers to take?

Clearer guidance would be useful for employers of all sizes.

- *Principle-based guidance provides employers with sufficient clarity;*
- *Guidance should set out more specific actions for employers to take;*
- *Don't know;*
- *Other – please state.*

Q11. The government seeks views from employers, legal professionals and others as to what may be the most effective ways in which an employer could demonstrate that they had taken – or sought to take – early, sustained and proportionate action to help an employee return to work. For example, this could be a note of a conversation, or a formal write-up.

A note of a conversation would be sufficient.

Q12. As an employer, what support would you need to meet a legal requirement to provide early, sustained and proportionate support to help an employee to stay in work or return to work from a long-term sickness absence?

Having better quality employer information and guidance; more easily accessible employer information and guidance and easier access to quality OH services will support employers to help an employee return to work.

- *Better quality employer information and guidance;*
- *More easily accessible employer information and guidance;*
- *Easier access to quality OH services; or*
- *Other – please state.*

Q13. As an employee: in your experience, what actions has your employer taken to support your health at work? Please describe how these were effective or ineffective.

UKHCA is not an employer of homecare workers so we are unable to answer this question.

Q14. As an employee: what further support/adjustments would you have liked to receive from your employer?

UKHCA is unable to answer this question.

Q15. All respondents: in order for employers to provide effective return to work support, what action is needed by employees? Select all that apply.

UKHCA consider all three items referred to below will assist with successful return to work discussions. It must be recognised that it is not always possible for an employee to return to work in homecare and there must be a pre-judgement that return to work is a 'right' and that it will happen as a matter of course.

- ***To have discussions with their employer to identify barriers preventing a return to work and to inform workplace support;***
- ***To agree a plan with their employer to guide the return to work process;***
- ***To engage with OH services; or***
- ***Other – please state.***

Q16. All respondents: do you think the current SSP system works to prompt employers to support an employee's return to work?

UKHCA does not have the data for the homecare sector to be able to answer this question.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q17. All respondents: what support would make it easier to provide phased returns to work during a period of sickness absence?

Any guidance should be informed by sector leaders who understand the problems and potential opportunities for employers by phasing employees back to work. Guidance should be realistic and recognise that a phased return is not always possible. Clearer medical or professional information is always welcome especially with regard to mental health issues and the overlap with disability legislation.

- ***Guidance on how to implement a good phased return to work;***
- ***A legal framework for a phased return to work which includes rules on how it should be agreed and implemented;***
- ***Clearer medical or professional information on whether a phased return to work is appropriate; or***
- ***Other suggestions.***

Q18. All respondents: would the removal of rules requiring identification of specific qualifying days help simplify SSP eligibility?

Any simplification of SSP rules is welcome.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q19. Do you agree that SSP should be extended to include employees earning below the LEL?

No. The costs for small homecare providers would be prohibitive.

Yes – no – maybe – don't know. Please give reasons for your response.

Q20. All respondents: for employees earning less than the LEL, would payment of SSP at 80% of earnings strike the right balance between support for employees and avoiding the risk of creating a disincentive to return to work?

UKHCA does not accept the premise of this question given our answer to Q19.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q21. Do you agree that rights to SSP should be accrued over time?

No. This would add a complication to SSP that currently does not exist.

Yes – no – maybe – don't know. Please give reasons for your response.

Q22. Should the government take a more robust approach to fining employers who fail to meet their SSP obligations?

Yes. UKHCA wants to see all employers brought up to the standard of the best. Fining poor employers could help achieve that aim.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q23. Do you think that the enforcement approach for SSP should mirror National Minimum Wage enforcement?

No. A different set of skills and experience is necessary to understand how SSP and NMW rules should be applied, given the Equalities legislation and the need to protect people from discrimination. We consider enforcement approaches should remain as they are currently.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q24. Do you support the SSP1 form being given to employees four weeks before the end of SSP to help inform them of their options?

UKHCA does not have the data for the homecare sector to be able to answer this question.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q25. All respondents: how could a rebate of SSP be designed to help employers manage sickness absence effectively and support their employees to return to work?

It is difficult to see how this can be done without increasing the level of bureaucracy and avoiding perverse incentives.

