

FAQ for HSE HR Circular 068/2020

Additional information may be added periodically.

Key points of note:

Together with the listed eligibility criteria, the contracting documents for all Temporary Higher Appointments (THA) are key in the assessment of eligibility. In particular, note that the Circular does not apply to those on Specified Purpose Contracts (SPC) where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC.

*Where reference is made in this document to all eligibility criteria, this includes review of the contracting documents to ensure that they are not the category of SPC excluded by this circular.

1.	Are employees who were in a temporary higher appointment SPC since 2018 but moved to another post in May 2020 comprehended? The terms of the Circular confirm the eligibility criteria to include that he/she "...must have held the single specific post on a temporary higher appointment basis continuously since the first appointment date." If there were 2 or more THA's in different posts within the periods required, the person is not encompassed by this circular.
2.	Employees who were in the same grade temporary higher appointment since 2018 but have had different SPC posts within that time. Their current SPC is a permanent post. The terms of the Circular confirm the eligibility criteria to include that he/she "...must have held the single specific post on a temporary higher appointment basis continuously since the first appointment date." As above if there are a number of THAs filled within the period (on or prior to 1 st January 2019 and continuing) the person is not encompassed by the circular. The nature of the contract also needs to be carefully examined to ensure that this is not excluded per the Circular.
3.	Employee in a temporary higher appointment SPC since 2017. Request by Management to move to another SPC in 2020 due to service requirements. Now back in the original temporary higher appointment SPC. The terms of the Circular confirm the eligibility criteria to include that he/she "...must have held the single specific post on a temporary higher appointment basis continuously since the first appointment date." By the dates provided and the moves between THA's, the person is not encompassed by the circular.
4.	Person 1 with a substantive post @ grade 4 at Dec 2018. Post holder promoted to an SPC as a Grade 5 in Dec 18, and a further SPC as a 6 in Dec 19. Are they comprehended by the circular? Is Person 2 who backfilled the SPC at Grade 4 and remained in position now eligible? Are they being regularised into the substantive post held by the Grade 4. What happens the Grade 6 if they want to return to their substantive 4 if the SPC at G 6 is likely to come to an end? Person 1 is not comprehended as they did not have a single specific post during the eligibility period.

	<p>Person 2:</p> <p>By the dates provided, the employee who backfilled the Grade 4 may be encompassed by the Circular. However, the nature and detail of the contract, the linkages to the other contracts in this chain and obligations therein should be examined carefully. If the Grade 6 is likely to come to an end, the contracting of the backfill at Grade 4 should have been contracted in a linked manner accordingly. In addition, the terms of the Circular confirm instances where the Circular does not have application to include "... those on Specified Purpose Contracts where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC.</p>
5.	<p>What is the effective date of the circular?</p> <p>The effective date is 15th December 2020.</p>
6.	<p>Scenario – Staff member in receipt of a SPC who meets the criteria of the Circular but does not have the qualifications to be permanently employed - should they still be regularised?</p> <p>The terms of the Circular confirm instances where the Circular does not have application to include "... those on Specified Purpose Contracts where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC. Therefore the contract must be examined in the first instance. If the SPC does not exclude the employee from this circular and all eligibility criteria(see above) are met, the employee would be comprehended by this Circular.</p> <p>The issue of qualifications is an issue which can't be dealt with under this Circular and is a matter for the local employer to resolve in line with other circulars covering these matters.</p>
7.	<p>If someone's start date was 02.01.19 are they comprehended by the Circular?</p> <p>Employee start date is beyond the date outlined in the Circular, therefore they are not comprehended.</p>
8.	<p>If someone was in the post from Dec 2018 but not put up on SAP until 05/01/2019 can they be comprehended under 068/2020?</p> <p>The contracting document provides the data here. If the employer can confirm the person were employed and paid from a date on or prior to 1st January 2019 by contract or other document and s/he fulfils all other eligibility criteria of the circular, s/he is comprehended.</p>
9.	<p>Does the circular apply to grades like nursing with a salary greater than Grade VIIIs?</p> <p>The terms of the Circular cover all grades and levels with the exception of Management/Admin Grade VIIIs and above and Consultant posts.</p>
10.	<p>Staff who meet the criteria of the above Circular, but who are in a Position Number that is filled in a permanent capacity e.g. Staff member on THA covering for Staff member reassigned to other duties/etc. What should be done in this instance? Should an additional position number be created?</p> <p>The terms of the Circular confirm instances where the Circular does not have application to include "... those on Specified Purpose Contracts where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC.</p>

