

# Written evidence submitted by The Association of British Insurers (ABI) to The Employment Rights Public Bill Committee (ERB74).

## *The UK insurance and long-term savings market and the ABI*

*The ABI is the voice of the UK's world-leading insurance and long-term savings industry, which is the largest sector in Europe and the third largest in the world. We represent more than 300 firms within our membership, including most household names and specialist providers, providing peace of mind to customers across the UK.*

*We are a purpose-led organisation: Together, driving change to protect and build a thriving society. On behalf of our members, we work closely with the UK's governments, HM Treasury, regulators, consumer organisations and NGOs, to help ensure that our industry is trusted by customers, is invested in people and planet, and can drive growth and innovation through an effective market.*

*A productive and inclusive sector, our industry supports towns and cities across Britain in building a balanced and innovative economy, employing over 300,000 individuals in high-skilled, lifelong careers, two-thirds of whom are outside of London. Our members manage investments of £1.4 trillion, contribute £18.5 billion in taxes to the Government and support communities and businesses across the UK.*

## Executive Summary

1. The Association of British Insurers (ABI) welcomes the opportunity to provide written evidence to the Public Bill Committee on the Employment Rights Bill and we look forward to engaging with government and Parliament as this important legislation progresses.
2. In particular, we are pleased to see the Bill focus on reforms to strengthen Statutory Sick Pay. This is something we have long been calling for to help keep people well and economically active and to prevent presenteeism.
3. We also broadly support the provisions on flexible working, parental leave, maternity leave, and bereavement leave, as well as the commitment to increasing protection from sexual harassment in the workplace, as these reflect the values underpinning our award-winning **Diversity, Equity and Inclusion (DEI) Blueprint**<sup>1</sup>. The Blueprint is a sector-wide work plan that sets standards for gender pay gap reporting, encourages action plans, supports flexible working and accessible and transparent parental leave policies to counteract the motherhood penalty and promote women's career advancement.
4. However, along with our members, we are calling for further clarity from the government on how these provisions will be implemented in practice and what the impact will be on businesses and individuals alike.

## Statutory Sick Pay and the role of the insurance sector

5. We welcome the Bill's focus on strengthening Statutory Sick Pay (SSP). The UK has both one of the highest levels of economic inactivity across OECD countries and one of the least generous levels of SSP. International examples show that more generous systems are more successful at

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<sup>1</sup> <https://www.abi.org.uk/globalassets/files/publications/public/diversity/abi-dei-blueprint.pdf>

keeping people well and economically active when coupled with support for businesses to invest in prevention, early intervention and rehabilitation services.

6. We have long called for reforms to SSP to create a more robust safety net for workers and better support for employers. We agree with the government that SSP eligibility should be extended to lower earners and that the three-day waiting period should be removed.
7. The rate of sick pay should both provide an adequate safety net for employees and maintain the incentive to work. Equally, businesses must be encouraged to invest in the health of their employees, but they must also have the right kind of financial support to make that investment viable – this is particularly important for SMEs.
8. A higher rate of SSP should incentivise and reward employers for looking after the health and wellbeing of their workforce. The cost of sick pay can and should be offset by greater adoption of products and services that prevent sickness absence and bolster labour supply. Insurance is an essential part of this.
9. We have responded separately to the Consultation on Strengthening SSP<sup>2</sup>. We encourage the government to implement a system that:
  - Enables and embeds 'phased returns to work' to support employees' rehabilitation after a long-term illness where appropriate. The longer employees are out of work, the harder it can be for some to return. Phased returns can help people return to the workplace earlier.
  - Provides a proportionate rebate on SSP costs for employers, particularly SMEs, that demonstrate effective health and return-to-work support services for their employees.

Not only would these changes help people recover faster, but they will better incentivise employers to offer health and protection insurance as a benefit to their employees, which as highlighted below, can make a huge difference in driving economic growth.

