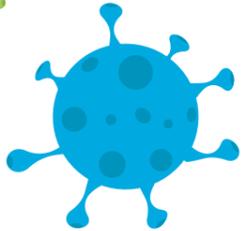
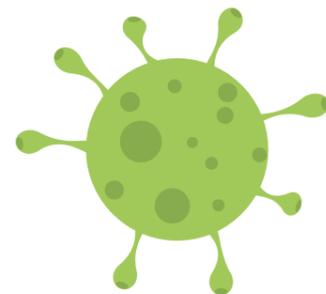
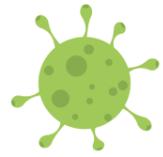
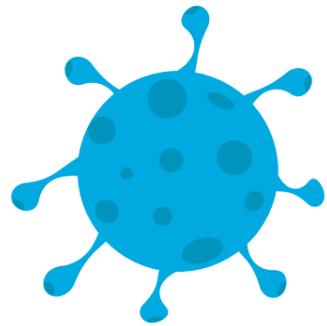
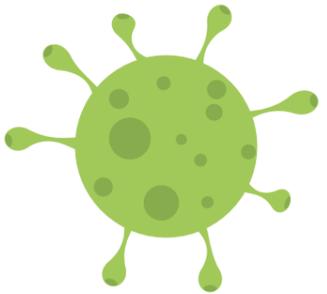
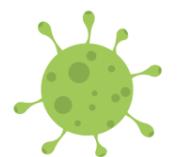
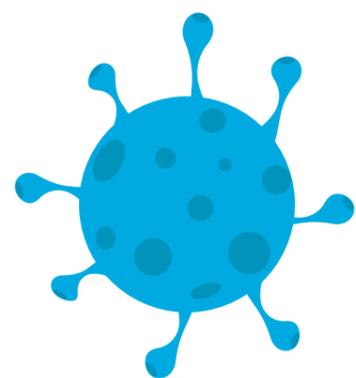


# Long Covid Negotiators Guide



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## What you need to know if you or any of your members are experiencing Long Covid?

We are, for the first time, faced with a new condition as a result of the COVID-19 pandemic. Many of our members have been experiencing the debilitating effects of this coronavirus in their daily lives. Additionally, the impact of unprecedented work pressures, underlying systemic inequalities and austerity, as well as in some sectors and workplaces a lack of understanding from employers which has resulted in members suffering discrimination.

Unite has been at the forefront of campaigning for recognition, employment rights and employer and government support for workers with Long Covid. We are slowly but surely, moving forward as Long Covid is finally being recognised and reported on.

### Official Statistics

The Office for National Statistics (ONS) has reported that 1.9 million<sup>1</sup> people experienced Long Covid for more than four weeks with 1.7 million of them at least 12 weeks, 1.3 million at least one year and 762,000 at least two years. These figures also show that symptoms adversely affected the day-to-day activities of 1.5 million people with 381,000 (20%) reporting that their ability to undertake their day-to-day activities had been limited a lot. Fatigue was the most common symptom reported followed by difficulty concentrating (51%), muscle ache (49%) and shortness of breath.

ONS also reported that Long Covid was more prevalent among people aged 35 to 69 years, women, those living in more deprived areas, those working in social care, those aged 16 years and over who were not working and not looking for work, and those with another activity-limiting health condition or disability. Previously, prevalence of self-reported Long Covid was notably higher among those aged 17 to 24 years and people working in the hospitality sector.

Thousands of Unite members in health or social care and hospitality sectors have been vulnerable to COVID-19 and could have developed Long Covid. We want the government to step in and ensure employers in all sectors protect their workers and put in strong preventative measures. Also, to provide support and adjustments when a member contracts COVID-19 or experiences Long Covid.

### Equality Act 2010 - Long Covid

Long Covid, in most cases, already meet the Equality Act 2010 criteria that defines disability as a "physical or mental impairment [that] has a substantial and long-term adverse effect on [their] ability to carry out normal day-to-day activities" and should therefore be legally protected. Government guidance makes clear that 'long-term' means 12 months or more.

