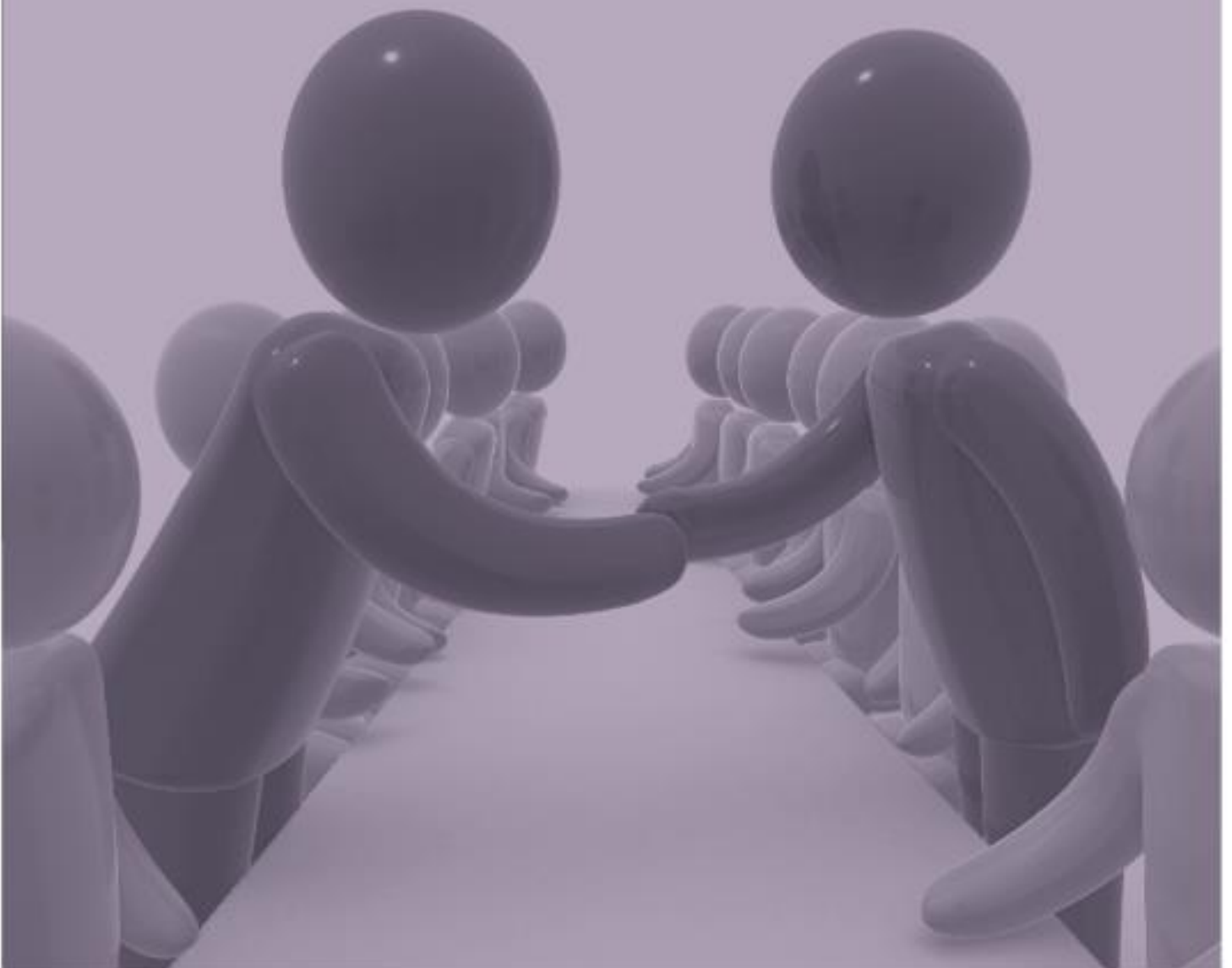


# Mpox (monkeypox): bargaining to support members



**Bargaining Support Group**

# **Why is mpox (previously known as monkeypox) a trade union issue?**

Following a series of consultations with global experts, WHO (the World Health Organization) is now using a new preferred term 'mpox' as the new name for the monkeypox disease.

