An Roinn Oideachais
agus Scileanna
Department of
Education and Skills

Circular Letter 0025/2020

To: The Chief Executives of Education and Training Boards

COVID-19 (Coronavirus) - Delay Phase

Arrangements for staff other than Teachers and SNAs employed by Education and Training Boards (ETBs)

The Minister for Education and Skills directs you to implement the regulations and procedures regarding the special arrangements to cater for COVID-19 for staff employed in approved posts funded by monies provided by the Oireachtas.

These procedures are to be implemented by each employer with immediate effect, and all staff must adhere to the special arrangements.

The general principles to apply to the management of COVID-19 include the safety and welfare of employees and the minimisation of the impact on teaching and learning.

The primary focus of staff in the education sector is on continuing tuition services during the current closure. All centres have been asked to continue to plan courses during the current centre closures and where possible, provide online resources for learners or online courses where centres are equipped to do so. Centres have also been asked to be conscious of learners that may not have access to online facilities and to consider this actively in their responses. Employers will need to consider how best to utilise employees to facilitate the delivery of educational services.

Flexibility for alternative working arrangements, for example, home working, flexible shifts, staggered shifts, longer opening hours and weekend working is to be encouraged where possible for all staff. Only those employees whose physical presence is required in the workplace to deliver essential services should be required to attend.

The Department reserves the right to change these arrangements at any time to reflect updated public health advice from the HSE.

Circular 0021/2020 is superseded by the terms of this Circular.

Please ensure that copies of this Circular are made available to all members of your organisation and its contents are brought to the attention of all relevant staff in your employment including those on leave of absence.

All queries should initially be brought to the attention of the employer who may wish to consult with ETBI. Any further queries may be directed to the Department at the following email address: esr@education.gov.ie

This Circular can be accessed on the Department's website at www.education.gov.ie

Guidance on COVID-19: Information for Civil and Public Servants can be found on www.gov.ie

Tara Carton
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Definitions

For the purposes of this Circular the following terms have the meanings assigned to them here unless the context indicates otherwise.

DEASP – Department of Employment Affairs and Social Protection.

DPER - means the Department of Public Expenditure and Reform.

Employee - means all staff other than teachers and special needs assistants (SNAs) employed in ETB in posts funded by monies provided by the Oireachtas.

Employer means an Education and Training Board (ETB)

GDPR - means the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679).

HSE – means Health Service Executive.

Self-isolate – means an employee with COVID-19 symptoms who has been medically/HSE recommended to stay indoors and completely avoid contact with other people. Confirmation will be required in all instances of HSE or medical recommendation.

Restricted movements – means an employee with no COVID-19 symptoms who has been medically/HSE advised to restrict movements to avoid contact with other people and social situations as much as possible. Confirmation will be required in all instances of HSE or medical recommendation.

The Department means the Department of Education and Skills (DES).

1. Introduction

1.1 Coronavirus (COVID-19) is a virus that can cause illness affecting the lungs and airways.

1.2 The employer has obligations under the Safety, Health and Welfare at Work Act, 2005 to ensure the safety and welfare of staff at work.

1.3 Employers and employees should follow the guidance set out by the HSE and/or their doctor.

2. Purpose of this Circular

2.1 The purpose of this Circular is to advise employers of the arrangements during the delay phase for public service employees who have:

- contracted COVID-19
- symptoms of COVID-19 and have been advised by the HSE/doctor to self-isolate to prevent the spread of the virus
- no symptoms of COVID-19 but are a close contact of a confirmed COVID-19 case or have returned from another country and have been advised by the HSE/doctor to restrict his/her movements to prevent the spread of the virus
- have childcare responsibilities due to the closure of their child's school or childcare service
- high risk of serious illness from COVID-19

3. Special Leave with Pay

3.1 Under this Circular, an employer may grant special leave with pay to an employee where appropriate HSE or medical confirmation of COVID-19 diagnosis or recommendation to self-isolate or to restrict his/her movements is provided, in accordance with the HSE Guidelines.

3.2 Special Leave with pay for employees who are not required to come to work for COVID-19 should be based on **basic salary and fixed allowances only**. This excludes premium payments.

3.3 Any special leave with pay granted for the purpose of diagnosis of COVID-19, self-isolation or restricted movements will not be counted as part of the employee's Sick Leave record. The special leave with pay entitlement will apply for the number of days advised by the HSE/doctor.

3.4 The approved special leave should be recorded by the employer as the Department may require statistical data.

4. Self-Isolation

4.1 The HSE sets out the criteria for self-isolation at:- https://www2.hse.ie/conditions/coronavirus/self-isolation-and-limited-social-interaction.html. **An employee cannot voluntarily choose to self-isolate.**

4.2 Where HSE or medical advice is that the employee must self-isolate then special leave with pay may be granted by the employer.

4.3 In the event that written HSE or medical confirmation to self-isolate is unavailable, an employee must complete the Self-Declaration Form at Appendix 1 to record the HSE or medical advice received. The completed Form should be forwarded by the employee to the employer as soon as possible

4.4 Where the employee is already on special leave with pay due to self-isolation and subsequently contracts COVID-19, then the special leave with pay may continue for the duration of the illness, subject to medical certification being provided to the employer.

4.5 Similar to the general principles applying to the management of Sick Leave, the employee must contact the employer where any of the above circumstances apply. Where circumstances or diagnosis changes, the employee should inform the employer as soon as possible.

