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Feidhmeannacht na Seirbhísí Sláinte

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To:

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- Each National Director**
- Each Assistant National Director HR**
- Each Assistant Chief Finance Officer**
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- Each Chief Officer CHOs**
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- Each Group Director of Nursing & Midwifery**
- Each Group Director of Midwifery**
- Each Clinical Director**
- Director National Ambulance Service**

From: Anne Marie Hoey, National Director of Human Resources

Date: 8th October 2021

RE: HR Circular 034/2021 Guidance and FAQs for Public Service Employers during COVID-19 in relation to working arrangements and temporary assignments across the Public Service dated 29 September 2021.

Dear Colleagues

I wish to advise that the Department of Public Expenditure and Reform (DPER) has issued its revised **Guidance and FAQs for Public Service Employers during COVID-19 In relation to working arrangements and temporary assignments across the Public Service dated 29**

September 2021 (Appendix A). This guidance document consolidates and supersedes previous guidance and FAQs issued by DPER relating to Civil and Public Service working arrangements and temporary assignments during COVID-19. The FAQs have been prepared to assist employees and management to understand the process, rules and expectations associated with work arrangements during the COVID-19 recovery period across the public service. A copy of these FAQs is attached and is also available [here](#).

The updated FAQs are:

- UPDATED 1.1 Work premise attendance
- UPDATED 1.3 What is the role of the lead worker representative(s)?
- UPDATED 3.1 When does special leave with pay apply during COVID-19?
- UPDATED 3.2 Close contacts and restricted movements
- UPDATED 4.4 Guidance on international travel
- UPDATED 4.8 Do employers have a right to know if an employee has been vaccinated or had COVID-19?
- UPDATED Appendix 4: Quick guide on working arrangements

The DPER FAQs should be read in conjunction with this Circular. Please note that the updated FAQs for the health sector are covered in the following sections of this Circular:

- UPDATED Section 1.Attendance in the work premises during COVID-19
- UPDATED Section 4 COVID-19 Special Leave with Pay Arrangements
- UPDATED Section 7 Employees who are required to restrict their movements following close contact with a confirmed COVID-19 case
- UPDATED Section 14 Requesting information on whether an employee has had COVID-19 or been vaccinated
- UPDATED Section 16 Leave Arrangements for employees who travel overseas
- UPDATED Appendix D: Quick guide on working arrangements

1. Attendance in the work premises during COVID-19

UPDATED 1.1 The COVID-19: Reframing the challenge, continuing our recovery and reconnecting plan (“the plan”) was published by the Government on 31 August 2021 and is available at this link <https://www.gov.ie/en/publication/3361b-public-health-updates/>. The plan notes that attendance at work premises for specific business requirements may commence on a phased and staggered basis from 20 September 2021. Attendance at work premises should be for specific business purposes appropriate to each sector. The LEEF Consultative Group has published a guidance note on the *Work Safety Protocol* for returning safely to the workplace from 20 September 2021 [view here](#).

1.2 The HSA has produced a checklist for the return to the work premises, including a checklist on [Returning to the Office](#), which has been drafted based on the *Work Safety Protocol* and should be read in conjunction with it. Employers, in conjunction with the Lead

Worker Representative and employees, should work together to ensure that on return, all necessary and practicable steps are in place in the workplace to prevent the spread of COVID-19. How this will work in practice is dependent on the individual circumstances of each workplace/premises, having regard to issues such as physical distancing and other public health measures.

1.3 Until such time as the physical distancing requirements are removed in relation to the work premises, employers may continue temporary alternative arrangements or implement new temporary arrangements, e.g. flexible shifts, staggered hours, longer opening hours, blended working patterns, weekend working etc. to continue to facilitate physical/social distancing and public health requirements, where feasible. There should be engagement between management and unions/associations, in line with appropriate arrangements, for any such continued or new arrangements.

1.4 As of 22 October 2021, employers may continue working from home (WFH) arrangements as part of their phased and cautious return approach. The WFH arrangements under COVID-19 guidance should not be seen by employees as permanent arrangements. The HSE Policy on Public Health Service Employees Working From Home during COVID-19 is available [here](#).