10. Whilst the benefits of employer-provided health insurance and wellbeing services may be better understood by government and among businesses, protection insurance now typically includes health benefits, including mental health support, occupational health and rehabilitation services, employee assistance programmes, wellbeing initiatives, and GP access. These services, both in isolation and in combination, can make a huge difference in allowing individuals to access early intervention, diagnosis and treatment, which can in turn help them stay healthy and fit to work.

### **Wider Make Work Pay plan and economic growth**

11. A record 2.8m people are currently out of work due to long-term sickness, with a similar number also at risk of falling out of work due to health problems<sup>3</sup>. We therefore welcome the government's ambition to tackle this level of economic inactivity and to boost productivity, through the provisions of this Bill, coupled with the SSP Consultation, the wider Make Work Pay plan and the recently published Get Britain Working White Paper<sup>4</sup>, as well as the focus on the NHS and prevention through the government's Health Mission.

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<sup>2</sup> <https://www.gov.uk/government/consultations/making-work-pay-strengthening-statutory-sick-pay/making-work-pay-strengthening-statutory-sick-pay>

<sup>3</sup> <https://www.gov.uk/government/speeches/getting-britain-working>

<sup>44</sup> <https://www.gov.uk/government/publications/get-britain-working-white-paper>

12. The insurance industry already plays a vital role in keeping people well and in work, as well as enabling them to return to work sooner after a period of poor health, by providing health and protection insurance for the workplace. We are keen to work in active partnership with the government and Parliament to harness the insurance industry's expertise to help even greater numbers of people stay healthy and in work<sup>5</sup>.
13. We know that the government has recognised the 'important role' employers play in 'helping get people into work and to stay in work'<sup>6</sup>. A critical way that employers can do this is by providing their employees with adequate health and protection insurance. Insurance provides an effective route to prevention, early intervention, diagnostics, treatment, and rehabilitation services for millions of workers, including those working for SMEs.
14. By offering health and protection insurance in the workplace, employers can help their employees access early intervention treatment and prevent conditions from worsening. This supports people to stay in work or return sooner. This is especially true for conditions such as anxiety and depression, which are key drivers of ill health in younger employees, where effective early intervention can usually reduce the negative impact on individuals' lives and ability to work.
15. Our recent data has shown that many employees and employers also see the value of workplace health and protection insurance. Of the 1.8 million people who accessed healthcare through either health or protection insurance in 2022, 1.3 million (75%) relied on workplace-provided schemes to do so, with 87% of the 700,000 people who used virtual GPs doing so through their employer's scheme. Insurers also arranged 1.2 million mental health counselling and therapy appointments in 2022, with 94% of these accessed through a workplace scheme.<sup>7</sup>
16. Moreover, even with the best preventative support and early intervention, some people who become ill will need to take a period of sickness absence to recover. Insurance can provide treatment and crucial financial support to people during this time and then support them back to work when they are ready.
17. Research commissioned by the ABI found that in 2021, health services provided through health and income protection insurance increased the labour supply by the equivalent of 12,500 FTE workers and reduced long-term sickness absence by around 14 million days. This led to significant fiscal benefits to the Exchequer of £1.5 billion, benefits to the broader economy of £2 billion, and benefits to businesses of £2.6 billion<sup>8</sup>.
18. Therefore, we encourage the government to consider the value of health and protection insurance in reducing economic inactivity and to look beyond its SSP proposals to incentivise the take-up of workplace health and protection insurance further. In particular, we would reiterate our calls for the government to reduce tax barriers by making health and protection insurance products more viable for SMEs and low earners, particularly by lowering Insurance Premium Tax and punitive tax rates for insurance as a benefit in kind. These additional incentives will make it easier for services provided by insurers to continue helping people stay healthy and in work.