Open question.

Q26. All respondents: at this stage, there are no plans to change the rate or length of SSP. The government is interested in views on the impact of the rate and length of SSP on employer and employee behaviour and decisions.

This does not appear to be a question.

Q27. In your view, would targeted subsidies or vouchers be effective in supporting SMEs and the self-employed to overcome the barriers they face in accessing OH?

SMEs in homecare would welcome easier and subsidised access to Occupational Health services without having to complete reams of paperwork beforehand.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q28. Please provide any evidence that targeted subsidies or vouchers could be effective or ineffective in supporting SMEs and the self-employed to overcome the upfront cost of accessing OH services.

UKHCA does not have evidence to answer this question.

Open question.

Q29. In your view, would potentially giving the smallest SMEs or self-employed people the largest subsidy per employee be the fairest way of ensuring OH is affordable for all?

While it is advantageous to design as simple a system as possible, 'smallness' and businesses run by the self-employed does not appear to have the level of discrimination necessary to decide who should have access to affordable OH. The criteria should be led by evidence, i.e., which sectors have the greater problem with return to work? And of those sectors, is size a factor in determining whether returning to work is a problem?

- **Yes;**
- **No;**
- **Don't know**

If no or don't know – what would be better?

Q30. All respondents: what type of support should be prioritised by any potential, targeted OH subsidy for SMEs and/or self-employed people?

OH assessments and advice.

- ***OH assessments and advice;***
- ***Training, instruction or capacity building (e.g. for managers and leads);***
- ***OH recommended treatments.***

Q31. Please give reasons and details of any other categories of support you think should be included.

Managing sickness and return to work can be difficult when your business lacks HR expertise. Homecare providers would welcome an opportunity for a specialist OH assessment to decide how or whether a person can return to work after a long term illness.

Q32. How could the government ensure that the OH services purchased using a subsidy are of sufficient quality?

Other organisations are better qualified to answer this question such as the Faculty for Occupational Health

Q33. As an OH provider, would you be willing to submit information about the make-up of your workforce to a coordinating body?

Not a question for UKHCA

Yes – no – maybe – don't know.

Q34. If no, maybe or don't know, what are your reasons for not providing your data?

Not a question for UKHCA

- ***time;***
- ***cost;***
- ***confidentiality;***
- ***do not see the benefit;***
- ***other – please state.***

Q35. As an OH provider, expert or interested party, what are your views on private OH providers' involvement in the training of the clinical workforce?

Not a question for UKHCA

- *Private providers should be more involved;*
- *Private providers should be more involved but with additional support;*
- *Private providers should not be more involved.*

Q36. If providers should be more involved but will need support, what additional support would be needed?

Not a question for UKHCA

Open question.

Q37. As an OH provider, expert or interested party, what changes to the training and development of the OH workforce could support the delivery of quality and cost-effective services?

Not a question for UKHCA

Q38. As an OH provider, should there be a single body to coordinate the development of the OH workforce in the commercial market?

Not a question for UKHCA

Yes – no – maybe – don't know. Please state reasons for your answer.

Q39. If yes, what should its role be?

Q40. As an OH provider, what would encourage providers, particularly smaller providers, to invest in research and innovation in OH service delivery?

Not a question for UKHCA

Q41. What approaches do you think would be most effective in terms of increasing access to OH services for self-employed people and small employers through the market? Please order in terms of priority:

Not a question for UKHCA

- *New ways of buying OH;*
- *New OH service models; and*
- *The use of technology to support OH service provision.*

Q42. If applicable, what other approaches do you think would be effective? Please explain the reasons for your answer.

Not a question for UKHCA

Q43. As an OH provider, expert or interested party, what more could be done to increase the pace of innovation in the market?

Not a question for UKHCA

- ***Co-funding;***
- ***Access to finance;***
- ***Help with innovation or evaluation;***
- ***Commercial advice;***
- ***Don't know;***
- ***Other – please state***

Q44. As an OH provider, expert, interested party, what methods would you find most helpful for finding out about new evidence and approaches that could improve your service?

Not a question for UKHCA

Q45. As an employer, what indicators of quality and compliance arrangements would help you choose an OH provider?