1.5 It is expected that the HSE will progress the development of its longer term non-COVID related blended working policy and arrangements, with a view to having them in place by March 2022. The development of the HSE's longer term blended working policy will be informed by the introduction of new legislation which will provide for the right to request to work remotely and the DPER framework document on blended working.¹

1.6 Employers must ensure that all work premises have implemented robust pre-return to workplace procedures, where not already in place, and that all procedures comply with the **Work Safely Protocol** [view here](#). These procedures should be clearly communicated to employees. The Protocol, which is a revision of the previous Return to Work Safely Protocols, was published on 16 September 2021 and incorporates current public health advice. It outlines the measures needed to reduce the spread of COVID-19 and to facilitate the re-opening of workplaces following temporary closures. The Protocol is supported by a guidance note on returning safely to the workplace. For further information on recommended health measures, employers should read the Protocol in detail.

1.7 Employers should ensure that they have properly implemented the advice in the Protocol and ensure that it is tailored, where necessary, to meet the unique set of circumstances pertaining to each workplace location. The HSE's approach to the implementation of this revised Protocol can be found [here](#).

¹ The legislation and the DPER Framework are currently being developed.

1.8 Employers should ensure that the new Protocol is reviewed in respect of all employees i.e. employees required to return to the work premises and those employees who have continued to work on site. There may be additional issues to consider to ensure compliance with the Protocol for those employees who are already working on site.

1.9 All employees have a critical role in ensuring that the procedures of the Protocol are followed to suppress COVID-19 in their workplace. It is incumbent on all employees who are required to attend the workplace to fully comply with their organisation's COVID-19 response plan. Cooperation between employees, the lead worker representative(s) and the employer are fundamental to ensuring that the measures are adhered to.

1.10 HSE HR Memo dated 22 July 2020 sets out the principles for the nomination and appointment of Lead Worker Representative(s) which were agreed with the Health Service Trade Union Group. Organisations should ensure that they continue to communicate with staff on any changes to working arrangements from 20 September onwards, and engage with their Lead Worker Representatives on any future or additional return to work premises plans.

1.11 The Work Safely Protocol COVID-19 Pre-Return to Work Form is one of the measures designed to assist with the safe return to the workplace. Whilst the Return to Work Form is only to be completed once and the form itself does not need to be resubmitted, employers may request employees to reconsider the questions in the return to work form, for example, following an extended period of absence from the workplace due to annual leave or where the employee may only access the work premises infrequently. **Employees should have regard to any changes in their circumstances in relation to the questions and notify their manager/HR immediately.**

1.12 It should be noted that the content of the pre-return to work form is special category data under the General Data Protection Regulations (GDPR). Accordingly, sufficient safeguards must be put in place to ensure that the process for collection, processing and storing of the information is proportionate and secure². The form should be destroyed upon the employee's return to the work premises. Employers may wish to keep a log of employees who have completed the form for audit purposes. Any such log must not contain special category personal data.

1.13 The revised HSE Pre Return to Work Form and other HSE guidance documents on the occupational safety and health implications of the Work Safely Protocol are available at this link:

² <https://dataprotection.ie/en/news-media/blogs/data-protection-and-covid-19>

<https://healthservice.hse.ie/staff/coronavirus/safety-in-the-workplace/managing-employees-return-to-work-safely1.html>

1.14 It is important to emphasise that any employee who is displaying any symptoms of COVID-19 – regardless of vaccination status – does not attend the workplace. The health and wellbeing of employees is of utmost importance. If an employee becomes unwell in the work premises, arrangements should be in place in line with the requirements in the Work Safely Protocol, the Health and Safety Authority, and the Health Protection Surveillance Centre (HPSC) website guidance. These arrangements should be clearly communicated to employees.

1.15 In line with the HSE Contact Tracing Process, if an employee is diagnosed with COVID-19, contact tracers will directly contact all relevant persons who have been in contact with the confirmed case, or the person will be notified through the COVID Tracker App. The instructions of the HSE should be followed and employee confidentiality is essential at all times.

1.16 Employees are encouraged to download the COVID Tracker App to their mobile device as this will assist with the contact tracing process. It should be noted that in incidents where a full Public Health Risk Assessment is undertaken, information from the COVID-19 tracker application is included as part of this assessment. Individuals should follow any actions which are advised by the Medical Officer of Health/Health Protection Medical Team. For information on management of a case or cases (an outbreak) in the workplace, please refer to Appendix 9 in the Protocol and the HPSC *Outbreak Management Guidance* [view here](#).

