



# SUBMISSIONS REPORT

Report on the submissions received from the Public  
Consultation for Statutory Sick Pay

Department of Enterprise, Trade and Employment

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## **Introduction**

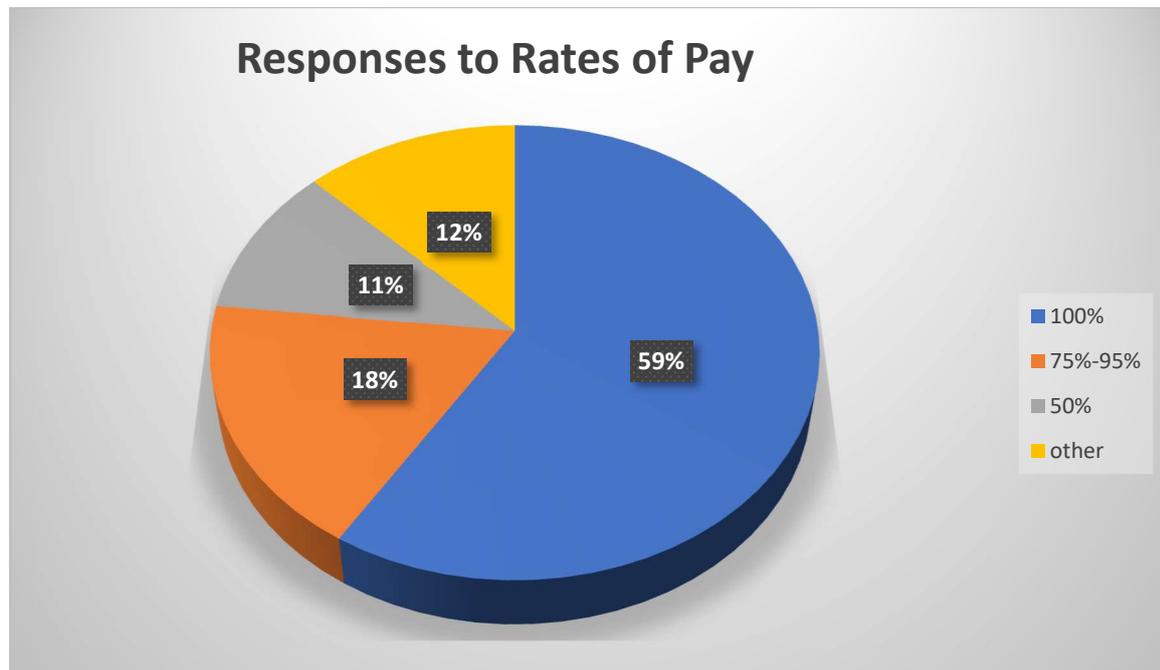
The Tánaiste and Minister for Enterprise, Trade and Employment, Leo Varadkar, T.D., recently committed to the establishment of a statutory sick pay scheme to bring Ireland in line with other OECD countries.

In order to provide an opportunity for all interested parties to make their views on this matter known the Tánaiste launched a full public consultation on November 16, 2020 which asked submissions to consider certain issues in relation to the development of a scheme.

The consultation process ran for five weeks until 18 December 2020, engagement with the process was significant and a total of 118 submissions were received from a diverse range of stakeholders including Unions, Employer representative bodies, individual employers and employees and political parties. This paper provides a breakdown of the results of the public consultation and the views and opinions offered by stakeholders.

Question 1.

**What is a suitable and appropriate minimum rate of payment?**



In the questionnaire, information was included to show the respondents what options were being considered as follows:

- A fixed minimum rate of payment that would apply to employees.
- A fixed percentage of an employee's weekly earnings. The same percentage rate would be fixed for all employees, but the actual rate of payment received would then vary based on an employee's earnings. (Amongst EU member states who use this system the percentage can range from 25-100%)
- A payment rate based on the current illness benefit rates, potentially with increases for adult or child dependents.
- A payment rate that is tapered in line with different income bands.

Of the 118 submissions received, 50% (56 people) gave a percentage figure which is represented in the chart above. Certain other respondents offered an opinion that a percentage of an employee's wages would be preferable.

- 100%            33 (59%)
- 75%-95%       10 (18%)
- 50%             6 (11%)
- Other            7 (12%)

The majority of those that gave a figure specified 100%. Of those that responded with this figure approximately 30% of them specified that the 100% of wages should go down over a period of time to reduce the burden of cost on the employer. Some employers were reluctant to suggest a figure or a percentage of wages until they had clarity on the duration of absence included in the scheme.