Only a small number of people in the UK have had mpox and the risk remains low.

However, there may be many workers who are concerned about the spread of the virus, and whose health is at risk.

As more is discovered about the mpox virus, it is important that workplace reps and branches keep informed in order to better support all our members and keep our workplaces safe.

## **Sick pay is a trade union issue**

The UK's statutory sick pay is among the lowest of any wealthy country and we urgently need a sick pay system that is far better. The current system leads to dire financial hardship for many workers, especially now with the cost of living crisis.

As a result, this current system incentivises workers to go into work sick as they cannot afford to take the time off.

And this could lead to a public health risk for everyone, unless reps and branches can negotiate with employers for better sick pay as well as medical exclusion pay.

## **Equality is a trade union issue**

Sadly, it is almost inevitable that negative feelings may creep into the workplace with the advent of a new health concern.

Unfounded theories and irrational prejudices may arise, wrongly suggesting that certain groups are in some way responsible for the spread of the virus or that they brought illness on themselves.

It is crucial that employers work with union reps and branches to foster an inclusive working environment, to be sensitive to any tensions and conflict, and to not make assumptions about staff from some communities or because of their protected characteristic.

The Equality Act 2010<sup>1</sup> makes it unlawful to discriminate against people at work because of

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<sup>1</sup> In Northern Ireland the relevant legislation includes: the Disability Discrimination Act (DDA) 1995 and subsequent amendments and supplementary laws, Employment Equality (Age) Regulations (NI) 2006 and subsequent amendments, Equal Pay Act (NI) 1970, Sex Discrimination (NI) Order 1976 and subsequent amendments, Maternity and Parental Leave etc. Regulations (NI) 1999, Race Relations

a protected characteristic, which are:

- age
- disability (a disabled person being defined as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities)
- gender reassignment (covering all people considering or undergoing or who have undergone gender reassignment whether or not they have medical treatment)
- marriage or civil partnership
- pregnancy and maternity
- race (including colour, nationality, and ethnic or national origins)
- religion or belief
- sex
- sexual orientation.

**Direct discrimination** is when a person treats someone else less favourably than others because of a protected characteristic. This can be whether or not the complainant actually possesses that protected characteristic, such as when they are perceived to have it (**perceptive discrimination**). A person might also suffer unlawful discrimination because of their association with someone else who has a protected characteristic (**associative discrimination**). **Harassment** is another type of discrimination. Bullying can be a form of harassment.

Employers are generally liable for any discrimination by their staff towards others and must take all reasonable steps to prevent unlawful discrimination taking place in their workplace.

- Will the employer agree to review sickness absence agreements to ensure they are fairer for all staff and create a healthy workplace? Has the policy been equality impact assessed? Check out UNISON's guidance on [equality impact assessments](#).
- Reps and branches should be vigilant about any potential harassment, bullying and all other forms of discrimination.
- Raise awareness amongst members of dignity at work or anti-harassment policies already in place.
- Reps have a vital role in promoting equality, respect and dignity by challenging all examples of discrimination in the workplace, dealing with all members' complaints effectively and promptly, and acting as a role model in their treatment of others.
- Has the employer provided reassurance that anything the member shares about their health will be kept confidential? Is this confidentiality also being followed by the workplace rep?

## What is mpox?

Mpox (or monkeypox) is caused by a virus in the same family of viruses as smallpox, although it is much less severe. It is a rare infection, most commonly found in west or central Africa.

Initial symptoms include fever, headaches, muscle ache and joint pain, and swollen glands. A rash can develop after 1 to 5 days of the first symptoms. Someone who has mpox is infectious from when their symptoms start until their rash has scabbed over, all the scabs have fallen off and a fresh layer of skin has formed underneath. This may take several weeks.

