



## REMOVAL OF TEMPORARY COVID POLICIES

1. To assist staff and the NHS through the COVID pandemic, a series of temporary policies and variations to standard terms and condition were put in place.
2. Following the standing down of NHS Scotland from an emergency footing on 30 April 2022, it is now necessary to remove these measures.
3. This letter therefore confirms that the majority of temporary COVID related policies will end on 30 June 2022. Annex A provides a full list of the relevant provisions, for reference.
4. With regard to COVID Special Leave, transitional arrangements have been agreed which will see the current arrangements end on 31 August 2022, after which staff will move on to their contractual sick leave entitlement. Annex B outlines these arrangements in full.
5. Finally, the variations which allow overtime to be offered to AfC Band 8 and 9 and ESM staff are being retained until 31 March 2023, to assist with increasing capacity in the service. Annex C outlines the basis on which these measures will continue.

### Action

6. NHS Boards and Special Health Boards should note the removal of temporary measures as outlined in this letter and ensure that this information is disseminated widely to managers and staff to ensure they are aware of the changes.

Yours sincerely

**LAURA ZEBALLOS**

Deputy Director  
Health Workforce Pay, Practice and Partnership  
Division

DL (2022) 21

24 June 2022  
(Re Issued on 8 August  
2022 to include FAQ)

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### Addresses

#### For action:

Chief Executives, Directors  
of Human Resources and  
Directors of Finance,  
NHS Boards and Special  
Health Boards and NHS  
National Services Scotland  
(Common Services Agency)

#### For information:

Members, Scottish  
Partnership Forum, Scottish  
Terms and Conditions  
Committee and Scottish  
Workforce and Governance  
Group

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#### Enquiries to:

Colin Cowie  
Scottish Government Health  
Directorates  
Health Workforce  
Ground Floor Rear  
St Andrew's House  
EDINBURGH EH1 3DG

E-mail:

[hwfpaytermsandconditions  
@gov.scot](mailto:hwfpaytermsandconditions@gov.scot)

## TEMPORARY COVID POLICES WHICH WILL END ON 30 JUNE 2022

Policy Topic	Related Guidance
Annual Leave / Public Holiday	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)9</a>, <a href="#">DL(2020)16</a>, <a href="#">DL(2020)22</a> and <a href="#">DL(2021)3</a> all provided guidance on the issue of Annual Leave / Public Holidays during the pandemic.</li> <li>• In addition:               <ul style="list-style-type: none"> <li>◦ <a href="#">DL(2020)9</a> allowed staff to carry over untaken leave from 2019/20 and gave them two years to either take it or sell it back at “paid as if at work” rates.</li> <li>◦ <a href="#">DL(2021)3</a> allowed staff to carry over any leave which they had not been able to take (due to service pressures) from 2020/21 into the 2021/22 leave year.</li> </ul> </li> <li>• <a href="#">DL(2021)35</a> allowed NHS Scotland staff to carry forward and / or accept payment in exchange of up to 10 days of leave at a rate of time and a half (staff must have taken their 28 days statutory leave) if they were unable to take all of their accumulated leave because of service pressures. Note:               <ul style="list-style-type: none"> <li>◦ AfC Staff had until 31 March 2022 to sell their annual leave</li> <li>◦ <b>It should be noted that Medical and Dental staff will still have until end of 2021/22 personal leave year to sell annual leave.</b></li> </ul> </li> </ul>
Quarantine Self-Isolation when returning to UK	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)20</a> and <a href="#">DL(2021)13</a> provided guidance for situations in which staff travelled to a country for which there was a quarantine period on return.</li> <li>• <a href="#">DL(2021)36</a> has already confirmed that from 5 November 2021, no special leave would be granted for any quarantine related to foreign travel.</li> </ul>
Adverse Reaction following COVID-19 Vaccination	<ul style="list-style-type: none"> <li>• <a href="#">STAC(TCS01)2021</a>, <a href="#">STAC(TCS03)2021</a> and <a href="#">STAC(TCS04)2021</a> all provided guidance confirming the approach when a staff member needed to take time off following a COVID vaccination.</li> </ul>
Staff in Shielding Category	<ul style="list-style-type: none"> <li>• <a href="#">STAC(TCS05)2020</a> advised on pay protection for Bank Staff in very high risk groups who could not work.</li> <li>• <a href="#">STAC(TCS07)2020</a> confirmed the ongoing arrangements for shielded staff.</li> </ul>
School Closures and Carers Leave	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)7</a> provided guidance for staff during the pandemic with caring responsibilities.</li> </ul>
Mental Health & Wellbeing Support during COVID-19	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)08</a> set out employer’s duty of care during the pandemic.</li> </ul>
Stay at Home Regulations: Working from Home	<ul style="list-style-type: none"> <li>• <a href="#">DL(2021)05</a> provided advice on supporting staff to work from home.</li> </ul>
Return to Work in NHS Scotland	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)6</a> covered a series of topics for those wishing to return to NHS Scotland including pay, family related leave and Pensions.</li> <li>• As per <a href="#">NHS Pension Scheme 2022/02</a>, the temporary suspension of the pension abatement rules for NHS Staff have been extended till 31 October 2022.</li> </ul>
Fixed Term Contracts	<ul style="list-style-type: none"> <li>• A <a href="#">Variation Order (03/04/2020)</a> allowed Boards to not apply the provision in the Fixed-Term Contracts PIN around adding staff to the Redeployment Register hired as part of the COVID-19 response.</li> </ul>
Bank Workers	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)15</a> – guidance on the Employment of Bank Workers During the COVID-19 Pandemic.</li> </ul>
Whole System Approach	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)13</a> provided guidance around the deployment of Health Board staff to a community setting.</li> </ul>
National Arrangements for NHS Scotland Staff	<ul style="list-style-type: none"> <li>• <a href="#">DL(2020)05</a> – general guidance for the service on HR issues which arose as a result of the COVID-19 pandemic.</li> </ul>