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<sup>5</sup> <https://www.abi.org.uk/globalassets/files/publications/public/abi/abi-manifesto-2024.pdf>

<sup>6</sup> <https://www.gov.uk/government/speeches/get-britain-working-white-paper>

<sup>7</sup> <https://www.abi.org.uk/news/news-articles/2024/4/vital-role-of-employer-in-supporting-workforce-health-highlighted-in-new-report/>

<sup>8</sup> <https://www.abi.org.uk/globalassets/files/publications/public/health/abi-and-wpi-economics-futureproofing-workplace-health-report.pdf>

## Flexible Working

19. The ABI and our members are hugely supportive of flexible working. In 2022, we launched the **Making Flexible Work Campaign and Charter**<sup>9</sup> to increase all forms of flexible working in the insurance and long-term savings sector, including job sharing, to improve diversity and narrow the gender seniority gap. The Charter was the first of its kind in UK financial services and 35 firms have already signed up, in addition to the ABI. This demonstrates our industry's commitment to foster an environment where everyone can contribute their best, irrespective of their circumstances, and thus make it easier for people to remain in work.
20. The Bill aims to strengthen the existing day one right to request flexible working, by requiring employers to explain the grounds on which they have denied a request. We welcomed the introduction of the day one right in April 2024, as flexible working has enormous benefits for employers, employees and society and we welcomed the focus on flexible working in this Bill.
21. We are confident that ABI members already take requests for flexible working seriously and provide employees who make requests with reasonable grounds when it is not possible to accept a request.
22. We believe that the existing arrangements and the eight reasons to refuse flexible working provide a good balance that allows flexible working while ensuring businesses can still deliver services to their customers. These are important safeguards to maintain as employers shouldn't be placed under pressure to accept flexible working requests that will impact their performance or will unduly impact business needs, and we are pleased the Bill leaves them unchanged.

## Parental leave and family-friendly policies

23. We are also broadly supportive of the provisions to establish day one rights of paternity, parental, and bereavement leave for millions of workers.
24. This Bill presents a helpful opportunity to strengthen protections for pregnant women and new mothers returning to work, as well as for parents who adopt, and it is important to push for more inclusive environments for all parents.
25. We launched our **Transparent Parental Leave and Pay Initiative**<sup>10</sup> in 2019, which commits signatories to making information on parental pay policies transparent and easily accessible on their public websites.
26. We now have 32 ABI members, accounting for  $\frac{3}{4}$  of the insurance market, signed up. We are proud to see many ABI member firms further supporting working parents by equalising the pay offered for maternity and shared parental leave, supporting people returning from parental leave with a phased part-time return at full pay and offering paid time off or flexible working arrangements to support those undergoing fertility treatment.

## Equal pay and menopause action plans

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<sup>9</sup> <https://www.abi.org.uk/about-the-abi/dei-hub/intersectionality/abi-dei-initiatives/flexible-working/>

<sup>10</sup> <https://www.abi.org.uk/about-the-abi/dei-hub/intersectionality/abi-dei-initiatives/transparency-on-parental-pay/>

27. We welcome the government's commitment to require large employers to create action plans to address gender pay gaps and support employees through the menopause. We are also keen to see how the expected draft Equality (Race and Disability) Bill develops, and we would encourage the government to ensure extensive engagement and consultation with industry.
28. The ABI was one of the first signatories to the government's Women in Finance Charter in 2016 and we are actively working to increase female representation within our organisation. We encourage our member firms to sign up as well and currently 45 members and 14 associate members have become signatories.
29. In our DEI Blueprint, we have set a standard of good practice for members to aim to publish their gender pay gap (and ethnicity pay gap information) annually even if out of formal scope for any legislative or regulatory disclosure requirements. We also encourage them to provide an action plan and narrative so that these results can be interpreted by employees. We signpost our members to the Government Equalities Office's Guide on closing gender pay gaps, which includes guidance on how to develop a gender pay gap action plan.
30. Our industry data collections show that these charters, as part of a whole suite of initiatives, are having a clear, tangible impact on advancing DEI in the industry. Since 2018, the average mean gender pay gap of ABI members is down 6 percentage points, having decreased from 29% in 2018 to 23% in 2022. Over the same period, the average median gender pay gap fell by 5 percentage points, down from 27% in 2018 to 22% in 2022<sup>11</sup>. As women attain better quality and more senior positions through these initiatives, they earn more, contributing to the reduction of the gender pay gap and fostering a more equitable workplace.
31. Employer-provided health and wellbeing services also play an important role in this area. In particular, workplace health insurance policies provide employers with a broad package of health and wellbeing support tailored to their employees' needs, including targeted support for women's health. This can play a central role in helping employers offer the right support for employees experiencing menopause as well as menstruation and endometriosis. We would encourage policymakers to consider the role that insurance can play and work with us to unlock the potential for insurance to support more of the workforce, including employees experiencing menopause.