Some of the comments from the respondents:

#### Employee Comments

- The last thing a person needs when they are sick is to have to worry about money and bills as well as the added cost of medicines and a doctor's bill
- The cost of living does not go down when you're sick, if anything it increases
- Employers will try to work this to their advantage and try to change rosters and say if you call in sick "sure you're not rostered in today anyway" or make employees take leave, if this new scheme is not managed properly
- Some illnesses are spread in the workplace or caused by strenuous work, so the employer has a responsibility to their employees to ensure they aren't disadvantaged
- Maybe this could be a lower percentage but increase following probation.

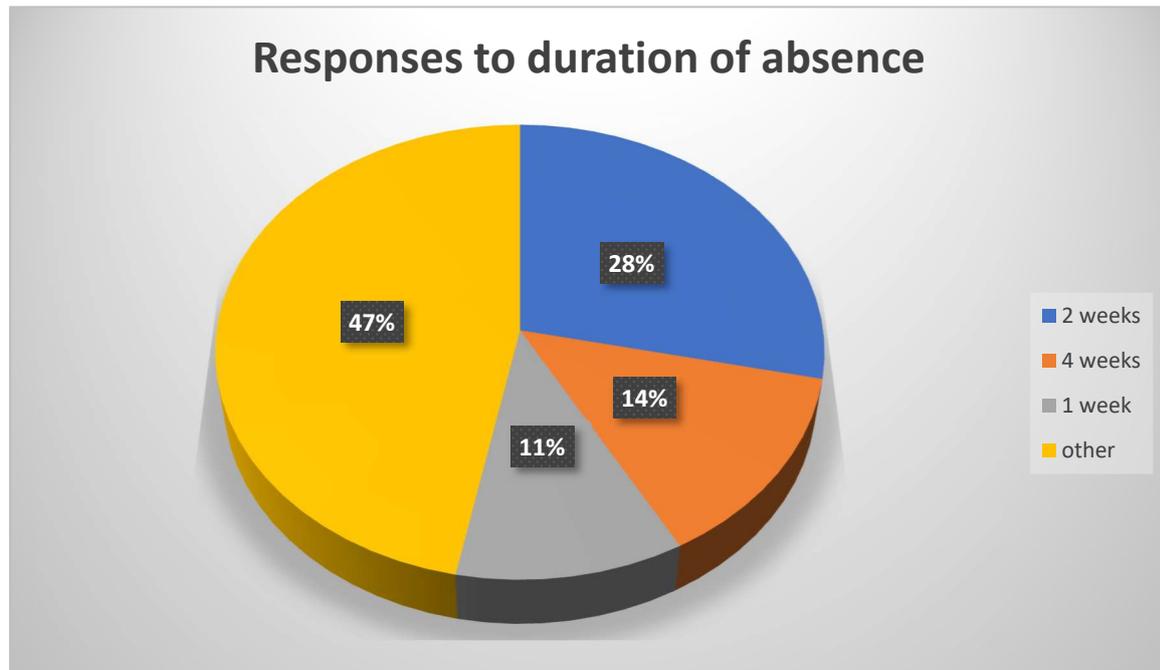
#### Employers Comments

- The rate of pay should be the current illness benefit and then topped up by the employer if they so wish
- The employer would be put out of business if their staff all called in sick and had to be paid for not being in there
- Employers can't realistically afford to continue paying the wages of an absent employee and bring in another to do the extra work
- Employers already pay a lot in Employers PRSI this should be used for this new Statutory Sick Pay scheme or if employers are expected to pay sick pay, Employers PRSI should be abolished
- This should not be forced on employers in what is the most difficult environment to conduct business in a long time
- Businesses are struggling to survive with Covid-19 and are now having to deal with this. It will end a lot of small businesses.

## Question 2.

### What Duration of absence should be covered by statutory sick pay?

Under any SSP scheme, employees will be covered for a certain period of absence paid by the employer (in full or in part) followed by illness benefits paid by the social protection system. In other EU member States, statutory sick pay coverage ranges from 15 days or less to up to 2 years.



Of the 118 submissions returned 81 people responded with a figure for what they thought was an appropriate length of absence to be covered by statutory sick pay.

- 2 weeks 23 (28%)
- 4 weeks 11 (14%)
- 1 week 9 (11%)
- All others 38 (47%)

Of those that chose to respond with a specific figure the majority chose 2 weeks paid sick leave. Of those that chose 2 weeks there was some suggestions that this would be 2 weeks at full pay and then some scaling down if it were decided on a longer period of absence. Some thought that it should be introduced as 2 weeks and then increase over time so as not to overwhelm employers. Of those that did not choose a figure (37), about half of them would like to know the rate of pay before commenting on the duration of absence being proposed.