## COVID SPECIAL LEAVE – TRANSITIONAL ARRANGEMENTS

The following variations to standard terms and conditions and policy documents have been published in relation to absence due to Covid:

- [DL\(2020\)05 – Coronavirus \(COVID-19\): National Arrangements for NHS Scotland Staff](#) – 13 March 2020
- [Variation Order – Sick Leave as a Result of Coronavirus](#) - 27 March 2020
- [Variation Order – Leave as a Result of Coronavirus \(COVID-19\)](#) – 3 April 2020
- [DL\(2020\)30 – Covid Special Leave](#) - 9 November 2020
- [STAC\(TCS09\)2020 - COVID-19 Sickness Absence Management](#) - 15 December 2020
- [STAC\(TCS05\)2021 – Long Covid Sick Leave](#) - 28 September 2021

These publications confirmed that 1) staff self-isolating or absent due to COVID should be paid in full as if at work and 2) absence due to COVID did not count towards sickness absence triggers for as long as these temporary measures remained in place.

The above COVID Special Leave provisions will end on 31 August 2022 and from 1 September 2022 any staff absence with COVID related symptoms should be treated in line with all other sick absence (Section 14 of the [Agenda for Change Handbook](#) for AfC and ESM staff and the relevant [terms and conditions for Medical and Dental staff](#)). This timetable will provide lead in time to allow teams to provide appropriate support for staff and to enable payroll processing.

In addition to their contractual entitlements NHS staff who transition from COVID Special Leave onto their contractual sick leave entitlements should be fully supported in accordance with the [Once for Scotland Attendance Policy](#), with any absence management process for Covid absence beginning at stage 1.

To ensure fairness and consistency employers should follow the explicit guidance regarding the application of paragraph 1.3.9 which states “triggers are prompts to initiate supportive interventions at either 4 separate episodes of absence or short-term absences totalling 8 or more working days within a rolling 12 month period or for longer term absence 29 calendar days or more”. For clarity the 12 month rolling period commences from 1 September 2022 for staff who transition from Covid Special leave to contractual sick leave.

In applying this section any periods of COVID sickness up to the 31 August 2022 cannot be included. For example, if an employee had some triggers prior to their COVID absence and they have been on COVID Special Leave for over a year these triggers have now expired.

As per [DL\(2022\)12](#), Staff members who receive a positive LFD test result for COVID-19, regardless of whether they have symptoms, should not attend work for a minimum of five days. In these circumstances, staff will be treated as on “Special Leave – Coronavirus Covid 19 Positive” i.e. paid in full as if at work and the absence will not count towards sickness triggers for the duration of the self-isolation period. This is in keeping with established non-COVID Infection Control measures ([Attendance Policy Guide for Managers | NHS Scotland](#)).

Guidance around the most appropriate infection control measures will continue to be reviewed and the service should always follow the most up to date guidelines.

