

To: Chief Executive Officer
Each National Director
Each Assistant National Director HR
Each Assistant Chief Finance Officer
Each Hospital Group CEO
Each Hospital Group Director of HR
Each Chief Officer CHOs
Each Head of HR CHOs
Head of HR, PCRS
Each CEO Section 38 Agencies
Each HR Manager Section 38 Agencies
Each Employee Relations Manager
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: XX June 2020

Subject: HR Circular 0X/2020 Guidance and FAQs for Public Service Employers during COVID-19 in relation to working arrangements and temporary assignments across the Public Service (including updates to 15 June 2020).

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, including updates to 15 June 2020 (copy attached)**. This guidance document for Civil and Public Service employers 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 new and updated DPER questions take into account the **Government's Roadmap for Reopening Society and Business** and provides further detail on the implementation of the the **Return to Work Safely Protocol**. Updated and new questions are highlighted in the FAQ document and a list is attached at **Appendix A** of this Circular.

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

- Section 1 – Attendance in the workplace during COVID-19

1. Attendance in the workplace during COVID-19

1.1 As set out in the **Roadmap For Reopening Society and Business**, remote working continues throughout the five stages and beyond for all employees who can continue to do so. Employees will continue to stay at home to work unless they need to attend the workplace for an essential service that cannot be done from home.

Please refer to *HSE HR Circular 19/2020: Essential service under new Public Health Guidelines COVID-19* which is available from the HSE's website:

<https://www.hse.ie/eng/staff/resources/hr-circulars/hr-circulars-2020.html>

1.2 Employers need to ensure that all workplaces have implemented robust return to workplace procedures, where not already in place, and that all procedures comply with the Roadmap and Protocol. Some workplaces have been open and employees providing services in the workplace throughout the restrictions. Employers should ensure that the **Return to Work Safely Protocol** is reviewed for any additional issues that should be considered to ensure compliance with the Protocol for those employees who are already working on-site. The HSE approach to the implementation of the Return to Work Safely Protocol can be found [here](#).

New: 1.3 The Return to Work Safely Protocol outlines that all employees have a critical role in ensuring that appropriate procedures are followed to suppress COVID-19 in the workplace. The Protocol requires that each workplace should appoint at least one lead worker representative who will assist and represent employees and together with the employer is responsible for ensuring safety measures are being followed. Lead worker representatives should be clearly identifiable, and employers should ensure they receive the necessary training to carry out the role. Cooperation between employees, the lead worker representative(s) and the employer are fundamental to ensuring that the measures are adhered to, including maintaining contact logs, completing induction training and answering the pre-return to work questions.

New 1.4 The process for the selection and appointment of lead worker representative(s) should be discussed at an organisational level between employers, employees and employee representatives. There should be engagement between management and unions, in line with appropriate arrangements, for engagement on the implementation of the Protocol. The lead worker representative may be a union member, or another member of

staff, and will be appointed by the employer. Any arrangements should have the confidence of all parties.

New: 1.5 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 9th May 2020 are required to complete the pre-return to work questions outlined in the Protocol. The form must be completed at least three days before an initial return (the three day timeframe can include rest days). The questions that should be included are:

- Do you have symptoms of cough, fever, high temperature, sore throat, runny nose, breathlessness or flu like symptoms now or in the past 14 days? Yes/No
- Have you been diagnosed with confirmed or suspected COVID-19 infection in the last 14 days? Yes/No
- Are you a close contact of a person who is a confirmed or suspected case of COVID-19 in the past 14 days (i.e. less than 2m for more than 15 minutes accumulative in 1 day)? Yes/No
- Have you been advised by a doctor to self-isolate at this time? Yes/No
- Have you been advised by a doctor to cocoon at this time? Yes/No

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.

New 1.6 It should be noted that the contents 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.

A HSE pre return to work form, together with guidance and advice on the occupational safety and health implications of the Return to Work Safely Protocol, will be available on the [National Health and Safety Function webpages](#).

