

# Long COVID

**We have produced this equality briefing to support and inform branches around long COVID and protections at work for disabled people.**

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## **What is Long COVID and what are the symptoms?**

Long COVID is the prolonged experience of symptoms of the Coronavirus. It is a chronic and unpredictable condition with symptoms that vary from person to person, intensity and duration. The World Health Organisation (WHO) defines long COVID as a condition that:

“Occurs in individuals with a history of probable or confirmed SARS-CoV infection, usually 3 months from the onset of COVID-19 with symptoms that last for at least 2 months and cannot be explained by an alternative diagnosis. Symptoms may be new onset following initial recovery from an acute COVID-19 episode or persist from the initial illness. Symptoms may also fluctuate or relapse over time.”

The definition states that common symptoms include:

- Fatigue
- Shortness of breath
- Cognitive dysfunction
- Others which generally have an impact on everyday functioning

World Health Organisation have found that 1 in 10 COVID-19 patients will still have symptoms of the coronavirus 12 weeks after being infected. While data from the ONS suggests that some groups are more likely to have long COVID, these include:

People aged 35-59 years

- Those living in the most deprived areas
- Women
- Disabled people or those with existing health conditions
- Those working in health or social care

Research is still being undertaken into the symptoms of long COVID, however, some of the most common symptoms are:

- **Respiratory symptoms** (chest pain or tightness)
- **Neurological symptoms** (brain)
- **Musculoskeletal symptoms** (joint pain and muscles)
- **Cardiovascular symptoms** (heart palpitations including circulation)
- **Gastrointestinal symptoms** (digestive)
- **Psychological symptoms** (mental health impairments / fatigue / brain fog / insomnia / concentration issues)
- **Dermatological symptoms** (skin / rashes)

**The Office for National Statistics (ONS)<sup>1</sup> data estimates that 1.8 million people in the UK are living with the symptoms of the coronavirus.** Further data from the ONS shows that close to 2 million people have long COVID in the UK and that:

- Long COVID symptoms adversely affected the day-to-day activities of 1.4 million people (71%) reporting that their ability to undertake their day-to-day activities had been "limited a lot".
- Fatigue (55%) continued to be the most common symptom reported as part of individuals' experience of long COVID, followed by shortness of breath (32%), cough (26%), and muscular issues (23%)
- As a proportion of the UK population, prevalence of self-reported long COVID was greatest in people aged 35 to 49 years, women, people living in more deprived areas, those working in social care, teaching and education or health care, and those with another activity-limiting health condition or disability.

### **Long COVID and disability discrimination**

The many of symptoms of long COVID can be classified as invisible impairments which are covered by the Equality Act 2010.

#### **Definition of a Disability**

The Equality Act 2010 states that you are disabled if you have a physical or mental impairment that has a **'substantial'** and **'long-term'** negative effect on your ability to do normal daily activities.

- 'substantial' is more than minor or trivial, e.g. it takes much longer than it usually would to complete a daily task like getting dressed
- 'long-term' means 12 months or more, e.g. a breathing condition that develops as a result of a lung infection

#### **Is long COVID a disability?**

Throughout and after the pandemic, no measures were made by government to support people diagnosed and/or living with long COVID. Despite attempts by TUC to get the government to specify long COVID as a disability under the 2010 Equality Act, there still remains a reluctance by the government to do so.

However, organisations such as Acas<sup>2</sup>, have issued advice for employers and employees to provide and request reasonable adjustments for those diagnosed with long COVID. Equally, the Equality and Human Rights Commission (EHRC) have agreed with this position in an article in Personnel Today<sup>3</sup> in which they state that employers should treat all staff who have long COVID as if they have a disability, in the absence of clear legislative protections for people with lingering symptoms which can affect their performance at work.

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<sup>1</sup> [Prevalence of ongoing symptoms following coronavirus \(COVID-19\) infection in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-the-uk/health-and-life-expectancy/articles/prevalence-of-ongoing-symptoms-following-coronavirus-covid-19-infection-in-the-uk/2021-08-17)

<sup>2</sup> [Whether long COVID is treated as a disability: Long COVID – advice for employers and employees - Acas](https://www.acas.org.uk/news/whether-long-covid-is-treated-as-a-disability-long-covid-advice-for-employers-and-employees)

<sup>3</sup> [Staff with long Covid should be treated as having disability - Personnel Today](https://www.personneltoday.com/news/long-covid-should-be-treated-as-disability)

They have since issued a further statement where they said:

“... ‘long COVID’ might amount to a disability for any particular individual – it will do so if it has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This will be determined by the employment tribunal or court considering any claim of disability discrimination.