Extending the Equality Act 2010 protections so that they explicitly cover workers with Long Covid would ensure employers cannot legally discriminate against them. It would also put a duty on employers to make reasonable adjustment that remove, reduce or prevent any disadvantages workers with Long Covid face, as for any other long-term condition or disability.

Unite alongside the TUC have been calling for Long Covid to be explicitly recognised as a disability and COVID-19 as an occupational disease, to give workers access to legal protections and compensation. We also make sure that employers focus on what adjustments they can make rather than trying to work out whether or not the member is a disabled person<sup>2</sup>.

Unite negotiated various enhanced COVID-19 sick pay arrangements in the Welsh NHS that are applicable to those with Long Covid as well as those who have short term COVID absence.

<sup>1</sup> ONS - Prevalence of ongoing symptoms following COVID-19 infection - March 2023  
[www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/30march2023](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/prevalenceofongoingsymptomsfollowingcoronaviruscovid19infectionintheuk/30march2023)

<sup>2</sup> [www.acas.org.uk/long-covid](https://www.acas.org.uk/long-covid)

## What is Long Covid?

Those who have contracted COVID-19 can have short term or long term symptoms and in some cases, can improve in time. However, many will have fluctuating symptoms even with 'mild' Covid when symptoms may improve but can experience a relapse, and others can be faced with Long Covid.

**The National Institute for Health and Care Excellence (NICE) has officially recognised 'Long Covid' as a clinical condition. It has a set of definitions to distinguish 3 phases following COVID-19 infection. These phases are defined below:**

- **Acute COVID-19 - Signs and symptoms of COVID 19 for up to four weeks.**
- **Ongoing symptomatic COVID-19 - Signs and symptoms of COVID 19 from 4 weeks up to twelve weeks.**
- **Post-COVID-19 syndrome - Signs and symptoms that develop during or after a COVID-19 infection, continue for more than twelve weeks and are not explained by an alternative diagnosis.**
- **Long Covid - Signs and symptoms that continue or develop after acute COVID 19. It includes both ongoing symptomatic COVID 19 and post COVID 19 syndrome.**

Some people can experience long-term organ damage including to the heart, lungs, kidneys, pancreas and liver. Also, the longer-term effects of COVID-19 treatment or hospitalisation, including difficulties swallowing and changes to the voice, severe weakness and post-traumatic stress disorder.

**Some of the most commonly reported symptoms of Long Covid include:**

- Extreme tiredness (fatigue)
- Feeling short of breath
- Loss of smell
- Muscle aches
- Problems with memory and concentration ("brain fog")
- Chest pain or tightness
- Difficulty sleeping (insomnia)
- Heart palpitations
- Dizziness
- Pins and needles
- Joint pain
- Depression and anxiety
- Tinnitus, earaches
- Feeling sick, diarrhoea, stomach aches, loss of appetite
- Fever, cough, headaches, sore throat, changes to sense of smell or taste
- Rashes

## What to do if you are experiencing Long Covid?

If you feel you have Long Covid remember that you're not alone, talk to your rep to get the support you need.

You also need to speak to your GP for medical support. Your GP will be able to discuss how symptoms impact on your ability to do your work as well as how your work affects your symptoms. They might give you a "fit note", which provides advice about how your health affects what you can do at work. Additionally, whether you are fit for work or you are, but are still unwell, what steps need to be taken to support you. For example, phased return, altered hours, amended duties or workplace adaptations.

To find out your entitlements, any available arrangements and what needs to be negotiated, either you or your rep can check the relevant agreements including sickness absence policy and your contract of employment.

## What can Unite reps do?

It is important to find out if any of your members have Long Covid and/or are facing discrimination as a result.

A recent TUC report<sup>3</sup> revealed that discrimination is rife towards workers with Long Covid and many are not believed. The report highlights that frontline workers have been disproportionately affected by Long Covid with the majority of them being women.

