



Oifig an Stiúirthóra Náisiúnta, Acmhainní Daonna

Feidhmeannacht na Seirbhísí Sláinte

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Each Group Director of Midwifery
Each Clinical Director
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From: Anne Marie Hoey, National Director of Human Resources

Date: 26th August 2020

Re: HR Circular 057/2020 Guidance and FAQs for Public Service Employers during COVID-19 in relation to working arrangements and temporary assignments across the Public Service (with effect from 30 July 2020 unless otherwise stated).

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 (with effect from 24 August 2020 unless otherwise stated)**. 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 at this link:

<https://www.gov.ie/en/news/f819e5-covid-19-information-for-civil-and-public-servants/>

The changes to the DPER FAQ document are:

1. 1.1 Who should attend the employer's work premises?
2. 2.1 Should employees who are at high risk for serious illness from COVID-19 attend the work premises?
3. 4.2 Is special leave with pay available for caring responsibilities?
4. Removal of 4.3 (old section number) from previous version: What arrangements are in place for childcare for essential healthcare workers?
5. 4.3 (updated section number) Should employees who live with very high risk individuals attend the work premises?
6. 5.2 How should probation be managed during COVID-19?

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

Section 1: Attendance in the work premises during COVID-19

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

Section 9: Employees with caring responsibilities

Section 10: Employees who live with very 'high risk' individuals

Section 14: Employees on Probation

1. UPDATED: Attendance in the work premises during COVID-19

1.1 As per the Government announcement of 18 August, employees should only attend the workplace where it is essential for them to do so. Employers will determine what roles are required to be done in the workplace to ensure that important services continue to be provided to the public. The advice states that these measures will be in place until at least 13 September 2020.

Any continuation of working from home (WFH) arrangements will be kept under review. The *HSE Policy on Public Health Service Employees Working from Home during COVID-19* is available at:

<https://www.hse.ie/eng/staff/resources/hr-circulars/hr-circular-056-2020-hse-policy-on-public-health-service-employees-working-from-home-during-covid-19.html>

1.2 Employers must ensure that all workplaces have implemented robust return to workplace procedures, where not already in place, and that all procedures comply with the *Roadmap for reopening society and business* and the *Return to Work Safely Protocol*. These procedures should be clearly communicated to employees. The Return to Work Safely Protocol sets out the steps that

employers need to take in order to ensure the employer's work premises is safe during COVID-19. The HSE's approach to the implementation of this Protocol can be found [here](#). Employers should ensure that the 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.

1.3 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.

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.

1.4 The pre-return to work form is one of the measures in the Return to Work Safely Protocol designed to assist with the safe return to the workplace following the COVID-19 lockdown. Any employees who were not present in the workplace prior to the introduction of the Protocol on 9 May 2020 are required to complete a Return to Work Form. The form must be completed at least three days before an initial return (the three day timeframe can include rest days). Whilst the form is only to be completed once, for those who have not returned prior to 9 May, employees should have regard to any changes in their circumstances in relation to the questions and notify their manager/HR if there are any changes. Managers will need to review the questionnaires to ensure it is safe for their staff to return to work.

1.5 It should be noted that the content of the pre-return to work form is considered special category data under the General Data Protection Regulations (GDPR). Accordingly, appropriate safeguards must be put in place to ensure that the process for collection, processing and storing of the information is proportionate and secure¹. 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.

A HSE Pre Return to Work Form and other guidance documents on the occupational safety and health implications of the Return to Work Safely Protocol are available on the [National Health and Safety Function webpages](#).

1.6 It is important to emphasise that any employee who is feeling unwell should not attend the workplace. This applies to any transmissible illness during this Covid-19 emergency period. 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 Protocol.

¹ <https://dataprotection.ie/en/news-media/blogs/data-protection-and-covid-19>

Please note that up-to-date HSE Occupational Health guidance documents can be accessed online [here](#).

National Health & Safety Guidance for Management of Suspected COVID-19 Cases is available at this link:

<https://www.hse.ie/eng/staff/safetywellbeing/healthsafetyand%20wellbeing/safetystatementsandriskassessments.html>

1.7 If an employee is diagnosed with COVID-19 the HSE will directly contact all relevant persons who have been in contact with a confirmed case in line with the HSE Contact Tracing Process. The instructions of the HSE should be followed and employee confidentiality is essential at all times.

