



COVID-19 FAQs

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

COVID-19 FAQs for HR in the Civil and Public Service

Contents

COVID-19 FAQs for HR in the Civil and Public Service.....	2
Background.....	3
FAQS for HR in relation to COVID-19.....	5
Who should self-isolate?	5
What happens if employees need to self-isolate?	5
Flexible working arrangements e.g. working from home?	5
What if an employee does not have the facility to work from home?	5
Should self-isolation be recorded as special leave with pay or sick leave?	5
What if an employee contracts COVID-19 whilst on special leave with pay?	5
What happens if it turns out, after the period of self-isolation, that an employee does not have the COVID-19 virus?	6
What if an employee does not have COVID-19 but another strain of a flu-related illness?	6
What if an employee has returned from travel in an affected area?	6
Can the employer ask employees to self-isolate?	6
What about employees who have an underlying medical condition?	6
What if an employee advises that their child's school or childcare service is closed due to COVID-19?	7
What is the legal basis for processing employee data in relation to COVID-19?	7

Background

The following arrangements apply to all Civil and Public Service employees.¹

The following are FAQs for the Civil and Public 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 Civil and Public 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. [Circular 2/1976, which covers 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. **Sectors will need to amend these FAQs to refer to their own special leave circulars or arrangements as necessary.**
4. The general principles applying to the management of sick leave, for example the requirement of employees to contact managers, and for ongoing contact with employees who are on special leave for this purpose, will apply.
5. Any special leave with pay granted for the purpose of self-isolation or any diagnosis of COVID-19 will not be counted as part of the employee's sick leave record. The application of special leave with pay will apply for the number of days advised by the HSE/doctor. Appropriate medical/HSE confirmation of the need to self-isolate and a diagnosis of COVID-19 will be required.
6. When granting special leave with pay, as per clause 31.2 of Circular 2/1976, "the officer will be expected to comply at once with any directions which may be given by his Department 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 Individual employers will need to identify which staff fall into the category of public service employees.

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 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 as a notifiable infectious disease. They do not apply, for example, to ordinary flu-like illnesses.
10. Civil and Public Service employers are encouraged to review their business continuity plans in light of the emerging situation.
11. Civil and Public 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>

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 to approve in situations such as school closures (see below for FAQ).

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

Civil and Public Service employers have the discretion to grant special leave with pay as per [Circular 02/1976 Part IX](#). Sectors will need to refer to their own special leave circulars or arrangements as necessary.

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.

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, rather than sick leave, if the employee is medically diagnosed (including a medically presumptive diagnosis) with COVID-19. 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, please 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.

Can the employer ask employees to self-isolate?

Some employees may be asked by the employer to isolate themselves as a precaution in certain circumstances 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 if it is considered that the employee is in a high risk category by reference to HSE guidelines.

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. Civil and public 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 dependent attends the school/childcare service should also be provided by the employee.

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

Civil and Public 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.



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