Unite has members working in many sectors including those working in the frontline. It is estimated that more than 2,129 health and social care workers have so far died of Covid-19 and more than 153,000 have Long Covid.

**Unite supported a member at a non-recognised workplace who had a number of weeks off work after contracting COVID-19. After sharing his health concerns with his GP he was referred to the hospital for tests. However, the day before his hospital appointment and after he completed a phased return, he was disciplined for his absence. He received a first written warning and was told further time off may be unpaid. At his hospital appointment it was confirmed he had Long Covid. Unite appealed the decision but the employer did not overturn the warning. However, they have made a new Occupational Health referral and Unite will ensure that our member receives the necessary adjustments.**

## Fear of reporting

Many of our members did not seek help or told their employer due to fear. Many were worried that their symptoms would be viewed negatively by their employer.

It is important that members experiencing Long Covid are able to report this as an ongoing illness. In some cases, symptoms will constitute a disability, and they will require adjustments or even time off work. It may also not be appropriate to carry out usual tasks.

Unite reps need to ensure that members with Long Covid are not discriminated against due to employer's lack of understanding of the condition.

<sup>3</sup> [www.tuc.org.uk/research-analysis/reports/workers-experience-long-covid](http://www.tuc.org.uk/research-analysis/reports/workers-experience-long-covid)

## Reasonable Adjustments

Members can face difficulties when accessing the adjustments and support they need at work including reluctance of employers to remove barriers.

Members diagnosed with Long Covid could qualify as a disabled person under the Equality Act 2010. Action to prevent disability discrimination including identifying reasonable adjustments are a vital requirement. Unite reps need to investigate and ensure protection for all their disabled members.

Due to the nature of this condition sickness absence can become an issue. Unite reps need to monitor whether the amount of sick leave members take due to Long Covid does not trigger absence management or HR processes. They also, need to ensure Long Covid related leave is recorded separately from sick leave.

**'LA rep working as a Process Operator in an Oil Refinery was affected by Long Covid and had to come back on a phased return far too early. Although the company has policies on disability equality but it does not seem to be much recognition of them. He however, won his appeal after being offered an unsuitable role for his condition.'**

Members with Long Covid should not be forced to continue working in the same way as before. Therefore, making reasonable adjustment becomes necessary.

Effects of Long Covid should be taken seriously and members with Long Covid will need time to convalesce and recuperate gradually. They should be given time and support to rehabilitate maybe through a flexible phased return, over months in some cases.

In many cases members who are experiencing Long Covid are faced with employers' distrust and disbelief. Unite reps need to ensure employers conduct individual risk assessments and make the necessary reasonable adjustments. This should be done whether a member has been/is working from home or is returning to the workplace.

Unite reps need to encourage members experiencing Long Covid symptoms to report them. Also, to remind employers of their responsibility in upholding the rights of disabled workers, protecting health and safety, and ensuring anyone affected is offered appropriate support, including occupational sick pay and access to occupational health advice.

Long Covid is still a new condition, and it is a changing situation therefore, Unite reps need to keep up to date with new research and evidence.

There is support and information available from the NHS in the links below. Unite reps can inform members of this and that it is advisable that they contact their GP, who will determine the appropriate course of action. This may include referral to a post-COVID assessment centre.

NHS England has extensive information for those recovering from COVID-19  
[www.yourcovidrecovery.nhs.uk](http://www.yourcovidrecovery.nhs.uk)

including on returning to work  
[www.yourcovidrecovery.nhs.uk/your-road-to-recovery/returning-to-work](http://www.yourcovidrecovery.nhs.uk/your-road-to-recovery/returning-to-work)

NHS Inform in Scotland  
[www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-longer-term-effects-long-covid](http://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-longer-term-effects-long-covid)

Health Education and Improvement Wales  
<https://heiw.nhs.wales/covid-19/long-covidsyndrome-resources/>

Public Health Agency Northern Ireland <https://www.publichealth.hscni.net/covid-19-coronavirus>

Health Service Executive Republic of Ireland <https://www2.hse.ie/conditions/covid19/>

There is also information available at Long Covid support group [www.longcovid.org](http://www.longcovid.org)

Health and Safety Executive, Coronavirus (COVID-19), latest information and advice:  
<https://www.hse.gov.uk/coronavirus/index.htm>

## What to do if you are in a workplace without union recognition?

You need to continue organising and recruiting. You can hold union meetings to discuss issues around COVID-19 for example, Long Covid, redundancy, pay or PPE.