Some of the comments from the respondents:

#### Employee comments

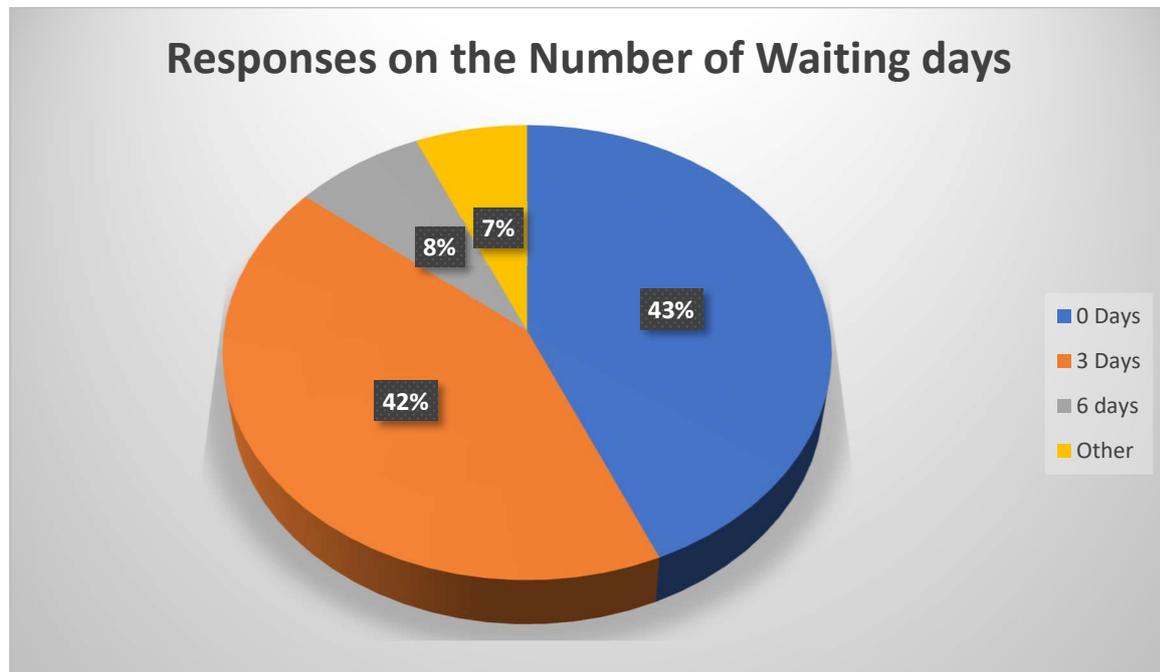
- There should be special consideration on the duration of leave for those with chronic illnesses
- If the duration of absence is short, then government supports should kick in after that period has expired
- The length of time for absences should relate to the illness for instance if you break your arm then you will not be back in a couple of days
- Some consideration on the length of absence should be given to those diagnosed with a critical illness
- In light of the current pandemic I think a period of 1 month paid sick leave is appropriate.

#### Employers comments

- As an employer trying to run a business, I will not be able to do without a member of staff for more than a day as someone else will need to cover the workload
- The shorter the time allowed the less likely there will be frequent frivolous sick leave taken
- The less time staff can take the better for the businesses and employers.

### Question 3

Should there be a minimum period that the employee must be out sick before statutory sick pay applies?



As with other questions, current benefits were outlined in the question and the public were told that currently there is 6 days waiting, in a calendar year, before illness benefit kicks in which will be reduced to a period of 3 days from end February 2021.

For this question of the 118 people that replied to the consultation 92 gave a specific figure of how many waiting days there should be. The chart above illustrates these figures

- 0 days waiting 40 (43%)
- 3 days waiting 39 (42%)
- 6 days waiting 7 (8%)
- Other waiting periods 6 (7%)

Of those that responded with a figure, 40 responded with zero waiting days as their preferred choice with 3 days being chosen by 39 respondents. Of those that specified 3 days a number of them expressed an opinion that if it went to the 3 days that they should also be paid for those 3 days, for instance if they were sick for 1 or 2 days and then back in work they would receive no sick pay but if they were off for 4 days they would get 4 days sick pay. Some employers would not comment on waiting days without seeing a more detailed proposal on statutory sick pay. A number of respondents advised against a waiting period as it forced lower paid staff to come in whilst sick, which can lead to other staff getting sick which can lead to more staff off on paid sick leave.