“To support workers affected by ‘long COVID’ and avoid the risk of inadvertent discrimination, we would recommend that employers continue to follow existing guidance when considering reasonable adjustments for disabled people and access to flexible working, based on the circumstances of individual cases.”

### **Where there is uncertainty on how to treat Long COVID**

On 09 May 2022 the EHRC said "There continues to be discussion of the various symptoms related to Covid-19 that are often referred to as ‘long COVID’ and whether they would constitute a disability under the Equality Act.

“Given that ‘long COVID’ is not among the conditions listed in the Equality Act as ones which are automatically a disability, such as cancer, HIV and multiple sclerosis, we cannot say that all cases of ‘long COVID’ will fall under the definition of disability in the Equality Act.”

This unhelpful announcement from the EHRC will make it much harder for workers to get the support they need and could ultimately lead to job losses. UCU will continue to put pressure on the government, along with the wider trade union movement for changes to the Equality Act 2010 to include long COVID as a disability.

This would mean that anyone living with long COVID would receive a greater level of protection at work and would also put a duty on employers to make reasonable adjustments that remove, reduce or prevent any disadvantages workers with long COVID face, as for any other enduring condition or disability.

### **Impact of COVID**

COVID-19 is a relatively new virus, in which disabled people accounted for **six in ten deaths** in England, showing that disabled people were disproportionately affected by the pandemic. Evidence shows disabled employees are discriminated at work, it is likely that disabled workers living with long COVID will face further disadvantaged and marginalisation in the workplace where the symptoms of the virus affect their performance at work.

The Citizens Advice Bureau’s (CAB), report ‘An Unequal Crisis’<sup>4</sup> highlighted:

- 1 in 4 disabled people (27%) are facing redundancy, rising to 37% for those people whose disability has a substantial impact on their activities
- 1 in 2 people who are extremely clinically vulnerable to the coronavirus (48%) are facing redundancy

**In early December 2020, UCU ran a COVID Equality Survey that identified the following:**

- 28% of respondents who have had COVID said they were still experiencing symptoms more than 2 months on from the initial infection

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<sup>4</sup> [An Unequal Crisis](#)

- 3% of those with continuing 'long COVID' symptoms had requested reasonable adjustments but had these denied by their employer – a further 10% said requested adjustments were only partially in place or delayed
- 28% of those with accessibility requirements said that COVID-safe measures had made the workplace less accessible for them.
- 11% of respondents said they had experienced discrimination based on their personal characteristics since the start of the pandemic.

**UCU strongly advocates for long COVID to be deemed a disability to allow persons with long COVID are protected without having, for example to go to an Employment Tribunal to prove that they are disabled.**

1. Without the government classifying long COVID as a disability, the advice is contrary and causes confusion. The definition of a disability, as outlined above, is already being used by ACAS and the EHRC to advise employers and employees on workplace practices linked to long COVID. Therefore, by default, many employers are already treating long COVID as a disability.
2. Section 20 of the Equality Act 2010 sets out the duty for employers to provide reasonable adjustments. Reasonable adjustments are in place in order **not to place disabled people at a disadvantage in comparison to non-disabled people. To apply reasonable adjustments to non-disabled people is to marginalise disabled people further.** For further information on reasonable adjustments, please see our [guidance on reasonable adjustments](#).

Adjustments could include a proportion of home working, changes to start and end times, provision of equipment and/or tech.

3. Section 21 of the Equality Act address disability discrimination based on the failure of employers not providing reasonable adjustments. Please read our guidance on [challenging discrimination, how to build an effective case](#).
4. The Health and Safety at Work Act 1974 requires employers to protect employees from the risk of injury or harm at work, so far as is reasonably practicable. Whilst the Management of Health and Safety at Work Regulations 1999, sets out specific requirements for some groups including young and pregnant employees, **there is no specific provision for disabled employees.** Despite this, the individual specific requirements of disabled people must be taken into account as part of an employer's risk assessment with appropriate and suitable measures put in place.

We strongly advise you to use <https://www.ucu.org.uk/coronavirus> in relation to Health and Safety.

5. UCU strongly advises that disabled members experiencing possible disability discrimination, should contact their local representatives as a matter of urgency. Please use our contact finder [here](#)

We would welcome any examples of good practice policies that your branch has negotiated regarding long COVID. Please send your examples to [eqadmin@ucu.org.uk](mailto:eqadmin@ucu.org.uk).