New 1.7 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

¹ <https://dataprotection.ie/en/news-media/blogs/data-protection-and-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](#). The advice for this group is to cocoon and advice on this is available [here](#).

2.2. Please refer also to the HSE's Occupational Health guidance document ***Pregnant Healthcare Workers, Very High Risk (Vulnerable) Healthcare Workers and High Risk (Other Pre-Existing Disease) Healthcare Workers Version 6.1***. This document is available from the HSE's website [here](#).

If a manager is unsure whether or not an employee falls into the very high risk category, they should seek advice from their local Occupational Health service.

2.3 Employees who are identified as being at very high risk and advised to cocoon should be facilitated to work from home to the maximum extent possible. This may include temporary assignment to other duties/a different role which the employee can perform at home.

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 at any stage during COVID-19, 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. Employees who are at high risk for serious illness from COVID-19

3.1 Employees in the high risk category need to take extra precautions to protect themselves from coronavirus. Information in relation to these measures is available from the [HSE](#). Employers/managers should continue to prioritise and facilitate this group in terms of flexible working arrangements, including working remotely.

4. Temporary Assignments

4.1 Section 3 of the FAQs should be read in conjunction with **HSE HR Circular 022/2020 - Temporary Assignment Scheme across the Civil and Public Service in response to the challenge of COVID-19** [view here](#).

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.

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. The Self-Declaration Form and other guidance documents can be accessed [HERE](#).

- Guidance for public health service employees in relation to COVID-19 self-isolation and restricted movement notifications – **Appendix B in the link.**
- Guidance for managers when notified of COVID-19 self-isolation or restricted movement—**Appendix C in the link.**
- COVID-19 Self-Declaration Form for Public Health Service Employees for Special Leave with Pay² – **Appendix D in the link.**

Managers should clearly communicate to employees the information required to be provided in relation to COVID-19 self-isolation and restricted movement and the notification process as outlined in the guidance documents.

7. Recording Special Leave with Pay for COVID-19

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.

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: Update to HR Circular 007/2020, 008/2020 and 018/2020. Two new COVID-19 absence codes and Update to National Collection of Twice Weekly Absence for COVID-19* [here](#).

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.

9. Employees with caring arrangements

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

9.1 Arrangements for childcare for essential healthcare workers

In circumstances where one parent/guardian/partner is an essential healthcare worker, the other parent/guardian/partner will be supported by their public sector employer to remain at home to care for the child(ren) so as to ensure that the essential healthcare worker is able to go to work. Managers should engage with relevant employees in this regard so that appropriate arrangements can be put in place. In the first instance, flexible working arrangements will be put in place for the other parent/ guardian/partner such as working from home or working adjusted hours/ shifts. Though not anticipated, in the event that flexible arrangements do not allow the essential healthcare worker to attend work it will be dealt with on a case by case basis.

9.2 There is no special paid leave available for COVID-19 caring arrangements during this time. All forms of flexible working must be considered including working from home where possible and/or working adjusted hours to facilitate employees to balance work and caring responsibilities. If employees are not set up for remote working at present, they need to continue to remain available to work, and their employer/manager should identify work that can be given to them. Employers/managers are required to identify and engage with employees on alternative arrangements e.g. staggering hours, wider opening hours including weekend work, and temporary assignment to another role.

9.3 If employees cannot work outside the home and cannot perform their current role remotely, the employee is still to be considered as actively on duty and available to work⁴. Employers/managers are required to be flexible and innovative in terms of ensuring that employees remain as productive as possible during this time and this may include assigning work outside the employee's usual core duties. This should be continuously reviewed by management to ensure that employees are placed where they are most needed to deliver critical services.

9.4 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 'high risk' individuals

⁴ As employees in this situation may be assigned alternative duties at any stage during COVID-19, they will continue to be paid their normal basic salary and fixed allowances (where applicable) pending such assignment. 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, sick leave, annual leave or any other type of leave (unless such leave was already pre-booked/confirmed in the normal manner).