1.17 The [COVID Tracker App](#) has a feature which has been developed specifically for Health Care Workers and allows employees to pause contact tracing for a period of time and sends a reminder to switch it back on. Health care workers who are wearing appropriate PPE when providing care to patients can use the pause feature to stop them receiving a close contact alert relating to contacts that happen while wearing PPE.

1.18 The Protocol notes that temperature testing should be implemented in line with public health advice. At present there is no general public health requirement to undertake temperature testing/screening in the workplace, apart from in certain workplaces including healthcare settings. If undertaken, the results of temperature testing are considered special category data under GDPR.

1.19 For those attending the work premises, observing physical/social distancing, appropriate hand hygiene and cough and sneeze etiquette are the most important measures individuals can take to protect themselves and others from COVID-19 in the

workplace. Face coverings should not be used in lieu of following physical/social distancing or proper hand and cough etiquette, but they may be used in addition to these protective measures, especially where maintaining physical/social distancing is difficult.

1.20 Health service employees who work in clinical settings are required to wear medical face masks for work purposes and will be advised of this requirement where applicable. Office locations are not currently listed as locations where face coverings must be worn. However, health service employees for whom face coverings are not a mandatory requirement in their substantive role are expected to wear face coverings in places or situations where it may be difficult to achieve or maintain physical/social distancing in line with the Government's advice [here](#). This includes but is not limited to the following:

- When entering and exiting buildings.
- Public access areas of buildings, including receptions/foyers and public counters.
- When moving throughout buildings to toilets, photocopiers, on stairwells etc.
- Canteens and kitchen areas (prior to and after eating) or when using facilities such as boilers, toasters etc.
- Travelling in a vehicle with someone you don't live with.

HSE guidance on staff travel during COVID-19 is available at this link:

<https://healthservice.hse.ie/staff/coronavirus/safety-in-the-workplace/staff-travel-during-covid-19.html>

2. Employees who are identified as being at very high risk for COVID-19

2.1 The HSE has identified a category of persons who are at very high risk and the details of this group are available [here](#). Employees who are in this category can provide their manager with a letter from their treating specialist confirming their very high risk status³.

2.2 Employees deemed to be very high risk, who do not yet have 'significant vaccine protection', should be facilitated to work from home to the maximum extent possible. Managers are required to maintain regular contact with employees in this category who are WFH.

2.3 As our knowledge of COVID-19 has increased, some conditions that previously placed employees in the very high risk category now place them in the high risk category or in some instances in the normal risk category. In addition an employee's risk categorisation may now have changed due to vaccination and/or history of recent confirmed COVID

³ HSE Occupational Health COVID-19 Guidelines: *Guidance on Fitness for Work of Healthcare Workers in the Higher Risk Categories, including Pregnant Healthcare Workers* dated 2nd June 2021

infection. Therefore if an employee has previously been placed in the very high risk category, and their work activities now cannot be performed offsite, then referral to occupational health for updated COVID risk categorisation may be appropriate to see if they can resume onsite.

2.4 In instances where an employee is very high risk and has been advised to work from home, and their current role is not suitable for remote working, then they may be assigned work outside their usual core duties/given a new role.

2.5 Please refer to the HSE's Occupational Health guidance document: *Guidance on Fitness for Work of Healthcare Workers in the higher risk categories including Pregnant Healthcare Workers*.

The latest Occupational Health guidance documents for COVID-19 are available from the HSE's website [here](#).

3. Employees who are at high risk for serious illness from COVID-19

3.1 Employers should continue to facilitate employees in the high risk category, as defined in the HSE website, where possible in terms of flexible working arrangements.

<https://www2.hse.ie/conditions/coronavirus/people-at-higher-risk.html>

This may include working remotely where the manager determines that such arrangements are appropriate to the service needs. Employers are working to implement measures to ensure the safety of the workplace for all employees, as provided for in the Return to Work Safely Protocol.

3.2 Employees in the high risk category who are required to attend the work premises, in accordance with [HSE advice](#), should take extra care to practise physical/social distancing where possible and wash their hands regularly and properly

Please refer to the HSE's Occupational Health *Guidance on Fitness for Work of Healthcare Workers in the higher risk categories including Pregnant Healthcare Workers* [here](#).