Anyone who comes into close contact with someone who has mpox could potentially get the virus. Mpox spreads through close skin-to-skin contact and also when someone touches fabrics - such as clothing, bedding, or towels - which have been used by someone with the virus, or from the coughs or sneezes of a person with mpox when they're close.

**More information from the NHS** [www.nhs.uk/conditions/monkeypox/](http://www.nhs.uk/conditions/monkeypox/)

“Anyone can get monkeypox. Though currently most cases have been in men who are gay, bisexual or have sex with other men, so it's particularly important to be aware of the symptoms if you're in these groups.”

**For Scotland, from NHS Inform** [www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/monkeypox](http://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/monkeypox)

**For Wales, from Public Health Wales** <https://phw.nhs.wales/topics/monkeypox/>

**For Northern Ireland, from NIDirect** [www.nidirect.gov.uk/conditions/monkeypox](http://www.nidirect.gov.uk/conditions/monkeypox)

Most cases of the virus are relatively mild but can be debilitating and sometimes painful, the rash often resembling chickenpox. Cases normally clear up on their own within a few weeks. But severe cases can occur and, as the [World Health Organisation \(WHO\)](#) state, these are “more commonly among children and are related to the extent of virus exposure, patient health status and nature of complications. Underlying immune deficiencies may lead to worse outcomes.”

[The UK government](#) states that it is possible that **young children, pregnant women and immunocompromised people are more at risk of becoming severely unwell** than others.

**Vaccination** against smallpox has been proven to be 85% effective in preventing mpox. But global supplies of vaccine are currently limited and have been targeted at areas with high case numbers, as agreed by all four Chief Medical Officers in the UK.

If vaccination is available, will the employer continue to pay staff at their normal rate during time spent travelling to the place where the vaccine is delivered and receiving the vaccine? Not agreeing to this will create a disincentive for workers to be vaccinated.

Because the infection can be passed on through close contact, it's important that those who are diagnosed with it, **self-isolate**.

The [UK government states](#): “If you have been diagnosed with monkeypox and you have been advised to self-isolate at home by your doctor, you should not go to work, school or public areas... It is particularly important to avoid close contact with young children, pregnant women and immunosuppressed people as they may be at higher risk of serious illness.”

The [NHS](#) also states that “the risk of needing treatment in hospital is higher for:

- older people
- young children
- people with a condition or who are taking a medicine that affects their immune system.”

- Ensure the employer raises awareness of the symptoms of mpox amongst all staff, and the need to self-isolate if an individual is diagnosed with mpox or has mpox type symptoms.
- Does the employer make it clear that anyone can get mpox to help destigmatise the condition and prevent discrimination?

## **Mpox and sickness absence**

In the public sector, most staff will be part of an occupational sick pay scheme. However, particularly among private contractors delivering public services and voluntary sector employers, entitlement may be nothing more than the statutory sick pay provision.

**Statutory sick pay (SSP)** is a statutory minimum entitlement for workers where they are too ill to work. It is only payable if the qualifying employee cannot perform their job, not if they are able to work (eg self-isolating from mpox), and only from day 4 of a period of incapacity. Employees receive no SSP for the first three days of sickness.

The SSP rate is currently only £99.35 per week (increasing to £109.40 per week in April 2023). To qualify, workers have to receive income of at least £123 per week, clearly creating a problem for staff on forms of contracts that are vulnerable to dips in income below the weekly figure, such as zero-hours workers.

If such staff do not qualify for SSP, the only option to survive whilst they off sick from work, is to seek support through [Universal Credit](#) or [New Style Employment and Support Allowance](#).

- Is contractual sick pay provided to all staff? Is a fair sickness absence agreement in place?
- Negotiate an extension to the period of contractual enhanced sick pay available for those with mpox sickness absence.

- Make the case against the use of zero hours contracts and other insecure working practices on the basis that they can cheat workers of sick pay.

**Medical exclusion clauses** are sometimes established elements of collective agreements, most commonly in NHS trusts, given the extra dangers of transmitting an illness to patients.