Some of the comments from the respondents:

Employee comments:

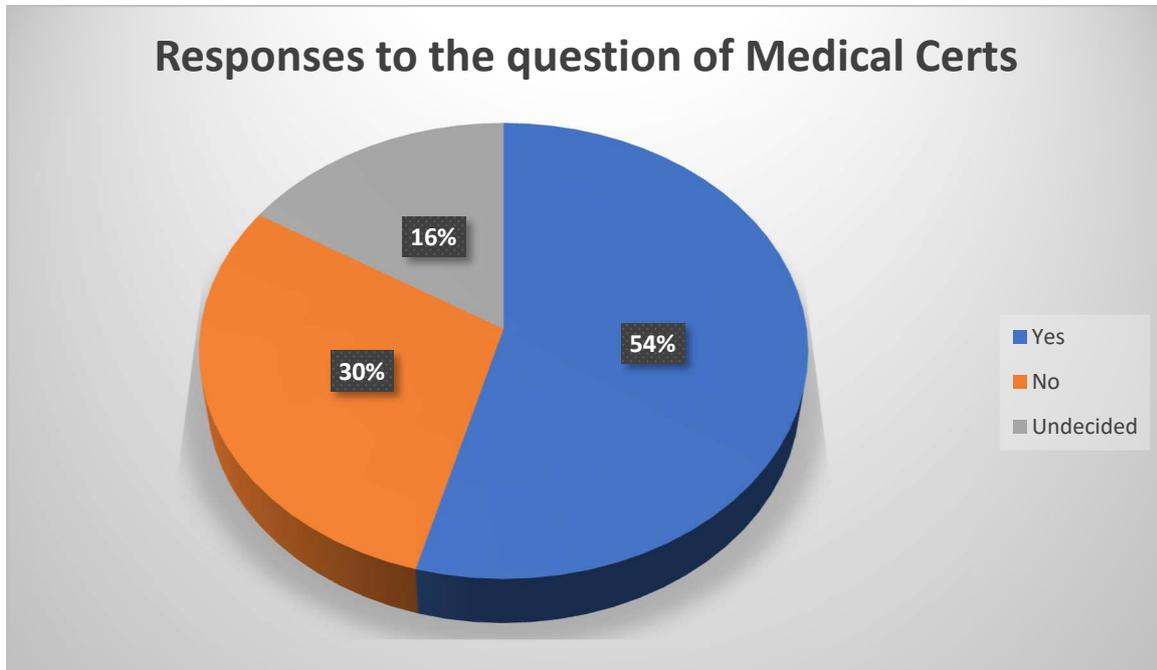
- If there is a waiting period to get paid then people will just go to work sick, some people can't afford to miss even one day's pay
- If there is a waiting period before you get full pay, there would have to be some support before the waiting period is up
- With the added cost of medicines and doctors, people won't be able to afford to stay off work if there is a waiting period before sick pay kicks in
- I think there needs to be no waiting periods or people will just come in to work with an illness and possibly pass it on.

Employer comments:

- Having a waiting period makes sense because it will prevent people calling in sick on a whim
- There must be a waiting period as there is currently one for illness benefit
- A waiting period would discourage some employees taking sick leave as part of their holidays
- Some employers can't afford to pay sick pay so the longer the waiting times the better.

#### Question 4

**Should statutory sick pay only apply to illnesses that have been certified by a medical professional or medical body?**



This question deals with illnesses being certified by a medical professional and whether a cert should be required for any period of paid sick leave.

Of the 118 respondents 99 responded with a yes or no while 19 either didn't respond or were undecided.

- Yes 64(54%)
- No 35(30%)
- Undecided 19(16%)

Of those that responded with either yes or no (99 respondents) 54% responded with yes and of those that responded with yes some of them went on to say that a cert should only be required after an initial few days period. This would indicate the desire for some sort of uncertified period followed by a cert if the illness went on for a longer period. A reoccurring comment about sick certs was the belief that doctors would just give out sick notes to anyone and that employers didn't trust the persons own GP. Some employers expressed a desire for a separate entity to be set up to certify employees who are off sick. Some respondents expressed concern that if they were sick on day one, the last thing they wanted to do was go and sit in a crowded GP's office to get a cert for a cold or flu. Some employers that have a sick pay scheme in place stated that for one or two days illness no cert is required, but for anything longer their HR departments can request medical certification and/or a trip to the company doctor.