UPDATED 4. COVID-19 Special Leave with Pay Arrangements

See updated Quick Guide for Public Service Employers (Appendix D)

4.1 Special leave with pay for COVID-19 (SLWP for COVID-19) is used in lieu of sick leave for COVID-19 to assist in the prevention of the possible onward spread of COVID-19 in the work premises. SLWP for COVID-19 applies to eligible public servants only.

Employers/managers will need to determine which workers fall into the category of public

health service employees. The arrangements relating to the application of SLWP for COVID-19 are temporary and will be kept under regular review.

4.2 SLWP for COVID-19 will only apply when an employee is advised to self-isolate **and** is displaying symptoms of COVID-19, or had a positive test. Appropriate medical/HSE confirmation of the need to self-isolate and/or a diagnosis of COVID-19 will be required for the duration of the absence. The HSE website sets out the latest criteria for self-isolation [view here](#). SLWP **does not** apply to employees who are restricting their movements, or are self-isolating due to being a close contact of a variant of concern, or who are in the very high risk category and advised to WFH.

4.3 SLWP for COVID-19 only applies to employees who were rostered or due to be working. SLWP for COVID-19 cannot be substituted for other forms of leave, for example, sick leave.

4.4 From 1 January 2021, in instances where an employee has a medical diagnosis/confirmed case of COVID-19, SLWP may continue for up to calendar 28 days⁴ if necessary and where it is supported by a positive test for COVID-19 and ongoing medical certification. If an employee is still unwell after 28 days they will move to ordinary sick leave arrangements.

4.5 SLWP may be extended beyond 28 days for certified COVID-19 related illness in circumstances where a manager determines that all four criteria below are met:

- (i) An employee had been in the work premises at any time during the 14 days prior to commencing the self-isolation period of a positive case of COVID-19. The work premises includes any location, outside the home, an employer requires an employee to attend as part of their work role, e.g. in community settings, home visits. The attendance at the work premises/on site must have been known to and/or approved by the manager in advance.

⁴ Separate unrelated instances of absence due to HSE/medical advice to self-isolate due to COVID-19 are not cumulative for the purpose of determining whether the 28-day limit has been reached e.g. if an employee was medically advised to self-isolate in 2020 and was absent on SLWP for COVID-19 for a total of 14 days, this has no bearing on their SLWP entitlement if they are absent in January 2021 on foot of medical/HSE advice to self-isolate. Each instance of self-isolation based on HSE/medical advice is treated separately and the first day of absence in January 2021 would be treated as day 1 of the absence for the purpose of applying SLWP for COVID-19. Whilst there is no maximum limit on the number of instances for which SLWP may be granted, appropriate medical/HSE confirmation of the need to self-isolate and/or a diagnosis of COVID-19 will be required in order to be eligible for payment.

- (ii) The employee provides their employer with medical evidence of a positive COVID-19 test⁵ including the date of this test.
- (iii) In accordance with the employer's standard management referral process, the Occupational Health Physician (OHP) confirms that the employee is medically unfit to resume work. How this will work in practice in Section 38 organisations will be based on the normal arrangements that apply for medical referrals to determine an employee's fitness to resume work during sickness absence.
- (iv) The OHP confirms that the employee's absence relates primarily to ongoing COVID-19 illness, and that they are accessing medical care.

Please refer to [HSE HR Circular 73/2020](#) for further details on the application of SLWP for COVID-19.

4.6 The general principles applying to the management of sick leave, as outlined in the HSE's *Managing Attendance Policy and Procedure* and *HSE Rehabilitation of Employees Back to Work after Illness or Injury Policy*, will continue to apply. This includes the requirement for managers and employees to maintain regular contact during the period of special leave with pay. Both policies are available [HERE](#). Section 38 organisations should refer to their relevant HR policies and procedures.

4.7 Employees who were tested because they had symptoms of coronavirus and receive a **negative test result** should continue to self-isolate until they have not had any symptoms for 48 hours. They can return to normal activities once 48 hours without symptoms.

Employees who are asymptomatic and well enough to work from home prior to and/or during the 48-hour self-isolation period should be facilitated to work from home.

If an employee is unfit to work due to a non-COVID-19 illness, the normal sick leave scheme will apply.