1.8 Employees are encouraged to download the Contact Tracing App to their mobile device as this will assist with the contact tracing process.

1.9 Whilst the Protocol notes that temperature testing should be implemented in line with public health advice, the HSE currently does not recommend temperature testing in the workplace, with the exception of certain healthcare settings. If undertaken, the results of temperature testing are considered special category data under GDPR.

2. Employees who are identified as being at very high risk (extremely vulnerable) and are advised to cocoon

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](#). The advice for this group is to cocoon and advice on this is available [here](#). Employees should declare to their manager if they believe that they are at very high risk of COVID-19. Managers should consult their Occupational Health service in relation to employees who are in the very high risk category, or to determine whether an employee falls into this category.

2.2. Please refer to the HSE's Occupational Health guidance documents:

(i) Pregnant Healthcare Workers, Very High Risk (Vulnerable) Healthcare Workers and High Risk (Other Pre-Existing Disease) Healthcare Workers Version 6.1.

(ii) Guidance on Fitness for Work of Healthcare Workers in the higher risk categories

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

2.3 Employees deemed to be very high risk and advised to cocoon should be facilitated to work from home to the maximum extent possible. Where an employee is very high risk, is cocooning, and working from home in their current role is not feasible, then they may be assigned work outside their usual core duties/given a new role.

2.4 It is the responsibility of employers/managers to provide practical support and assistance to ensure that employees are kept engaged and provided with suitable work. As employees in this situation may be assigned alternative duties, they will continue to be paid their normal basic salary and fixed allowances (where applicable) pending identification/assignment of appropriate duties. Employees in this situation are considered to be available for duty and therefore should **not** be treated as being on special leave with pay for COVID-19, ordinary sick leave, annual leave or any other type of leave (unless such leave was already pre-booked/confirmed in the normal manner).

3. UPDATED: 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 social distancing where possible and wash their hands regularly and properly. Appropriate measures may need to be considered for employees in the high risk category in the work premises where maintaining social distancing is difficult.

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

4. Temporary Assignment Scheme (TAS)

4.1 As organisations move back towards resuming business as usual, the TAS has been deactivated, with the facility to reactivate quickly should the need arise to meet a resurgence of COVID-19. In line with this advice, communications have already issued to each HSE manager with temporary assignees from the scheme, co-ordinated via the National Redeployment Office, on the deactivation arrangements. In the event of reactivation of the TAS, the arrangements under HSE HR Circular 022/2020 will apply. The local arrangements between Higher Education Institutes and services will continue to be managed outside of this scheme.

5. COVID-19 Special Leave with Pay Arrangements

5.1 The COVID-19 special leave with pay arrangements apply to public servants only. Employers/managers will need to determine which workers fall into the category of public health

service employees. Managers are required to refer to the updated DPER FAQs to determine which employees are eligible for special leave with pay for COVID-19.

5.2 Special leave with pay while absent from work due to COVID-19 is based on basic salary and fixed allowances only and excludes unsocial hours premium payments. The total payment is made by the employer. **Public servants who can avail of the special leave with pay 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.

5.3 Employees are **not** entitled to days in lieu of any public/bank holidays that occur whilst in receipt of special leave with pay for COVID-19.

5.4 Special leave with pay 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/advice of the need to self-isolate and/or a diagnosis of COVID-19 will be required.

5.5 Special leave with pay only applies to periods of medically/HSE recommended self-isolation, and also to medical diagnoses of COVID-19 infection **where the employee is not well enough to work from home.** The HSE sets out the latest criteria for self-isolation [view here](#). Special leave with pay to eligible employees will apply for the number of days advised by the HSE/doctor. An employee is required to adhere to medical or HSE advice.

5.6 If an employee who is self-isolating due to COVID-19 symptoms receives a **positive test result**, the special leave with pay for COVID-19 will continue to apply based on the employee's medical certification. Please note that the total period for which special leave with pay for COVID-19 may be granted in these circumstances is not limited to 14 days.

5.7 If an employee who is self-isolating due to COVID-19 symptoms receives a **negative test result**, the special leave with pay for COVID-19 will cease to apply from the date that the test result is received. If the employee is unfit to return to work due to a non-COVID-19 illness, the normal sick leave scheme and rules will apply for the remainder of the absence.

5.8 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.