	<p>The terms of the contract will be a considering factor in this example. The nature and detail of the contract, the linkages between the other contracts in this chain and obligations therein should be examined carefully. In the event that the employee concerned meets the eligibility criteria for 'confirmation in post', then the position number which relates to the post and not the person will need to be addressed by the relevant local HR department.</p>
<p>11.</p>	<p>Local management wish to seek confirmation of eligibility. THA approvals are to cover a variety in vacancies but on a continuous basis 01/11/2016 - 31/10/2018: A permanent was promoted to THA to the post for a 2 year period 01/11/2018 - 31/03/2020: The employee was given a further THA to cover a career break. 01/04/2020 - 01/10/2020: THA extended to cover career break and the promotion of post holder to another role. 02/10/2020 - 16/02/2021: The employee's THA role was further extended to cover maternity leave of post holder.</p> <p>The terms of the Circular confirm the eligibility criteria to include that he/she "...must have held the single specific post on a temporary higher appointment basis continuously since the first appointment date." By the dates provided, the person is not eligible.</p> <p>Furthermore, the terms of the Circular confirms instances where the Circular does not have application to include "...to those on Specified Purpose Contracts where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC. The nature and detail of the specified purpose contract need to be examined to ascertain if there are objective grounds which would preclude the application of this circular.</p>
<p>12.</p>	<p>Unit facilitated the temporary filling of a higher post on a reduced hour basis pending the filling of the post permanently on a full-time basis – this Circular will now result in a part-time person getting a promotional role on a part-time basis whereby the role was a full-time role.</p> <p>If the person is encompassed by the Circular under all eligibility criteria, then they must be confirmed in post on the basis on which they filled the post. Confirmations in post ought not be cost increasing. All other matters are for local management.</p>
<p>13.</p>	<p>A staff member who was on a THA at Grade VII since August 2016 moved to another grade VII THA in August 2019. Their job title and grade remained the same but it was to a different department with different ECC reference. Is he comprehended under this circular?</p> <p>The terms of the Circular confirm the eligibility criteria to include that he/she "...must have held the single specific post on a temporary higher appointment basis continuously since the first appointment date." As above if there are a number of THAs filled within the period (on or prior to 1st January 2019 and continuing) the person is not encompassed by the circular.</p>
<p>14.</p>	<p>If a staff member was advised of a successful re-grading as part of the Job Evaluation and was placed temporarily on a THA prior to 1/01/19 pending advertisement of said post, as they were less than 4 years in that role. The competition has not been run as of yet – can we apply the circular and confirm their post on this basis without going to open competition?</p> <p>The two matters are separate. <u>1:</u> The decision of the Job Evaluation is that the job is at Grade X. The outcome should be effected</p>

	<p>for the incumbent on the appropriate basis and date.</p> <p>NOTE: Job Evaluation allows for temporary filling of the post by the incumbent from the date of Evaluation (until competition is run) where the incumbent is in the post less than 4 years.</p> <p><u>2:</u> If the incumbent is on a THA in a post, fulfilling all the eligibility criteria of the Circular 068/2020, they should be confirmed in post, at the grade in which they are filling the post.</p>
15.	<p>Employees receiving allowances for acting up instead of being aligned to the salary of the higher appointment, will they meet the criteria for to be confirmed in post?</p> <p>With reference to HSE HR Circular 008/2016, a person in a THA should be in receipt of the pay for the post. Any following matter in relation to Circular 068/2020 should reviewed in that light. https://www.hse.ie/eng/staff/resources/hr-circulars/hrcirc0082016.pdf</p>
16.	<p>If a person commenced a temporary hire on the 1st of January 2019 and it was not anticipated to go beyond 3 months and they still remain in the post but did not receive payment for the first three months, will this push the date out to the 1st April 2019 as the initial date of the temporary hire?</p> <p>With reference to Circular 017/2013, where a period of temporary appointment goes beyond 3 months, the entitlement is to be paid for the whole period, from commencement. https://www.hse.ie/eng/staff/resources/hr-circulars/hrcirc0172013.pdf Therefore by this example, the person would meet that element of the criteria. Other matters to be considered in this are the nature and detail of the contract to ensure it is not excluded under the SPC exclusion of Circular 068/2020. Where all eligibility criteria are met, the person would be comprehended under 068/2020.</p>
17.	<p>Unit is using data from SAP to identify the staff that are currently in posts of higher appointment. Is this the only data to use?</p> <p>While data from SAP is an important source of information, contracting documents are key data in assessing comprehension under Circular 068/2020.</p>
18.	<p>Staff member is backfilling for a post holder who has been promoted on a temporary basis. Are they comprehended?</p> <p>The terms of the Circular confirm instances where the Circular does not have application to include "...those on Specified Purpose Contracts where the objective ground is the completion of a task or where the post is subject to specific project funding irrespective of the length of the SPC." The nature and detail of the contracts, the linkages between the other contracts in this chain and obligations therein should be examined carefully to ascertain eligibility.</p>
19.	<p>A Grade 4 who is eligible under the circular, offered new posts in Jan 2021. If they take the post should they still be regularised as Grade 4 if they were in the post on the 15th December 2020.</p> <p>Where all eligibility criteria are met and the nature and detail of the contract does not exclude the staff member under the SPC exclusion of 068/2020, they are comprehended effective 15th December 2020.</p>
20.	<p>Is an employee who joined the HSE on a fixed term contract comprehended under this Circular?</p> <p>In accordance with the Circular an employee "Must have held a permanent contract in their substantive post immediately prior to their temporary higher appointment".</p>