

COVID-19 FAQs

For HR in the Public Health Service in
relation to leave associated with
COVID-19

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Background

The following arrangements apply to all Public Health Service employees¹.

The following are FAQs for the Public Health Service in relation to leave associated with COVID-19 infection during the containment phase. The general principles to apply to the treatment of COVID-19 infections in the Public Health Service include:

1. Obligations under the Safety, Health and Welfare at Work Act, 2005 to ensure the safety and welfare of employees at work.
 2. Flexibility for alternative working arrangements, for example home working, is to be encouraged where possible. This may enable employees who are not ill to continue working.
 3. Special leave with pay² should apply to periods of medically/HSE recommended self-isolation³ where flexible working arrangements are not possible, and also to medical diagnoses of COVID-19 infection. This special payment is separate from normal sick pay and should be recorded as "Covid-19 Paid Leave". This separate classification is important to ensure that such absences do not impact on the employee's entitlements under the public service sick leave scheme. This information will also be required to comply with directions to report the cost of granting special leave with pay to this cohort of employees.
 4. 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 apply, for example the requirement of employees to contact managers, and for ongoing contact with employees who are on special leave for this purpose.. These policies are available from the HSE's website via this link:
<https://www.hse.ie/eng/staff/resources/hrppg/>
- Section 38 organisations should refer to their relevant HR policies and procedures.
5. Any special leave with pay granted for the purpose of self-isolation or diagnosis of COVID-19 will not be counted as part of the employee's sick leave record should be recorded separately and classified as "Covid-19 Paid Leave". The application of special leave with pay will apply for the number of days advised by the HSE/GP. Appropriate medical/HSE confirmation of the need to self-isolate and/or a diagnosis of COVID-19 will be required.
 6. When granting special leave with pay, 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.

¹ Public health service employees include employees of the HSE and Section 38 organisations.

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 would exclude unsocial hours premium payments.

³ Self-isolation also refers to individuals who are medically/HSE recommended to restrict their movements. Confirmation will be required in all instances.

7. In the event of non-compliance with the provisions of special leave with pay (including the requirement to provide bona fide⁴ confirmation of self-isolation/diagnosis of COVID-19) existing procedures, including disciplinary measures may be invoked.

8. Subject to expert public health advice in light of developing circumstances on COVID-19, the general principles or FAQ material may be subject to updating or other amendment. Employers retain the right to withdraw or amend provisions in light of developing circumstances.

9. These arrangements apply in the case of COVID-19. They do not apply, for example, to ordinary flu-like illnesses.

10 Public Health Service employers should review their business continuity plans in light of the emerging situation.

11. Public Health Service employers need to ensure that special category health data is processed legally within data protection legislation.

⁴ 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.

FAQS for HR in relation to COVID-19

Who should self-isolate?

The HSE sets out the criteria for self-isolation at:

<https://www2.hse.ie/conditions/coronavirus/coronavirus.html>

All employees and managers should check the website on a daily basis to keep informed of up to date information and advice.

What happens if employees need to self-isolate?

Employees should follow the guidance set out by the HSE and/or their doctor.

If medical/HSE advice is that the employee should self-isolate then the employer should consider the following options:

Flexible working arrangements e.g. working from home?

If it is recommended that an employee self-isolates and they are not ill, managers may approve homeworking where this is possible and appropriate. This may also be appropriate for approval in situations such as school closures (see below for FAQ).

What if an employee does not have the facility to work from home?

Public Health Service employers have the discretion to grant special leave with pay.

Should self-isolation be recorded as special leave with pay or sick leave?

Special leave with pay should apply when an employee is advised to self-isolate.

Medical or HSE confirmation of this advice will be required. This paid leave should not be recorded as sick leave and such absences will not affect an employee's entitlements under the Public Service Sick Leave Scheme. It should be maintained separately and classified as **COVID-19 Paid Leave**. This separate classification is important in order to comply with a direction to provide information on costings.

What if an employee contracts COVID-19 whilst on special leave with pay?

If the employee was already on special leave with pay as a preventative measure and subsequently falls ill, then the special leave with pay will continue, if the employee is medically diagnosed (including a medically presumptive diagnosis) with COVID-19. (Sick leave will not apply in these circumstances.) However, the continuation of special leave with pay will require medical confirmation from a doctor for the duration. Special leave with pay should continue to be recorded, however the rules of sick leave (for example, in relation to contact with manager and certification) will apply.

What happens if it turns out, after the period of self-isolation, that an employee does not have the COVID-19 virus?

When the recommended period of self-isolation is passed, employees should follow medical advice and/or HSE guidelines on return to work.

What if an employee does not have COVID-19 but another strain of a flu-related illness?

Viral type respiratory illnesses should be recorded as ordinary certified sick leave and the usual rules governing sick leave will apply. If the employee is subsequently diagnosed with COVID-19, the special leave with pay can be retrospectively applied in lieu of the sick leave.

What if an employee has returned from travel in an affected area?

A decision as to whether or not an employee should self-isolate should be based on HSE advice/guidelines and/or medical advice.

<https://healthservice.hse.ie/staff/news/news-items/staff-who-have-returned-from-a-place-with-spread-of-coronavirus-covid-19-.html>

Can the employer ask employees to self-isolate?

In certain circumstances some employees may be asked by the employer to isolate as a precaution and this would be treated as paid special leave.

What about employees who have an underlying medical condition?

If the employee considers themselves to be at risk, they should seek medical advice as to what steps should be taken. The employer should conduct a risk assessment with reference to HSE guidelines if it is considered that the employee is in a high risk category.

What if an employee advises that their child's school or childcare service is closed due to COVID-19?

The HSE advice should be followed in these cases. Public Health Service employers will need to consider these instances on a case-by-case basis, and in instances where it is shown that the employee is required to care for the child, alternative arrangements e.g. working from home, should be facilitated where possible. The circumstances of each case will be considered by the relevant employer and if appropriate special leave with pay may be applied. If it is agreed that the employee must stay at home with the child, then a copy of the HSE letter to parents of the school/childcare service should be provided by the employee as soon as is practicable. In the case where this is a generically addressed letter (e.g. Dear Parents) evidence that the dependant attends the school/childcare service should also be provided by the employee.

What if an employee requests time off work for reasons relating to COVID-19?

Such requests should be considered on a case-by-case basis having regard to service requirements. Leave arrangements that may be considered include annual leave, parental leave (where applicable) and unpaid leave.

What is the legal basis for processing employee data in relation to COVID-19?

Public 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), Articles 9(2)(b) and (g), along with section 51 of the Data Protection Act, 2018 (which permits the processing of special category data for reasons of substantial public interest) will likely be the most appropriate legal bases for processing this data.