### **Sexual Harassment**

32. We welcome the government's focus on sexual harassment in the workplace. Nobody should be experiencing any form of harassment or abuse, particularly at work, and we agree that employers should be doing more to ensure that individuals are respected and feel safe at work.
33. As of 26 October 2024, the Equality Act 2010 (amended by the Worker Protection Act) imposed a new duty which requires employers to 'take reasonable steps to prevent sexual harassment of employees', an important provision we endorse.
34. In our DEI Blueprint, we encourage member firms to adopt, publicise and enforce consistent 'zero tolerance' policies covering all forms of abuse, bullying and harassment linked to work. We recommend that policies are in place to ensure that colleagues understand how concerns and complaints will be acted upon, within a 'speak up, listen up' culture. Following a recommendation by the Treasury Select Committee<sup>12</sup> on the importance of male allyship in preventing sexual

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<sup>11</sup> ABI DEI Data Collection 2022

<sup>12</sup> <https://committees.parliament.uk/publications/43731/documents/217019/default/>

harassment, we have also launched a series of Allyship Awareness training sessions that we deliver for member firms to encourage everyone to intervene when witnessing discrimination, harassment or any sort of microaggressions.

35. However, we would like to understand better the Bill's provision to amend the Equality Act to require employers to take 'all reasonable steps'. The Bill, as drafted, does not include a comprehensive list of what 'all reasonable steps' would refer to - but suggests that this detail may be included in regulations. The Bill also does not explain the difference between 'reasonable steps' and 'all reasonable steps'. While we know our member firms are focused on making their workplaces a safe environment for employees, it would be helpful to understand where the government believes companies need to go further, what is not currently covered by 'reasonable steps', and what this means for both businesses and employees.
36. We also note Clause 16 of the Bill on Harassment by Third Parties, which covers cases of an employee being subjected to harassment by a third party. It would be helpful to have further clarity from the government on this clause, particularly in terms of the types of external risk assessments employers are required to carry out regarding third parties ensure they have carried out 'all reasonable steps'. It would also be helpful to have guidance on how employers can share data with an external organisation, for example, following incidents of sexual harassment with third parties, where the employee is either subjected to or perpetrating the harassment.
37. It is worth noting that in its opinion of the Bill's Impact Assessments, the Regulatory Policy Committee (RPC) (*see below for more on this*) suggested that 'the IA must address the costs to businesses of taking steps required to prevent the harassment'<sup>13</sup>. While we ultimately support the purpose of this provision, we would like to see more detail to understand what 'all reasonable steps' means in practice, what the impact would be on both businesses and employees, how businesses are meant to demonstrate that they have taken 'all reasonable steps', and what would happen to an employer who would be deemed to have 'failed' to do this.

### **Knock-on effects on the cost of insurance**

38. The Bill aims to establish a Fair Pay Agreements process in the adult social care sector. We are supportive of the need to ensure fair pay, but would like to highlight the potential impact of the changes on care costs and in turn, personal injury claims costs for insurers. Care costs are the largest element of any substantial insurance claim for personal injury. Higher care costs would therefore increase personal injury claims costs for insurers, which could in turn impact premiums for motor, employers' and public liability insurance.
39. It is important to ensure that care workers – and all workers – are paid fairly for their hard work, and we support the principle behind this. We want to ensure that the government considers all unintended consequences, namely, any knock-on effects that higher wages would have on the cost of care for providers. We are concerned that an increase in the cost of care would be passed onto individuals in need of care. This could potentially further exacerbate the longstanding tension – and the difference in outcomes - between those in need of care who have access to Local Authority funding or to compensation (for example, as a result of a personal injury claim), and those who do not, yet whose needs are the same.

