

24th August, 2021.

The Secretary,
Board of Management and
School Principal in
each Community and Comprehensive School.

Members of the Executive of ACCS.

ACCS/Info Bulletin 35/21 Re:

1. C/L 0042/2021 on Leave and Working Arrangements to cater for COVID-19 for teachers and special needs assistants for the 2021/22 school year.
 2. C/L 0039/2021 Extended Breastfeeding Breaks for SNAs and C/L 0040/2021 Partial Return to Work for SNAs (to facilitate an SNA who is recovering from an illness to transition back to full duties over an agreed limited period).
 3. Upcoming Seminars provided by Spectrum.Life.
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1. The Department of Education recently published [CL 0042/2021](#) on leave and working arrangements to cater for COVID-19 for teachers and special needs assistants for the 2021/22 school year. This Circular Letter replaces Circular 0021/2021 and Information Note TC 0025/2021.

[CL 0042/2021](#) is based on guidance from the HSE ([Education Sector Guidance for Employees in the Covid-19 Higher Risk Categories, including Pregnant Employees](#)) issued in July 2021.

This Circular Letter comprehends the following:

- Return to Work
- Risk Assessments
- Covid Vaccinations
- Special Leave with Pay
- Self-isolation
- Restricted Movement
- Return from Overseas Travel
- Higher Risk Groups
 - Very High Risk Group
 - High Risk Group
 - Pregnant Employees
 - Pregnant Employees working in a Special Education Setting
- Alternative Working Arrangements
- An Employer's Guide to COVID-19 leave and working arrangements for employees
- Appendices with relevant forms and a summary for pregnant employees

The DE has advised that the terms of [CL 0042/2021](#) also apply to Secretaries and Caretakers in Department-approved posts in Community and Comprehensive schools. However, the method for the recording of leave or working remotely may differ and the usual procedures should be followed.

Key Points

Each employer must have an up-to-date **COVID-19 Response Plan** in place to ensure a safe workplace for all employees. There is an obligation on the employer to discuss the school's COVID-19 Response Plan with employees and ensure that all appropriate risk mitigation measures are in place for their protection.

The DE has issued an updated [COVID-19 Response Plan \(v5 August 2021\)](#) for the safe and sustainable operation of post-primary schools.

Return to Work Form

All employees are required to complete a **Return to Work Form** before returning to work. A copy of the Return to Work Form (RTW) is attached to *Appendix 2 of the [COVID-19 Response Plan \(v5 August 2021\)](#) for the safe and sustainable operation of Post Primary Schools.*

Special Leave with Pay

Special Leave with Pay will continue to be granted where an employee has been medically/HSE advised to self-isolate due to displaying COVID-19 symptoms or has been medically diagnosed with COVID-19.

A substitute may be appointed to replace the employee on Special Leave with Pay. Special Leave with Pay does not count as part of the employee's Sick Leave Record and should be recorded on the OLCS system under 'Personal Leave', sub-category 'COVID-19: Self-Isolation or COVID-19: Diagnosis'.

Extended Special Leave with Pay beyond 28 days

Special Leave with Pay beyond 28 days may be granted subject to the provision of satisfactory and regular medical certification and in accordance with the criteria set out at paragraph 2.5.1 of [CL 0042/2021](#).

Restricted Movement

There have been significant changes to the HSE criteria for restricted movement in recent months with the rollout of the vaccine programme and public health advice is being updated on a regular basis.

For schools, the arrangements which were in place in the 2020/21 school year will continue to apply for the coming year. An employee who has been medically/HSE advised to restrict his/her movements and is medically fit for work remains available to **work from home**.

A substitute may be appointed to replace the employee who is required to restrict their movements. The employee on restricted movement must be recorded on the OLCS system under 'Personal Leave' sub-category 'COVID-19: Restricted Movement'.

Return from Overseas Travel

Ireland has adopted the EU Digital COVID Certificate for travel within the EU and EEA. An employee returning from a country for which quarantine or restricted movement is required must make provision by way of Unpaid Leave in advance for the period of restricted movement. This is regardless of whether the employee can work from home. The school may appoint a substitute in these circumstances.