4.8 SLWP while absent from work due to COVID-19 is based on basic salary and fixed allowances only except for those employees who come within the scope of [HSE HR Circular 064/2020 Special Leave with Pay for COVID-19 Premium Payments](#). This Circular should be read in conjunction with [HSE HR Circular 13-2021](#) which sets out the two methodologies which may be applied, depending on the circumstances, for the purposes of calculating the unsocial hours premium pay element. Please note that "unsocial hours premium earnings"

⁵ It is recognised that at the start of the pandemic, universal COVID testing was not available. Thus, on a case-by-case basis, medical evidence that the clinical presentation indicated a high probability of COVID-19 may suffice.

is an umbrella term that refers to a variety of premium payments/allowances based on an employee's rostered hours of work which vary depending on the roster worked in a specific period. It includes, but is not limited to, night duty (T1/4), time and one-sixth (T1/6), Saturday allowance, Sunday premium, regular on-call etc. The calculation excludes overtime payments with the exception of regular and rostered overtime payments.

4.9 The total payment is made by the employer. Public servants who can avail of SLWP for COVID-19 are excluded from claiming the special DEASP COVID-19 illness benefit payment. Any instances of public health service employees found to be in receipt of both special leave with pay and the COVID-19 illness benefit will be subject to disciplinary action and the appropriate amount shall be recouped from his/her salary.

4.10 When granting SLWP, health service employees are expected to comply at once with any directions which may be given by his/her employer and to take all practicable steps to resume duty as soon as possible. Otherwise, unless adequate reason is shown for non-compliance, the question of withholding pay will arise.

4.11 In the event of non-compliance with the provisions of SLWP (including the requirement to provide bona fide confirmation of self-isolation/diagnosis of COVID-19) the disciplinary procedure may be invoked.

4.12 Employees are **not** entitled to days in lieu of any public/bank holidays that occur whilst in receipt of SLWP.

4.13 Note that at any stage if an employee states that they feel well enough to work, but have tested positive for COVID-19 or are self-isolating because they were symptomatic, the employer may facilitate working from home instead of special leave with pay, if this is feasible and agreeable to both parties.

4.14 In the case of employees who contracted COVID-19 and are on long-term absence due to long COVID, the Occupational Health Physician (OHP) may recommend a phased return to work as part of the employee's rehabilitation plan. If the employee is still in receipt of SLWP⁶ they continue to retain access to SLWP during the phased return to work subject to the following conditions:

- (i) In accordance with the employer's standard management referral process, the Occupational Health Physician (OHP) carries out a medical assessment and recommends a phased return to work, on a temporary basis, in line with the

⁶ The maximum 28-day limit for SLWP for COVID-19 does not apply to employees who satisfy the conditions set out in section 3 of [HSE HR Circular 73/2020](#).

employer's Rehabilitation Policy (or equivalent policy). The specific time limit for the temporary phased return arrangement should be determined on a case-by-case basis.

- (ii) SLWP may apply, subject to defined time limits, to the portion of contracted hours that the employee is deemed temporarily unfit to work due to the medically certified COVID-related illness.
- (iii) During the phased return, the OHP confirms that the employee is accessing appropriate medical care and rehabilitation supports.
- (iv) The employee will be required at all times to comply with their employer's HR policies and procedures governing sickness absence, such as the organisation's Managing Attendance Policy and Rehabilitation Policy, and to co-operate with medical referrals by the employer.

5 Recording of medical/HSE advice to self-isolate

5.1 The DPER FAQs state that appropriate medical/HSE confirmation of the need to self-isolate and/or a diagnosis of COVID-19 will be required. In the event that written confirmation is not available, the recording of medical or HSE advice to self-isolate will take the form of a self-declaration. This does not mean that employees can voluntarily choose to self-isolate. Medical/HSE advice will be required, however the reporting of same may take the form of a self-declaration in certain circumstances, where it is accompanied by text message confirmation, for example. In such cases the employee will be required to complete the *Self-Declaration Form for Special Leave with Pay* and submit to his/her manager for approval. In instances where the employee has undertaken a COVID-19 test, they may be required to provide the results to their employer, for example for occupational health purposes and to determine eligibility for SLWP for COVID-19.

5.2 Please refer to the following documents which are available [at this link](#):

- Procedure for public health service employees and managers for absences due to COVID-19 Appendix B
- COVID-19 Self-Declaration Form for Public Health Service Employees for Special Leave with Pay⁷ Appendix C

5.3 Please refer to ***HR Memo re COVID-19 Revised Incident Reporting Requirements*** (dated 13 January 2021) for information on reporting certain cases of COVID-19 to the Health and Safety Authority (HSA).