10.1 Special leave with pay does not apply in such circumstances. Employers/managers should facilitate flexible working including working from home where possible in these circumstances. Where the employee's role cannot be performed at home and the employee is required to attend a workplace as an essential worker, they are required to adhere to the HSE guidelines on social distancing to minimise risk of transmission. Please refer to HSE advice [HERE](#).

10.2 There are other flexible working options that employers/managers can offer to employees in addition to home working arrangements e.g. staggered hours, wider opening hours. These measures can help facilitate segregation of the workforce and social distancing as well as support employees in managing caring responsibilities at home (including facilitating shared caring arrangements).

11. Availing of annual leave during COVID-19

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, and to prevent the unnecessary accumulation/carryover of untaken leave. Managers should also facilitate requests for annual leave where possible so that once the crisis passes, services can meet increased demand without having to cater to a large volume of annual leave requests. 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. Requests to postpone, cancel or reschedule pre-booked leave

12.1 Requests to postpone, cancel or reschedule pre-booked leave should be based on essential service requirements. Where an employee gives his/her consent to a change in existing parental leave arrangements, this should be documented in writing and a revised confirmation document will be required.

13. Employees availing of the Shorter Working Year Scheme

13.1 The expectation is that any shorter working year arrangement that is scheduled will go ahead as planned. Where there is an essential service requirement, it may be possible for employers to cancel/postpone leave to be taken under this scheme with the agreement of the employee. In exceptional circumstances, employers may agree to defer at the employee's request, subject to service requirements.

14. Employees on Probation

14.1 A flexible and pragmatic approach to the management of staff on probation should be adopted at this time. If possible, the assessment of a probationer's performance in their current role should continue. This may take place remotely depending on the role and particular circumstances. For those employees whose probationary assessment continues, managers should ensure that they have clearly defined objectives and duties that continue to be evaluated on an ongoing basis. 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 If it is not possible to proceed with the probationary process (e.g. employee was temporarily assigned to different duties) it may be paused and resumed when the employee returns to their original role. If a probation is to be paused, the relevant manager is required to formally and clearly communicate this to the employee in writing from the outset. Managers should consult their local HR/Employee Relations Department for further advice in relation to employees whose probationary assessment is being paused at this time and a written record should be put on the employee's personnel 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, is temporarily suspended during the period of COVID-19 to facilitate the required new ways of working across the public service. This does not preclude employers from using clocking in and out arrangements that apply. For those employees who normally avail of flexi-time systems, any balances accrued before the suspension of flexi-time can remain and be held over until the COVID-19 working arrangements are no longer in place and the suspension is lifted.

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

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*.

18. Guidance on what to do if an employee becomes unwell in the workplace showing symptoms of COVID-19

18.1 The DPER FAQ contains guidance to take account of the measures set out in the *Return to Work Safely Protocol*:

- Guidance for public service employees in the instance that they become unwell in the workplace showing symptoms of COVID-19 (Appendix 2 of FAQ)
- Guidance for managers in the instance that an employee becomes unwell in the workplace showing symptoms of COVID-19 (Appendix 3 of FAQ)

18.2 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 and all managers and employees are required to adhere to these guidelines and the most up to date HSE advice in this area.

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

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

Queries

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

Appendix A

The new and updated questions in the DPER FAQ are:

- UPDATED 3.19 What pay arrangements apply while on assignment under the Temporary Assignment scheme?
- NEW 6.3 Who has responsibility for implementing the Return to Work Safely Protocol?
- NEW 6.4 When should the pre-return to work form be completed?
- NEW 6.5 How should employers appoint lead worker representative(s)?
- NEW 6.6 What is the role of the lead worker representative(s)?
- NEW 6.7 Is temperature testing required?

The DPER FAQ is available on [gov.ie at this link](#)