The National Joint Council (NJC) for local government services also has a clause covering infectious diseases within the national agreement pay and conditions of service (the ‘Green Book’): “An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee’s entitlements under this scheme”.

- Will those who are self-isolating but who are well enough to work but not able to work from home, continue to receive full pay, on the basis of **medical exclusion** from the workplace? Or will they at least be provided with contractual sick pay?
- Will the employer include in their self-isolation procedures, those staff who have been notified that they are close contacts of someone diagnosed with mpox but do not have any symptoms themselves? If not, will appropriate risk assessments be undertaken?

Absence policies often include **‘trigger points’** for some kind of employer intervention including initiation or escalation of capability or disciplinary procedures.

UNISON believes that any employer that takes some form of disciplinary or capability action including formal sickness absence hearings against staff because of absence due to mpox related illness (including those who are told to self-isolate) is acting unfairly.

- Negotiate the omission of mpox related absence from any triggers for management action in disciplinary, capability, attendance management or redundancy policies. Check out bargaining support’s guidance on [negotiating sickness absence agreements](#).

## Mpox and health and safety

In health and care environments where patients with mpox are being cared for, the employer must carry out a Control of Substances Hazardous to Health (COSHH) assessment.

**More information from UNISON:** Monkeypox – what safety reps need to know  
[www.unison.org.uk/health-news/2022/06/monkeypox-what-safety-reps-need-to-know](http://www.unison.org.uk/health-news/2022/06/monkeypox-what-safety-reps-need-to-know)

In other workplaces, employers should ideally undertake **a workplace risk assessment** that covers mpox and, as a minimum, have procedures in place on what to do if they are informed of cases in the workplace. Employers must identify all those for whom they have a duty of care, whether they are staff or service-users etc, and should consider all vulnerable groups. They must consult workers and their representatives on any changes they make that might affect health and safety.

UNISON recommends that any worker who is at increased risk from mpox should be offered an **individual risk assessment**. This should include pregnant women and immunocompromised people, and those who live with someone who is pregnant or immunocompromised. The employer must then look at how to remove or reduce any risks identified.

- Request that employers conduct an individual risk assessment for any staff member who has been identified as being at increased risk from mpox, particularly important for workers who are immunosuppressed or immunocompromised and those who are pregnant.
- Does the risk assessment consider who the worker comes into contact with at work and what work activities could expose them to the risk of contracting mpox, whether their job allows them to maintain some social distance and if they face any other additional risks that may make them more vulnerable to mpox?
- Has the employer considered how to remove or reduce the risks that have been identified? This could include: redeploying the worker to the safest available on-site role, enabling them to reduce face-to-face contact with others; providing them with additional personal protective equipment (PPE); allowing them to work from home as much as possible.
- Ensure safety reps are consulted on anything affecting members' safety, including the outcomes of any risk assessments.

## Protecting pregnant workers

Employers already have a legal obligation under the Management of Health and Safety at Work Regulations to assess the workplace risks for **pregnant employees** and their unborn children, and breastfeeding mothers who have returned to work. This continues but now they should also address the potential risk of contracting mpox. Pregnancy and maternity are a protected characteristic under the Equality Act 2010.

The **Health and Safety Executive (HSE)** states:

“If you identify a risk that could cause harm to your worker or their child, you must firstly decide if you can control it.

If you cannot control or remove the risk, you must do the following:

Action 1 – Adjust the working conditions or hours to avoid the risk.

If that is not possible:

Action 2 – Give them suitable alternative work.

The Employment Rights Act 1996 states that suitable alternative work should be offered, where appropriate, before any suspension from work. This must be suitable and appropriate for the pregnant worker or new mother, and on the same terms and conditions, including pay.



If that is not possible:

Action 3 – Suspend your worker on paid leave for as long as necessary to protect their health and safety and that of their child.

If you cannot put the necessary control measures in place, you must suspend the worker on full pay in line with the Management of Health and Safety at Work Regulations.

**Suspension of the pregnant worker on paid leave** should be on full pay, based on the pregnant worker's usual earnings, not just the pay based on their contractual hours.