6. Recording Special Leave with Pay for COVID-19

⁷ This Form is intended solely for those employees who meet the criteria for special leave with pay as set out in the DPER FAQs but do not have access to medical certification.

6.1 SLWP for COVID-19 is being used in place of normal sick pay for public servants and should be recorded separately as “**Covid-19 Paid Leave**”. This separate classification is important for the following reasons:

- (i) to ensure that periods of COVID-19 absences covered by SLWP do not impact on an employee’s entitlements under the public service sick leave scheme, and
- (ii) to comply with DPER/Department of Health directions to provide an aggregate summary of data/costings for the public health sector. The HSE and each Section 38 employer is required to ensure that relevant data⁸ and all expenditure in relation to special leave with pay for COVID-19 can be tracked separately in order to ensure that all exceptional spending on COVID-19 within the health sector is capable of being identified and reported on at national level.

6.2 Please refer to ***HR Circular HR Circular 016/2021- Revised arrangements for Monthly and Weekly Absence Reporting***

<https://www.hse.ie/eng/staff/resources/hr-circulars/hr-circular-016-2021-revised-arrangements-for-absence-reporting-.pdf>

6.3 Any non-COVID-19 illness will be recorded as ordinary sick leave and the usual rules governing the public service sick leave scheme will apply.

UPDATED 7. Employees who are required to restrict their movements following close contact with a confirmed COVID-19 case

7.1 The HSE sets out the latest criteria for restricted movements including (i) following close contact with a confirmed case of coronavirus and (ii) living with someone who has symptoms of coronavirus. For individuals who are fully vaccinated or had a positive COVID-19 test in the last 9 months and have no symptoms there is no requirement to restrict movements as a close contact of a confirmed case⁹ unless specifically requested to do so by Public Health. Individuals who are not fully vaccinated will need to restrict their movements and get tested. Please see the HSE information at this link [at this link](#).

7.2 SLWP for COVID-19 does not apply to employees who are required to restrict their movement as they are not ill. Where an employee is required to restrict their movements the employer must facilitate working from home. If remote working in an employee’s current role is not feasible, then the assignment of work may be outside of their usual core duties. Employees must cooperate with all such flexibilities while they are required to restrict their movement or self-isolate. In all such cases, employees remain available for

⁸ <https://dataprotection.ie/en/news-media/blogs/data-protection-and-covid-19>

⁹ In certain instances a weakened immune system may change this guidance – the contact management team will advise based on the individual’s circumstances.

work whilst at home, where they have been advised to restrict their movements as a precautionary measure.

7.3 Managers should refer to the HSE Workplace Health & Wellbeing Unit's Guidelines:

- ***Occupational Health Interim Guidance for Coronavirus.***
- ***Derogation for the Return to Work of Healthcare Workers (HCW)***

The latest Occupational Health COVID-19 Guidance Documents are available [at this link](#).

7.4 This FAQ does not apply to employees who are required to quarantine in line with Government advice arising from travel abroad (see section 16).

8. Return to the work premises after a positive case of COVID-19

8.1 Please note that this FAQ relates to a return to work in the employer's work premises. These arrangements do not preclude employees from returning to work at home at an earlier stage if this is feasible, depending on the situation of each case.

8.2 The HSE advises that in cases of confirmed COVID-19 infection, an employee needs to be 10 days post onset of symptoms and also 5 days fever free (which may run concurrently) before returning to the workplace. Please note that the 10 days is

- from the date of onset of symptoms, if the employee was **symptomatic**, and not the date of receiving a positive COVID-19 test result; and
- from the date of the swab being carried out, if the employee was **asymptomatic** during the course of self-isolation, and not the date of receiving the positive test result. If the employee becomes symptomatic during those 10 days, s/he must recommence the 10-day self-isolation from the date these symptoms began.

8.3 Please note that in the case of healthcare workers, there is a requirement to adhere to the provisions set out in the HSE ***Interim Guidance for Coronavirus - Healthcare Worker Management By Occupational Health*** [here](#).

9. Employees with caring responsibilities

9.1 There is no special paid leave available for COVID-19 caring arrangements during this time.

9.2 Any employee who wishes to avail of existing leave allowances during this time should submit their request to their manager in the normal manner. This includes annual leave, parental leave and other leave schemes to which the employee may be entitled.