Some of the comments from the respondents:

Employee comments:

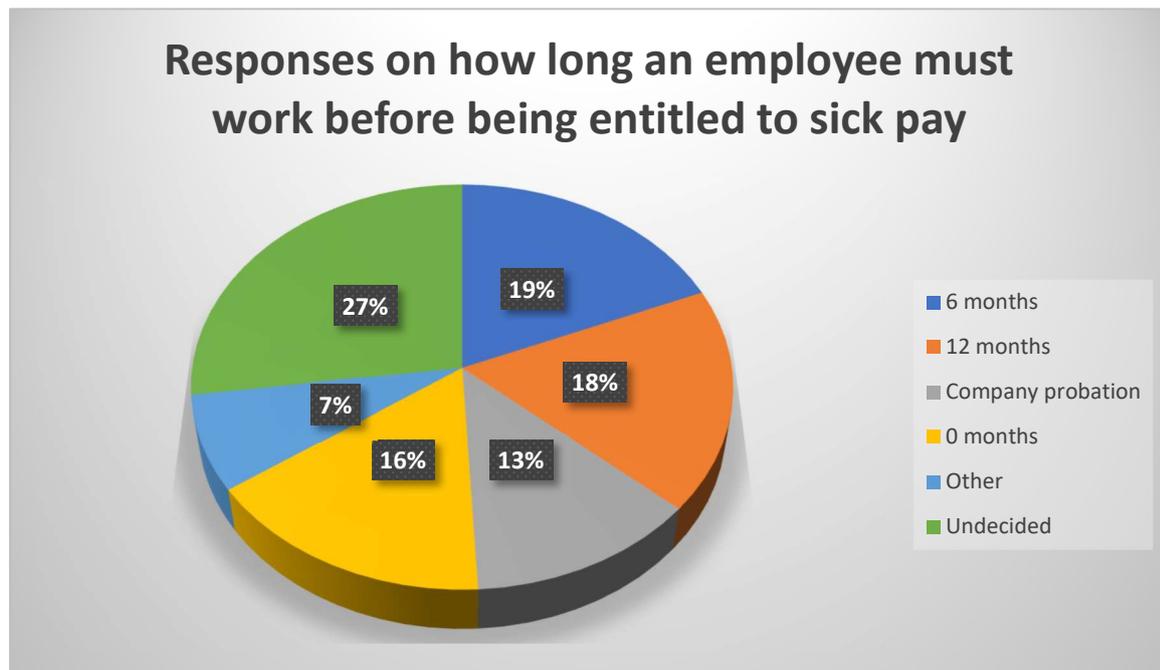
- There should be a cert required but only if a person is out for longer than 3 days
- If someone is out sick and not being paid, they often cannot afford to go to the doctor for a cert
- If the employer requires a cert and there is a waiting period for sick pay, then the state or the employer should cover a visit to your own GP
- Certs should not be required for minor illnesses.

Employer comments:

- Employees should have to see the company doctor at their own expense to get certified as some employers can't afford to pay a staff doctor
- Some employees get sick notes from their family GP's for however long they want
- Certs should be required from day one for any illness, this will discourage people from pulling a sickie to get out of work for the day
- A medical cert is important, but the employer must trust that the illness is genuine.

## Question 5

Should an employee be required to have worked for an employer for a certain period before they are entitled to avail of statutory sick pay? (e.g. an employee would complete six months service before such an entitlement applies, or fully complete the probation period as specified under their employment contract)



This question asks about the length of service an employee must complete, if any, to be eligible for paid sick leave.

86 of the 118 respondents gave specific periods of time with the highest number indicating a period of 6 months.

- 6 months 22 (19%)
- 12 months 21 (18%)
- Company probation 15 (13%)
- 0 Months 19 (16%)
- Other 9 (7%)
- Undecided 32 (27%)

Some responses were cautious to give a specific period of time as they were unsure if this was an employee that has worked before and are just changing jobs, as in the middle of their career, or if it was someone starting work for the first time.

Certain submissions expressed an opinion that there should be no period of time, as sickness can strike at anytime even when you start a new job. Other respondents felt that if there was a number of months a person had to wait to be included in a sick pay scheme then supports should be available, so an employee is not disadvantaged.

Some of the comments from the respondents:

Employees:

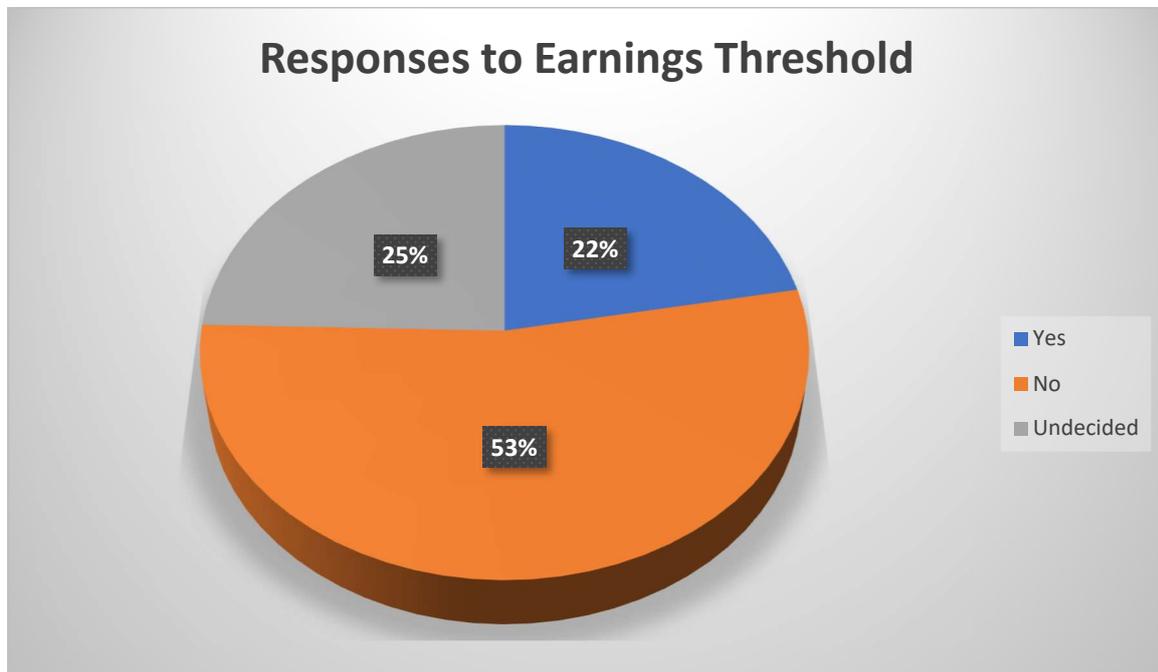
- It is fair to have a probation period before this entitlement kicks in, but maybe there could be some other support for those that have not completed probation
- A person can get sick at anytime and illness knows no probation period
- It would be unfair on a person who has worked all their life and who changes jobs to have to wait to be protected by this
- Maybe a young person living with parents could afford to live with no pay whilst off sick but a person with a family and a mortgage could not
- If there is a probation period, it will freeze out temporary workers and seasonal staff from this scheme and might encourage employers to only hire temporary staff

Employers:

- Employers will not pay for employees to go on sick leave if they are only in the door
- Some businesses hire staff urgently to assist with sudden surges in workload and cannot have them going on paid sick leave the day after they start
- A probation period must be included and set at whatever the employer deems fit
- The percentage or rate of pay could be increased as the employee serves more time with the company.

### Question 6.

Should an employee have to satisfy a minimum earnings threshold to avail of statutory sick pay? Should any other eligibility requirements apply?



This question has two parts to it however the majority of people just gave a yes or no answer with a short statement indicating the response was for both questions.

89 of the 118 respondents chose either yes or no to the questions. The highest number of respondents (63) chose to answer no that there should be no income threshold and no other eligibility requirements.

- Yes 26 (22%)
- No 63 (53%)
- Undecided 29 (25%)

A number of suggestions came from those that stated yes as their preferred response and a number of them stated that the person should have the appropriate number of PRSI contributions if the scheme is to be linked to the illness benefit scheme. Some stated that in conjunction with the probation question that a person should either earn a certain amount with the company or serve a probationary period to be eligible, whichever was the less.

Some of the comments from the respondents:

Employees:

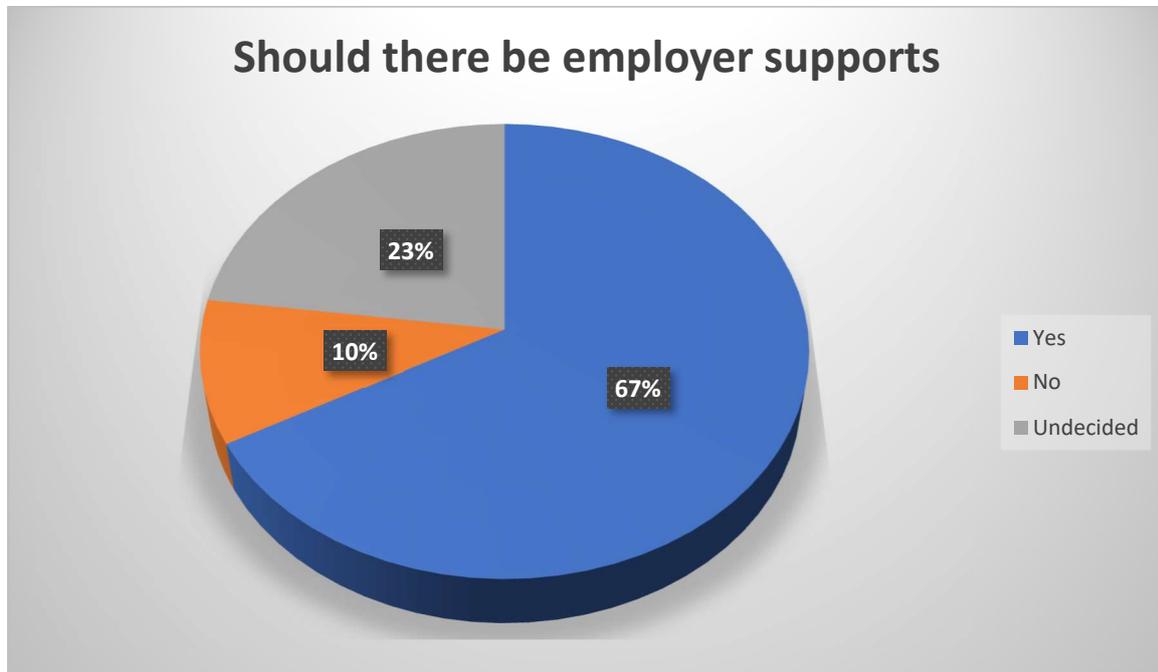
- If there is an earnings threshold, lower paid workers might be extremely disadvantaged
- In order to keep this scheme simple and understandable there should be no extra eligibility criteria placed employees
- Employees should have to have paid enough PRSI contributions to be included in the scheme
- Having an earnings threshold will push employers to hire temporary, low paid workers to exempt them from the scheme altogether.

Employers:

- Earnings thresholds do not work as well with individual businesses which is why most employers have a probationary period
- There should be an earnings threshold as employers do not want to pay sick leave for part time, seasonal and temporary employees
- Employees must work hard and pass certain milestones for other perks of working; this scheme should be no different
- This scheme should be linked to PRSI and when the employer and employee have made enough contributions through the PRSI that should then be used to pay their sick leave.

### Question 7.

**Should financial supports be put in place for employers who genuinely can't afford to pay the rates of SSP? What is the best way to establish if employers genuinely can't afford to pay?**



Again, this question had two parts and most respondents seem to just answer yes or no for the first one. Some respondents also gave an opinion on the second question.

Of the 91 respondents that gave a yes or no answer 79 said yes that employers did need support.

- Yes 79 (67%)
- No 12 (10%)
- Undecided 27 (23%)

Some of those that answered no to the question indicated that employers should cover the costs of the scheme as like any other cost of doing business, while others did not want the Government to be paying people sick pay from taxes that could be used for other things.

Certain employers expressed an opinion that the Government should give the employers the illness benefit allowance and they would then pay that to those on sick leave. Some respondents suggested that the tax system could be used to establish which employers could genuinely not afford to pay their staff statutory sick pay.

Overall most of the respondents that gave an opinion on the second part of the question, suggested that the tax system could gauge a businesses ability to pay and this should be based on last year's assessment with an option to examine if certain businesses might be going through a rough time.

Some of the comments from the respondents:

Employees:

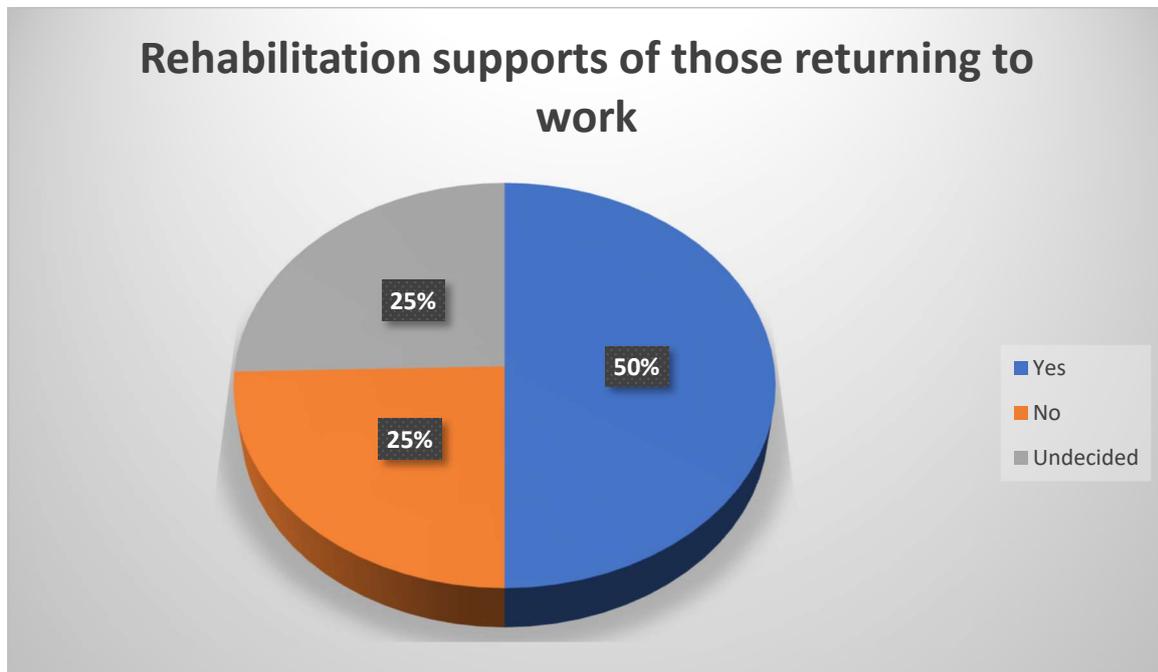
- Business owners and companies must make allowances in their costs for insurances salaries and other overheads, sick pay should just be another cost on the employer
- Employers should take responsibility for their staff and not need government supports to implement this scheme
- Businesses could claim back tax on the cost of providing statutory sick pay.