## **OVERTIME FOR BAND 8 AND 9 AGENDA FOR CHANGE STAFF AND EXECUTIVE AND SENIOR MANAGER STAFF**

The Variation Orders for [Band 8 and 9 Staff \(issued on 18 March 2020\)](#) and [Executive and Senior Manager Staff \(issued on 27 March 2020\)](#) allowed senior AfC and certain ESM staff to access overtime to assist with the COVID-19 response.

It has been agreed to extend these Variation Orders until 31 March 2023 to support service flexibility and recovery. However, it should be stressed that the use of overtime for these staff remains at Employer discretion and overtime for these cohorts should be actively monitored by Boards locally to ensure it is being used appropriately.

The Scottish Terms and Conditions Committee may also seek data at a national level at some point over the coming year in order to assess how this variation is being used across the country.

## COVID SPECIAL LEAVE – FREQUENTLY ASKED QUESTIONS

**Q.1. From 1 September, as per [DL\(2022\)12](#), staff absent as a result of a positive LFD test should be placed on Covid Special Leave for a minimum of 5 days and until two consecutive negative tests 24 hours apart have been obtained. What happens if someone continues to feel unwell subsequent to this?**

A.1. Covid Special Leave is intended to support infection control. Absence for staff who have obtained two negative LFD tests 24 hours apart but nonetheless do not feel well enough to attend work should be dealt with in line with all other sick absence according to the staff member's terms and conditions and the Once for Scotland policy. They should therefore be recorded as "Sick Leave – Covid Related Illness" from the date of the second negative test.

**Q.2. What if someone feels well enough to return to work but continues to test positive after the minimum 5 days?**

A.2. Where a staff member continues to test positive between 5 and 10 days, they will remain on COVID Special Leave. It is expected that beyond 10 days the majority of staff will be well enough to return. Managers should undertake a risk assessment on an individual basis with anyone who is off for more than 10 days. Where it is determined that the staff member should remain off for control of infection purposes they will remain on COVID Special Leave.

**Q.3. What codes should be used on SSTS for Covid absence to conform to the policy outlined in [DL\(2022\)21](#)?**

A.3. The majority of previous Covid Special Leave absence reasons will be discontinued from 1 September 2022. Managers should use one of the following two absence reasons in SSTS:

- Special Leave – Coronavirus Covid 19 Positive
  - where a staff member is absent from work as a result of a positive LFD test, in line with [DL\(2022\)12](#).
- Sick Leave – Covid Related Illness
  - where a staff member is on Covid Special Leave on 31 August 2022 and moves to Sick Leave on 1 September 2022;
  - where a staff member is absent from work on or after 1 September 2022 with Long Covid or as described in A1 above.

Where a staff member is already absent on one of the existing Covid Special Leave reasons as at 31 August 2022, their absence should be recorded as "Sick Leave – Covid Related Illness", from 1 September 2022. This will ensure that from 1 September 2022 their absence is treated as sick leave as per the national policy.

Previous absence periods recorded as any Covid Special Leave reason will be disregarded in terms of triggers under the Absence Management policy as well as calculating an individual's sick pay entitlement.

Where a staff member is absent as a result of a positive LFD test on or before 31 August 2022, in line with [DL\(2022\)12](#), the absence should continue to be recorded under "Special Leave – Coronavirus Covid 19 Positive" and subsequently amended to "Sick Leave – Covid Related Illness", if required, in line with Q.1. above.

As indicated in Q,1, managers should amend the absence to “Sick Leave – Covid Related Illness” at the point at which the staff member has received two negative LFD tests 24 hours apart, but is still unable to attend work.

All previous instances of Covid related absences being recording as Special Leave, with the exception of “Special Leave – Coronavirus Covid 19 Positive” as noted above, are not applicable from 1 September 2022.

**Q.4. Do bank workers required to be absent from work as a result of a positive LFD test as outlined in [DL\(2022\)12](#) get paid as if at work for any shifts they are booked on?**

A.4. Yes.

**Q.5. DL(2020)5 said “Staff who are currently on protection when doing additional hours should not have the excess/overtime counted in any protection arrangement”. If this is cancelled, what is the rule now?**

A. 5. Boards will revert to the existing rules around Organisational Change Protection. For those staff who went on to protection after 1 April 2019 when the new national agreement became effective, it will be the provisions in [PCS\(AFC\)2022/1](#) which will apply.

**Q.6. How much Annual Leave is someone who has been off with Long Covid able to carry over?**

A.6. Where someone has been unable to take Annual Leave through being off on Special Leave with Long Covid, the principles of [CEL\(2009\)17](#) should apply.