Managers should consider such requests in light of service requirements and the employee's particular circumstances.

10 Employees who live with very 'high risk' individuals

10.1 Employees who are required to attend the workplace and who live with very high-risk individuals should follow the HSE guidelines to protect themselves and to minimise risk of transmission. The implementation of the Work Safely Protocol is intended to minimise the risk of transmission in the workplace.

11 Employees attending a COVID-19 vaccination appointment

Where an employee in the public service has an appointment to attend a COVID-19 vaccination during working hours, they will be facilitated to attend.

12 Employees who may have a reaction to a COVID-19 vaccination

12.1 Where there may be a reaction to a COVID-19 vaccination and the employee is unfit for work, then the provisions of the public service sick leave scheme apply.

12.2 Employees who display symptoms of COVID-19 after vaccination may be granted SLWP for COVID-19 provided they satisfy the qualifying criteria as set out in section 4.2 of this Circular.

13 Legal basis for processing employee data in relation to COVID-19

Health service employers are obliged to provide a safe workplace, which may include the processing of health data in order to ensure that safety. Articles 6(1)(c), 9(2)(b) and (g) of GDPR, along with section 53 of the Data Protection Act, 2018 (which permits the processing of special categories of personal data for purposes of public interest in the area of public health) will likely be the most appropriate legal bases for processing this data.

For further information please visit the [Data Protection Commission website](#).

14-Requesting information on whether an employee has had COVID-19 or been vaccinated

14.1 As noted in the Work Safely Protocol the decision to get a vaccination against COVID-19 is voluntary and employees will therefore make their own individual decisions in this regard. Please refer to the *HSE Risk Assessment for COVID-19 Vaccination Guidelines for Healthcare Workers (dated 12 July 2021)*.

14.2 Employers may ask employees for information in relation to their COVID-19 special category data in certain circumstances, for example, an employee who requests to avail of special leave with pay will be required to provide details of the results of their COVID-19 test.

. At all times the data collection and processing must be necessary, proportionate and safeguarded.

15. Availing of annual leave during COVID-19¹⁰

15.1 Managers should ensure to the maximum extent possible that employees continue to avail of their total annual leave entitlement within the current leave year, subject to essential service requirements. Managers should forward plan based on service needs and consult with their employees on the scheduling of annual leave throughout the current annual leave year. This is to ensure that employees are afforded an opportunity to avail of their annual leave entitlement for health and safety reasons, in line with the Organisation of Working Time Act 1997. It is also important to ensure that annual leave is taken to avoid the unnecessary accumulation/carryover of untaken leave, which may have an impact on service continuity at a later date. Managers are required to ensure that, at a minimum, employees avail of their statutory annual leave entitlement and the carryover of leave (where deemed appropriate) is subject to service needs and prior management approval.

Please refer also to HR Circular [HR Circular 03/2021](#) – **Frontline Healthcare Employees and Carryover of Annual Leave during COVID-19**.

15.2 In the event that an employee falls ill during a period of annual leave, section 19(2) of the Organisation of Working Time Act 1997 provides as follows:

A day which would be regarded as a day of annual leave shall, if the employee concerned is ill on that day and furnishes to his or her employer a certificate of a registered medical practitioner in respect of his or her illness, not be regarded, for the purposes of this Act, as a day of annual leave.

This provision applies regardless of the nature of the employee's illness (including COVID-related illness) provided the employee submits a certificate from a registered medical practitioner in respect of the illness. If an employee satisfies this requirement, any period of pre-booked annual leave that occurs during the period of medically certified illness should be treated as postponed annual leave that the employee is entitled to avail of at another time.

UPDATED 16. Leave Arrangements for employees on return from travel overseas

16.1 From 25 September 2021, new advice and rules for international travel came into effect in Ireland and further information is available on [gov.ie at this link](#). For information

¹⁰ This applies to all employees including those who are working from home on a temporary basis due to COVID-19.

on the EU Digital COVID Certificate (DCC) for travel originating within the EU/EEA, refer to [gov.ie at this link](#).

16.2 Employees who intend to travel abroad should ensure that they are aware of any testing and quarantine requirements in place at the time of travel, and pertaining to their own circumstances, both for their intended destination and on return to Ireland. Where a restricted movement period is required as a result of travel, all employees must make provision by way of an annual leave or unpaid leave application (which may include parental leave where eligible) for that period of restricted movement. This arrangement is applicable to all public health service employees regardless of whether they can work from home. The employee's leave application must be approved by the manager in advance and a record retained.