Employers:

- The Government needs to support employers in what is already a very difficult environment to do business in
- Employers would need other costs of doing business to reduce in order to be able to afford to pay statutory sick pay
- Systems and software would need to be updated to enable employers to implement such a scheme
- The timeline for the implementation of this proposal is extremely aggressive, it should be delayed by a year or 2 to allow the economy recover from the current pandemic
- New businesses should get more support until they have established themselves
- Businesses should be assessed individually for assistance not just a blanket support for all.

### Question 8.

Should rehabilitation and reintegration programmes, for employees who have been absent due to long term illnesses, be introduced along with SSP?



This question was for supports targeted toward those out on long term sick leave to help them reintegrate with the workforce.

The majority of the respondents who gave an answer answered yes to this question.

- Yes 59 (50%)
- No 29 (25%)
- Undecided 30 (25%)

Some respondents answered no to this question as they did not want more costs to fall on the employer. Others who did not offer an answer or opinion would like to know how such supports would work and who would be paying for them.

The respondents to this question were generally positive to the introduction of schemes to rehabilitate employees out of work on long-term sick leave. However, the question did raise other questions, for instance should there be another scheme for those with critical illness and those with longer term illnesses that are expected to go on for a number of years.

From the response's, employers were not keen to pay employees on sick leave for long periods of time and many suggested that it should be looked at in greater depth before being rushed into.

Some of the comments from the respondents:

Employees:

- Employers should offer this as standard as well as extra training for anything new that has come in while the employee was off
- Businesses should want to offer this to their employees as it will ensure a productive employee returns to work when they are healthy again
- Retraining may be required if the illness was very long term
- I think there should be rehabilitation services run by the health service in the community and then training run by the employer either on site or online.

Employers:

- Small business would not have the time or resources to offer rehabilitation to employees on their return to work
- Employers that promote wellbeing in work should receive assistance through the tax system
- If these services are brought in, they should not be included in legislation but should be a service offered by the Government.

## Other Comments from Respondents

- Sick pay and employer support must be part of the solution to maintaining the shield against poverty
- No earnings threshold but if gov part paying sick pay then the person must be paying tax
- Regular one-off sick days could be required to present medical cert for every day of absence unless the illness is established as chronic
- If the implementation is gradual and fair, then there should be no need for employer supports
- Employer supports could be tapered off over time to allow businesses to adjust to the new scheme. The current illness benefit system could be used to do this
- Employers should have contingencies in place for sick pay and cover for staff out on sick leave
- Employers should be able to request a fitness to return to work cert if the employee is off on a regular basis
- Special consideration should be given to pilots as their medical fitness is paramount to the safety of passengers on a flight
- Charitable organisations cannot afford to pay long periods of sick leave without government support
- All workers including those who are self-employed, should be included in the statutory sick pay scheme
- People on lower pay may need assistance to pay for doctors' certs should they be required from employers before sick pay kicks in
- These aggressive Timelines for implementation would likely be unsustainable for SME's
- Certain industries have a very low profit margin and would be unable to pay SSP and someone else to cover the person out sick, if this comes in the personal grooming industry will move to a freelance based industry which is the way the UK market is now
- Employers need education on sick leave and sick pay and how it could benefit their business and employees
- Employers should be monitored to make sure they are not making staff take leave instead of statutory sick pay
- Employers with illness prevention policies should be rewarded in some way.

A regular comment from those that would not give an answer to some questions was that they would like to see the proposed scheme before commenting or giving specific figures on the questions posed in the public consultation.