### **Remaining questions**

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<sup>13</sup> [https://assets.publishing.service.gov.uk/media/6740b7e829c74988c561ae1b/RPC\\_Opinion\\_-\\_Employment\\_Rights\\_Bill.pdf](https://assets.publishing.service.gov.uk/media/6740b7e829c74988c561ae1b/RPC_Opinion_-_Employment_Rights_Bill.pdf)

40. As highlighted throughout this submission, the ABI and our members are broadly supportive of the principles underpinning the Bill. However, some concerns remain with the implementation of the government's plans, and their potential costs or unintended consequences, and it is imperative that the government address them.
41. We understand that the government intends for secondary legislation to be used to implement many of the reforms in the Bill. We appreciate the government's intention to seek 'significant input from stakeholders' and its acknowledgement that adjusting to these reforms will take time. However, we need to understand what the finer details will look like, and whether the government has any contingency plans in place, should the secondary legislation and regulations prove to be contentious. For example, we understand the government intends to detail in regulation what 'reasonable steps' employers must take to prevent sexual harassment. It will be important for the government to consult properly with both employers and worker groups to ensure that these steps are proportionate and effective in promoting safe and respectful workplaces.
42. It is also important for the government to provide reassurances, as the Bill progresses through Parliament, that it will not use the Bill's enabling powers to chop and change policies as it sees fit in the future, particularly without the necessary Parliamentary scrutiny and extensive consultation with businesses, trade unions and other key stakeholders.
43. We have also noted with concern the Regulatory Policy Committee's (RPC's) recent overall assessment that the Impact Assessment (IA) for the Bill was 'not fit for purpose'. The RPC highlighted the need for more detail to be included within the government's IAs, including, notably, on 'business impacts and impacts on the business environment' and the 'questions that a postimplementation review would address'<sup>14</sup>. It is concerning that the RPC 'has a low level of confidence in the estimated direct impacts included in the IA', and we would encourage the government to publish revised IAs, in order to provide businesses with a comprehensive and more accurate picture of the potential costs they will be asked to bear.
44. Our members would also urge the government to provide further clarity, and ensure appropriate consultation, on other provisions that can have a huge impact on their employment practices. For example, more detail is needed on Clause 22 – 'dismissal for failing to agree to variation of contract, etc' – which would make it unfair to dismiss an employee for refusing to agree to a variation of their contract. We would like the government to clarify which scenarios it envisages, as the scope of the wording is wide. For example, as currently drafted, it would give an individual or a representative a lot of power to block day-to-day HR changes, such as changes to job titles, office moves and contract changes. This could place undue burden on businesses.
45. We would also encourage the government to provide further clarity on the scope and implementation as well as what the impacts and risks for businesses would be of its plans to provide a day one right to protection from unfair dismissal and to modernise trade union legislation.
46. We understand that the delivery of the government's Make Work Pay plan will be implemented in stages and we look forward to engaging with future proposals, as outlined in the Next Steps to Make Work Pay policy paper<sup>15</sup>, such as the Parental Leave Review. In the meantime, we would be grateful for further clarity on what the planned measures would look like. For example, while the

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<sup>14</sup> [https://assets.publishing.service.gov.uk/media/6740b7e829c74988c561ae1b/RPC\\_Opinion\\_-\\_Employment\\_Rights\\_Bill.pdf](https://assets.publishing.service.gov.uk/media/6740b7e829c74988c561ae1b/RPC_Opinion_-_Employment_Rights_Bill.pdf)

<sup>15</sup> <https://www.gov.uk/government/publications/next-steps-to-make-work-pay/next-steps-to-make-work-pay-web-accessible-version#section-3>

policy paper references taking forward the Right to Switch off through a Code of Practice, no other detail or timescales have been provided. To avoid undue media speculation or concerns raised by businesses, we would encourage the government to outline their plans as the Employment Rights Bill progresses through Parliament.

47. In summary, we are broadly supportive of the inclusive employment aspects of the Bill, as they are in line with both the ABI's and our members' DEI initiatives, and want to ensure that other aspects of the Bill don't diminish these important provisions.

***December 2024.***