Reviewing your contracts, policies and procedures will inform you of your entitlements. If you believe your employer is breaching your contract, or if they are asking you to go in when it is against government or medical advice, contact Unite for advice and support.

Under the Health and Safety (Consultation with Employees) Regulations 1996 (as amended), your employer must consult with employees about any new policies or measures which may substantially affect their health and safety. Therefore, make sure you are consulted around their response to COVID-19. Also, remember that employers have to follow health and safety rules including cleanliness, hygiene and suitable and sufficient personal protective equipment (PPE).

Finally, if you need to take any form of action, however small, make sure you have the weight of Unite behind you. Contact your rep, branch or regional officer for support.

**Two members working at a local authority children's home were off work for over a year with Long Covid after contracting COVID-19 at work. The employer made no adjustments and instead our members exhausted their sickness entitlement and were off work with no pay. Unite argued for full pay as per green book national agreement since they contracted this contagious disease at work. However, a panel of councillors who seem to be told to hold firm against the unions rejected the last stage appeal. One of the members decided to return to work and the other took ill-health retirement.**

## Reporting COVID-19 cases and Long Covid

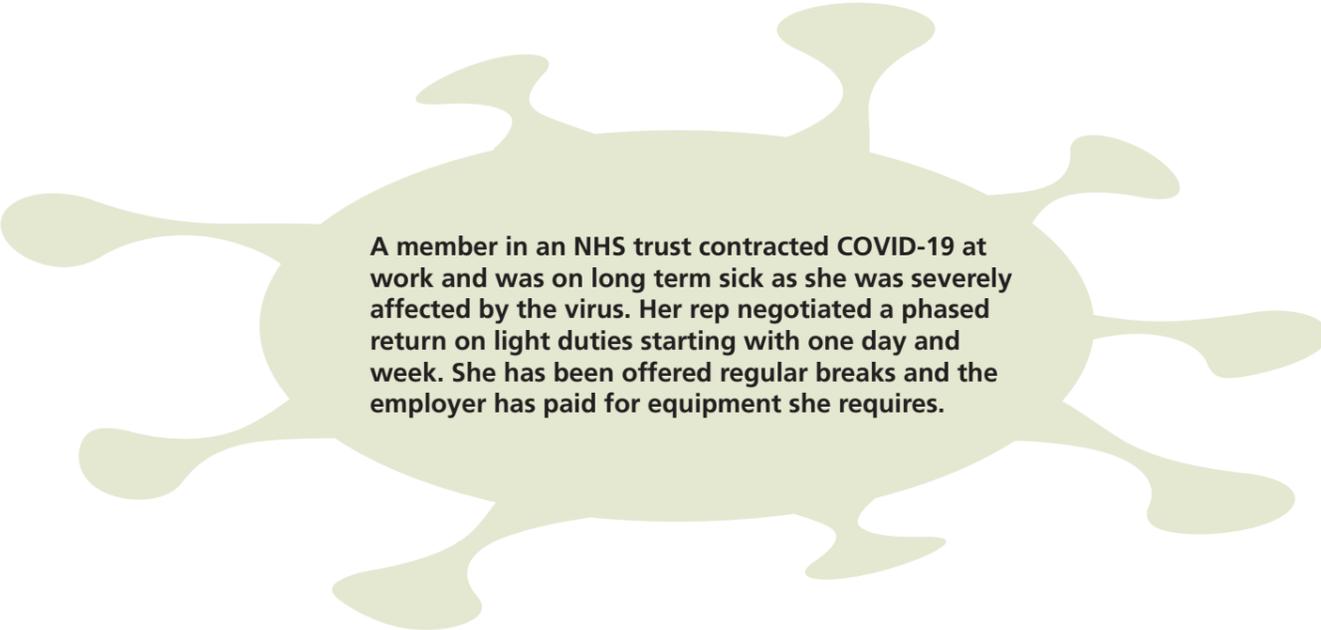
The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) requires that employers report deaths, injuries and illness as well as dangerous occurrences that take place at work or in connection with work, within 10 days of the incident. If an employer knowingly fails to make a report via RIDDOR, they could face a fine.