4.6 There should be appropriate contact between the employer and the employee during the period of special leave with pay.

4.7 When the recommended period of self-isolation has passed, medical advice and HSE Guidelines should be followed regarding return to work.

4.8 An employee on special leave with pay is not permitted to claim the DEASP COVID-19 Illness Benefit payment.

5. Restricted Movements

5.1 The HSE sets out the criteria for restricted movements at:- https://www2.hse.ie/conditions/coronavirus/self-isolation-and-limited-social-interaction.html.
An employee cannot voluntarily choose to restrict his/her movements.

5.2 An employee who has been advised to restrict his/her movements is available for work. The employee should be assigned work and the employer must therefore facilitate alternative working arrangements e.g. working from home. Where alternative working arrangements in the employee's current role is not feasible, then he/she may be temporarily assigned to work within the wider Public Service. Further details are available at paragraph 12.

6. At Risk Groups

6.1 The HSE advice on at risk groups is at: https://www2.hse.ie/conditions/coronavirus/at-risk-groups.html

6.2 An employee should self-declare where he/she considers there is a high risk of serious illness from COVID-19. Where the employee is not ill, the employer should prioritise alternative working arrangements e.g. working from home.

6.3 Where alternative working arrangements in the employee's current role is not feasible, then he/she may be temporarily assigned to work within the wider Public Service. Further details are available at paragraph 12.

7. Employees with Childcare Responsibilities due to the closure of their child's school or childcare service

7.1 Special leave with pay is not available for COVID-19 caring arrangements. Where such employees can work from home this should be facilitated to the maximum extent feasible. Steps should be taken to increase the scope for remote working and all opportunities and flexibilities need to be explored.

7.2 There are other flexible working options that employers can offer to employees in addition to home working arrangements. These arrangements can support employees to manage caring responsibilities at home (including facilitating shared caring arrangements with partner) and can support segregation of the

workforce and social distancing measures. For example, this could include flexible shifts; staggered shifts; longer opening hours and weekend working.

8. Ordinary Sick Leave

8.1 Under the terms and conditions of the Sick Leave Scheme, ordinary illness e.g. viral type respiratory illness should be recorded by the employer on the relevant system. If the employee is subsequently diagnosed with COVID-19, the special leave with pay can be retrospectively applied in lieu of Sick Leave.

9. Closure

9.1 If an office is closed as a result of COVID-19, the employer will continue to pay the employees, on the basis of the contracted hours only and for the duration of the contract. In the event of an office closure the employer should examine all available options for flexible working as set out in this circular.

9.2 Employers are encouraged to review their business continuity plans in light of the emerging situation.

10. Application Procedures for Special Leave with Pay

10.1 In order for the approved special leave to be recorded by the employer, the employer must be notified of the absence as soon as possible.

11. Cancellation of Leave

11.1 The rules regarding cancellation of leave (e.g. Parental Leave) must be in accordance with the terms and conditions of the relevant Department publications.

12. Temporary Assignment

12.1 In accordance with DPER guidance, all public servants who are not medically advised to self-isolate must be available to carry out work either to deliver services within their own sector (as a priority) or for temporary assignment within the wider public service.

12.2 Employers will be asked to determine which of their employees will provide educational services to their students. Any employee who is not required to be retained in providing educational services will therefore be available to be assigned on a temporary basis to support delivery of other essential public services. This temporary assignment will be managed on a structured, centralised basis through this Department and the Public Appointments Service. Further details on the practical arrangements for this will be advised to employers shortly.

13. Data Protection

13.1 All documentation relating to special leave with pay must be retained by the employer with the relevant personnel records in a safe and secure manner and in line with the employer's data protection policy and data protection regulations.

14. Compliance

14.1 When granting special leave with pay, compliance with provisions of special leave with pay shall apply. 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) existing procedures, including disciplinary measures may be invoked.

Appendix 1

SELF DECLARATION FORM

COVID-19: SPECIAL LEAVE WITH PAY (COVID-19)
FOR SELF-ISOLATION

Part 1 - Employee Details

Employee's Name: _____ Contact No: _____

Home Address: _____

E-mail Address: _____

PPSN: _____

Business Unit: _____

Part 2 – Details of Special Leave with Pay

Number of days based on medical advice to self-isolate: _____

Commencing on (DD/MM/YYYY): _____

Ending on (DD/MM/YYYY): _____

Advised to self-isolate by (✓)

GP	☐	HSE	☐
Hospital	☐	Other (please specify) _____	☐

Medical Advice received via (✓)

Telephone	☐	Letter/email/text (please attach copy to this form)	☐
In Person	☐	Other (please specify) _____	☐

Details of Medical Advice to Self-Isolate

Name of adviser (e.g. name of GP, HSE worker)	

Date and time advice given	
Details provided to the adviser by you (e.g. places and dates of exposure etc.)	

[1] Bona fide in relation to a representation or communication means in good faith and well founded in fact. The employer reserves the right to request further confirmation.

Declaration

I wish to apply for Special Leave with Pay in accordance with Circular 0025/2020 titled '*Coronavirus (COVID-19) Delay Phase'.*

I confirm that the information provided in the Self-Declaration Form is true and accurate.

Signature of Employee: _____ Date: _____

Part 3 – Employer Approval

Signature: _____ Date: _____
(Employer)

Application Form/Supporting Documentation should NOT be submitted to the Department of Education and Skills. They should be retained by the employer with any other relevant documentation for record and audit purposes with the relevant personnel records.