5.9 When granting special leave with pay, 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.

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

5.11 The HSE sets out the latest criteria for restricted movements including following close contact with a confirmed case of coronavirus.

<https://www2.hse.ie/conditions/coronavirus/managing-coronavirus-at-home/if-you-live-with-someone-who-has-coronavirus.html>

Special leave with pay for COVID-19 does not apply to employees who are required to restrict their movements as a precaution as they are not ill. The employer must therefore 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 restricting their movements. In all such cases, employees remain available for work whilst at home, where they have been advised to restrict their movements as a precautionary measure.

This FAQ does not apply to employees who are required to restrict their movements arising from travel abroad (see section 12).

6. Recording of medical/HSE advice to self-isolate

6.1 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 will take the form of a self-declaration where the employee does not have access to written medical certification. 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. Please ensure that the following information is distributed to managers and employees:

- Procedure for public health service employees and managers for absences due to COVID-19
- COVID-19 Self-Declaration Form for Public Health Service Employees for Special Leave with Pay²

² 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.

These documents are available at Appendix B and C [here](#).

7. Recording Special Leave with Pay for COVID-19

7.1 Special leave with pay 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 special leave with pay 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 data³ 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.

7.2 Please refer to *HR Circular 038/2020* and related documentation on national collection of data for COVID-19.

7.3 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.

8. Return to the workplace post having had COVID-19 infection

8.1 Please note that this FAQ relates to a return to work in the workplace. 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 14 days post onset of symptoms and also 5 days fever free (which may run concurrently) before returning to the workplace. Please note that the 14 days is

- (i) 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
- (ii) 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.

³ <https://dataprotection.ie/en/news-media/blogs/data-protection-and-covid-19>

9. UPDATED: Employees with caring responsibilities

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

The working from home provision under CERS memo 24/2020 will cease to apply with effect from 24 August 2020.

10. UPDATED 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 Return to Work Safely Protocol is intended to minimise the risk of transmission in the workplace.

11. Availing of annual leave during COVID-19

11.1 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 to National HR memo dated 25 May re *COVID-19 Annual Leave*.

12. Leave Arrangements for employees on return from non-essential travel overseas

12.1 The Government has advised that the safest thing to do is not to travel overseas.

Anyone coming into Ireland (apart from Northern Ireland and individuals arriving in Ireland from locations with a security rating of normal precautions "green"), is required to restrict their movements for 14 days. Responsibility to provide for the period of restricted movement arising from

non-essential travel overseas is a matter for each individual employee. In order to protect public health, employees are required to advise their manager of any intention to travel overseas.

12.2 Where there is an intention to travel overseas, all employees must make provision by way of an annual leave or unpaid leave application for the additional period of restricted movement. This arrangement is applicable to all civil and public servants regardless of whether they can work from home.

12.3 Should an employee return from a “green” country there will be no requirement to restrict their movements. However, employees should continue to notify their manager of their intention to travel overseas as the security rating of countries will be regularly reviewed and may change. *Employees should be aware that whatever restricted movement requirements are in place on their date of return to Ireland will apply to them.* Employees should be advised to log on to www.dfa.ie immediately prior to their return to Ireland to ensure they are fully apprised of any changes to the security rating of countries, and any necessary requirement to restrict their movements.

Please also refer to HSE HR Circular 49/2020 linked [here](#).

13 Management of employee relations processes during COVID-19

13.1 The operation of employee relations processes such as performance management, dignity at work, discipline and grievance should continue in accordance with CERS Memo 37/2020: *Resumption of Grievance, Disciplinary and other HR processes – COVID-19.* The objective is to continue facilitating a fair and timely process, whilst protecting the health and safety of the various parties involved.

14. UPDATED: Employees on Probation

14.1 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.

14.2 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.

15. Flexi-time arrangements

15.1 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.

15.2 Flexi-time arrangements will be 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.

15.3 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.

16. Employees on unpaid leave

16.1 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.

17 Remote working and claiming tax relief

17.1 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 updated FAQ document 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.

Queries on the occupational safety and health implications of the Return to Work Safety Protocol should be referred to the National Health and Safety Function,

<http://pndchssdweb02.healthirl.net/Health.WebAccess/ss>, Helpdesk 1850 420 420.

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

Please note that the National HR Helpdesk is also available to take queries on 1850 444 925 or ask.hr@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