RIDDOR plays an important role in collecting data on annual and historical levels of work-related injury and fatalities, triggering investigations into occupational safety, ensuring employers follow protocols, and helping safety regulators direct support and enforcement powers.

In case of COVID-19 employers are obliged to report infection where exposure occurs as a result of work. However, high levels of under-reporting<sup>4</sup>, with a limited public record of work-related deaths makes it less likely that employers will be subject to enforcement action by safety regulators.

It is possible that in future, members who had experienced Long Covid be eligible to claim Industrial Injury Disablement Benefit<sup>5</sup>, or their families may be able to make posthumous claims relating to fatalities. Therefore, it is vital that there is an accurate RIDDOR data to support potential future claims.

Unite reps need to make sure employers fulfil their responsibility and report all instances including older cases of COVID-19 exposure and deaths under RIDDOR.



**A member in an NHS trust contracted COVID-19 at work and was on long term sick as she was severely affected by the virus. Her rep negotiated a phased return on light duties starting with one day and week. She has been offered regular breaks and the employer has paid for equipment she requires.**

## NEGOTIATORS CHECKLIST

### Unite Reps need to:

- Ensure members contact their GP if they experience Long Covid
- Support members in reporting Long Covid to their employer
- Ensure the risks associated with Long Covid are specifically identified within the organisation's wider risk assessment
- Review policies and procedures including sickness absence, working from home, maternity and parental entitlement to prevent discrimination. Make sure agency workers are included.

### Unite Reps need to ensure employers:

- Take COVID-19 and Long Covid symptoms seriously
- Automatically treat Long Covid as a disability
- Review existing policies - to ensure they identify, remove barriers and address the needs of workers with Long Covid
- Look particularly, at phased return to work and energy impairment policies and practices, taking into account the fluctuating nature of Long Covid.
- Make reasonable adjustments/workplace modifications for members with Long Covid regardless of whether they fulfil the legal definition of being disabled
- Provide paid leave for medical appointments
- Record Long Covid related leave separately from sick leave
- Review existing flexible working policies and make it the default
- Carry out an individual return-to-work risk assessment
- Do not take any form of disciplinary or capability action including formal sickness absence hearings against members due to COVID-19 related absence
- Conduct a workstation assessment for members working from home
- Consult safety reps including the outcomes of any risk or workstation assessments
- Observe confidentiality
- Review member's circumstances in case of changes in symptoms
- Report all instances including backdating cases of COVID-19 exposure and deaths under RIDDOR
- Provide training in understanding the effects of COVID-19

<sup>1</sup> [www.tuc.org.uk/news/employers-massively-under-reporting-covid-work-related-deaths](http://www.tuc.org.uk/news/employers-massively-under-reporting-covid-work-related-deaths)

<sup>5</sup> Industrial Injuries Advisory Council report [www.gov.uk/government/publications/covid-19-and-occupational-impacts](http://www.gov.uk/government/publications/covid-19-and-occupational-impacts)

## UNITE CONTACTS

### REGIONAL WOMEN'S and EQUALITIES OFFICERS

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| West Midlands                       | 0121 553 6051                                      |
| East Midlands                       | 0116 253 2020                                      |
| London and Eastern                  | 0208 800 4281                                      |
| South East                          | 01753 313 820                                      |
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