16.3 An emergency brake system may be applied quickly to countries where a variant of concern or interest arises. Employees should be aware that whatever restricted movement/quarantine requirements are in place and applicable to them on their date of return to Ireland will apply. Employees are required to notify their employer as soon as possible if they have to take additional annual leave or unpaid leave in order to satisfy any restricted movement (quarantine) requirement.

17 Employees on Probation

17.1 A flexible and pragmatic approach to the management of staff on probation for both new entrants and promotions should be adopted. The assessment of a probationer's performance should continue and can take place remotely where necessary. Managers should ensure that they have set clearly defined objectives and duties that continue to be evaluated on an ongoing basis, in line with the usual probationary process. Managers should continue to provide support to enable the employee to perform to the required standards and demonstrate their suitability in the position to which they were appointed.

17.2 A probationary period which has been paused should be resumed when the probationer returns to duties that allow for probation to be assessed adequately. If a probation process has been paused, the manager should formally and clearly communicate to the employee a timeframe for resumption and a written record should be kept on the employee's file.

18. Flexi-time arrangements

18.1 The normal operation of flexi-time or equivalent attendance management systems, including any flexi-time accruals and deficits, continues to remain temporarily suspended for those employees who are working under different arrangements. This includes those who

are working from home and working different shift patterns etc., which are required in order to support social distancing and public health requirements.

18.2 Flexi-time arrangements were re-introduced with effect from 24 August 2020 and/or commencement of the organisation's next viable flexi period. This arrangement applies only in circumstances where employees are attending the employer's work premises and are working their normal, pre-COVID work attendance patterns.

18.3 For those employees where flexi-time remains temporarily suspended, this arrangement does not preclude employers from using clocking-in and out arrangements for monitoring purposes. Any balances accrued by employees before the suspension of flexible working hours arrangements can continue to remain and be held over until the COVID-19 working arrangements are no longer in place.

19. Employees on unpaid leave

19.1 The COVID-19 pandemic unemployment payment is designed as a short-term response to those who are fully unemployed as a result of the pandemic. In the public health service, there exists a range of leave arrangements, underpinned by job security, which employees may avail of during this period e.g. parental leave etc. These leave arrangements, along with the flexible and innovative work attendance regimes and scope for temporary reassignment within the health service, mean that the pandemic unemployment payment is not available in such circumstances.

20 Remote working and claiming tax relief

20.1 Public service employees are not entitled to a daily allowance in respect of working from home during COVID-19. It is open to employees to make claims directly from Revenue in respect of actual costs incurred in working from home at the end of the relevant tax year, in accordance with the relevant tax laws. Any claim in this regard is solely a matter for the individual concerned. Further details for individuals on how to claim expenses on tax returns are available from Revenue at www.revenue.ie Please refer to National HR Memo dated 19 May *Tax Relief for Expenses incurred working from home during the COVID-19 pandemic*.

Please ensure that this Circular and related documents are brought to the attention of managers within your area of responsibility and that updated information is disseminated to all employees (including those who are absent from work on any type of leave).

Queries

Queries from individual employees or managers should be referred to local HR/Employee Relations Departments. Please note that the National HR Helpdesk is also available to take queries from employees Tel: 1850 444 925 Email: ask.hr@hse.ie .

Queries on the occupational safety and health implications of the Work Safely Protocol may be referred to the HSE National Health and Safety Function (NHSF). Log your request at:

<http://www.hse.ie/safetyandwellbeing> or go to:

<http://pndchssdweb02.healthirl.net/Health.WebAccess/ss>

Alternatively contact the National Health & Safety Helpdesk Tel: 1850 420 420

Queries on the HSE Workplace Health & Wellbeing Unit's Covid-19 Occupational Health Guidance Documents may be referred to hr.wellbeing@hse.ie.

Queries from HR/Employee Relations Departments on other aspects of this Circular and related documents may be referred to info.t@hse.ie, National Employee Relations, HR Directorate, 63-64 Adelaide Road, Dublin 2 Tel: 01 6626966 Email: anna.killilea@hse.ie

Yours sincerely



Anne Marie Hoey

National Director of Human Resources



Need information and advice on COVID-19 Go to www.hse.ie/coronavirus