As the government states, suspension "will last as long as the employee, or their baby, is in danger... The employee has the right to normal pay (including bonuses) for up to 26 weeks, as long as they've been in their job for a month or more."

Pregnant workers should not be put on sick pay (which ultimately could also affect the amount of maternity pay they will receive) nor forced to use annual leave or unpaid leave. Pregnant workers should only be paid sick pay if they are actually sick.

The employer can start the maternity leave automatically 4 weeks before the pregnant worker's expected week of childbirth if they are absent from work wholly or partly because of their pregnancy (which may include risks to pregnancy caused by mpox).

### **Protecting disabled workers**

It is clear that many of the immunocompromised people who the governments and NHS have classified as being at greater risk from mpox, will be considered as 'disabled' under the equality legislation. Mpox is not automatically deemed to be a disability, unlike some other conditions, such as HIV, AIDS and cancer. Under the Equality Act 2010, a person is disabled by a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

For workers who are disabled, health and safety protections are supplemented by equality legislation. As well as undertaking individual risk assessments, where disabled workers are at greater disadvantage, employers have a duty to provide reasonable adjustments and must not subject disabled workers to discrimination arising as a consequence of the disability.

**More information from UNISON's 'Disabled members equality' webpages and resources** [www.unison.org.uk/about/what-we-do/fairness-equality/disabled-members/](http://www.unison.org.uk/about/what-we-do/fairness-equality/disabled-members/)

### **Further information on the mpox virus:**

UK Government monkeypox guidance for healthcare professionals and the general public  
<https://www.gov.uk/government/collections/monkeypox-guidance>

World Health Organisation: Monkeypox (factsheet)  
<https://www.who.int/news-room/fact-sheets/detail/monkeypox>



World Health Organisation: Recovering from monkeypox at home (infographic)  
[www.who.int/multi-media/details/recovering-from-monkeypox-at-home](http://www.who.int/multi-media/details/recovering-from-monkeypox-at-home)

Terrence Higgins Trust: Monkeypox in the UK  
[www.tht.org.uk/news/monkeypox-uk](http://www.tht.org.uk/news/monkeypox-uk)

Terrence Higgins Trust: Monkeypox advice whilst waiting for vaccination  
[www.tht.org.uk/news/monkeypox-advice-while-waiting-vaccination](http://www.tht.org.uk/news/monkeypox-advice-while-waiting-vaccination)

## Template letter for use by branches

Whilst UNISON understands that the risk of contracting mpox infections is low and most people recover, the situation is dynamic and the condition can be extremely debilitating and painful for some who are affected.

So we want to ensure employers have this on their agenda.

The following letter template can be used by branches to gather relevant information from employers.

**Please share details of any responses with the bargaining support team at [bsg@unison.co.uk](mailto:bsg@unison.co.uk)**

Dear .....

### Concerns about mpox or monkeypox

With continued cases of mpox (or monkeypox) and the shortage of vaccines, I am contacting you on behalf of UNISON members to understand how your organisation is managing the risks from mpox exposure to certain groups of workers who may be exposed due to their work activities.

*{INSERT EXAMPLES of workers/work activities relevant to your sector}*

We would like to know if you are addressing any of the following areas:

- Awareness and communication initiatives to raise awareness with staff that will avoid stigma and prevent discrimination.
- Risk assessment, including protection of pregnant workers and those who may be immunosuppressed or most likely vulnerable to contracting mpox.
- Protocols that your organisation will follow once it is made aware of a positive case in the workplace, including decontamination protocols and support.
- Pay protection and exclusion from sickness absence triggers where staff are required to isolate due to mpox infection.
- Paid time off for those who need to have the vaccine or indeed any recommended vaccine over the coming months.

Whilst it seems the risk of contracting mpox is relatively low (in comparison with COVID-19) and most people recover, the situation is dynamic and it has been reported that the condition can be extremely debilitating and painful. So we want to ensure employers have this on their agenda and are taking all reasonable steps to protect UNISON members and all staff.