UKHCA is not an employer of homecare workers, but suggest employers will chose OH providers based on the first four items below as well as any regulatory reports that may be available.

- ***Work outcomes;***
- ***Quality marks;***
- ***Process times;***
- ***Customer reviews;***
- ***Other – please state;***
- ***Don't know;***
- ***Indicators won't help***

Q46. As a provider, what indicators of quality could help improve the standard of services in the OH market?

Not a question for UKHCA

- *Work outcomes;*
- *Quality marks;*
- *Process times;*
- *Customer reviews;*
- *Other – please state;*
- *Don't know;*
- *Indicators won't help*

Q47. All respondents: how could work outcomes be measured in a robust way?

UKHCA is unable to answer this question

Q48. All respondents: do you have suggestions for actions not proposed here which could improve capacity, quality and cost effectiveness in the OH market?

UKHCA is unable to answer this question

Q49. Do you need more information, advice and guidance?

UKHCA is unable to answer this question

Q50. If so, what content is missing?

UKHCA is unable to answer this question

- *Legal obligations and responsibilities/employment law;*
- *Recruiting disabled people and people with health conditions;*
- *Workplace adjustments, such as Access to Work;*
- *Managing sickness absence;*
- *Managing specific health conditions;*
- *Promoting healthier workplaces;*
- *Occupational health and health insurance;*
- *Best practice and case studies;*
- *Links to other organisations, campaigns and networks;*

- ***Local providers of services and advice;***
- ***Other – please state.***

Q51. What would you recommend as the best source of such new advice and information?

UKHCA's suggestion would be for the HSE to be the best source of advice and for other government or public agencies, such as ACAS, to direct people to the HSE.

- ***The main government portal (GOV.UK);***
- ***The Health and Safety Executive;***
- ***Jobcentre Plus; or***
- ***Other – please state.***

Q52. As an employer, where do you go for buying advice and support when purchasing, or considering purchasing, OH services?

UKHCA is unable to answer this question

- ***Internet search;***
- ***Professional/personal contact;***
- ***Legal sources;***
- ***HR person (in-house or external);***
- ***Accountant or other financial specialist;***
- ***Other – please state;***
- ***Don't know;***
- ***I don't seek advice or support.***

Q53. As an employer, what additional information would you find useful when purchasing, or considering purchasing, OH services?

UKHCA is unable to answer this question

- ***Online questionnaire to help you identify what type of services you could benefit from;***
- ***Toolkit that could include information on OH referral and assessment process;***
- ***Basic online information on the process of buying OH services;***
- ***Provider database;***

- ***Comparison website;***
- ***Information on the value of OH services.***

Q54. All respondents: do you agree with the proposal to introduce a requirement for employers to report sickness absence to government?

No, UKHCA does not agree. The government appears to have information it needs to understand the rates and reasons for sickness absence.

Yes – no – maybe – don't know. Please give reasons for your answer.

Q55. As a small or medium sized employer, would you find it helpful to receive prompts to information or advice when you have an employee on a sickness absence?

UKHCA is unable to answer this question

Yes – no – maybe – don't know. Please give reasons for your response.

Q56. Do you think this overall package of measures being explored in this consultation provides the right balance between supporting employees who are managing a health condition or disability, or on sickness absence, and setting appropriate expectations and support for employers?

No. UKHCA considers that more consideration could be given to SMEs where the major costs for employers is staffing, and the business cannot simply stop delivering its service when staff members are on sick leave. Homecare is provided to people to help them remain independent and is not, as is often characterised, simply making tea and toast or taking people shopping.

Homecare workers deal with older people, many of whom have dementia and one or more long term illness. They also work with people with complex physical and learning disabilities, stroke and brain injury rehabilitation and many others. Homecare workers are involved in feeding, bathing, dressing, shaving, continence care, giving medication and providing end of life care.

This kind of care must carry on when staff are sick as people's lives depend on homecare workers delivering care as needed. When staff are sick for four weeks or more, an early decision is required on when and whether they will be able to return to work.

Homecare cannot be compared to other sectors such as retail or hospitality, and schemes to assist people to return to work must take account of the nature of the work involved.

Yes – no – maybe – don't know. Please give reasons for your response.