Higher Risk Groups

New Health Risk Categorisation for the 2021/22 school year

All OHS COVID-19 Health Risk Categorisation Reports issued during the 2020/21 school year will not be valid for the 2021/22 school year.

Very High Risk and High Risk Group

For the 2021/22 school year, any employee who is of the view that they remain at **very high risk** of serious illness from contracting COVID-19 is required to make a **new application to the OHS (Medmark)**.

In carrying out an assessment, the OHS will take account of whether an employee has '*significant vaccine protection*' at the time of the assessment.

- The risk categorisation of Very High Risk employees with '*significant vaccine protection*' will reduce to High Risk and must attend the workplace, if medically fit for work. Schools are advised to ensure that these employees who may have been away from the workplace for some time, are provided with copies of the revised COVID-19 Response Plan and are aware of the Lead Worker Representative(s) in the school.
- The risk categorisation of Very High Risk employees who do not have '*significant vaccine protection*' will be categorised as Very High Risk and must be facilitated with alternative working arrangements. In these circumstances, the school may appoint a substitute. The VHR employee should be recorded on the OLCS system under Personal Leave, sub-category, 'COVID-19: Very High Risk Group'.

Employees over 70 years of age

- An employee who is over 70 years of age must submit a [COVID-19 Risk Assessment Questionnaire](#) to OHS, before they can attend the workplace.

Pregnant Employees

Up to 14 weeks gestation:

Pregnant employees up to 14 weeks gestation, who are medically fit for work, can attend the workplace unless categorised by the OHS as Very High Risk due to an underlying medical condition unrelated to their pregnancy. A pregnant employee who has any of the medical conditions listed on the HSE website under 'Very High Risk Groups (extremely vulnerable)' should submit a [COVID-19 Risk Assessment Questionnaire](#) to the OHS.

All pregnant employees should submit a COVID-19 Health Risk Assessment to the OHS (Medmark) before the end of their first trimester. The OHS Report will categorise whether the employee is in the Very High Risk, High Risk or Normal Risk category.

From 14 weeks gestation:

From 14 weeks gestation, a pregnant employee:

- a) Without significant vaccine protection and without an underlying medical condition will be categorised to fall into the High Risk group and is expected to attend the workplace, if medically fit for work.

- b) Without significant vaccine protection and with an underlying medical condition will be categorised as either High Risk or Very High Risk. Where an employee is categorised as High Risk, the employee is expected to attend the workplace. Where the employee is categorised as Very High Risk, the pregnant employee should not attend the workplace but remains available for work remotely.

From 14 weeks gestation, a pregnant employee:

- a) With significant vaccine protection, the risk category of Very High Risk pregnant employees will reduce to High Risk.
- b) With significant vaccine protection, the risk category of High Risk pregnant employees will reduce to Normal Risk.

For a non-COVID-19 related high risk pregnancy, where an employee is medically unfit for work, the terms and conditions of the Sick Leave Scheme will apply.

Pregnant teachers and SNAs in a Special Education Setting

A pregnant teacher or SNA, from 14 weeks gestation, **who is categorised as High Risk**, should not be required to work in a special class *with the presence of 3 or more employees in a single room throughout the working day and where social distancing is not consistently possible.*

The pregnant teacher/SNA should be reassigned to a role within the school outside of the special class and an existing employee of the school should be reassigned into the special class.

Change in COVID-19 Health Risk Categorisation during the 2021/22 School Year

An employee's Health Risk Categorisation Report may include an expiry date as determined by the OHS. An employee's existing COVID-19 Health Risk Categorisation may be reviewed at any time during the school year due to:

- 1) A change in HSE advice,
- 2) A change in the medical diagnosis or treatment of the employee,
- 3) A change in the vaccination status of the employee since the OHS Assessment.

Where a substitute is employed to cover the on-site hours of the Very High Risk employee who is working remotely, there should be clear reference in the contract to the fact that the appointment will terminate on the return of the VHR employee to the workplace, due to a change in their COVID-19 Health Risk Categorisation.

A template contract for a substitute teacher for a teacher who is Very High Risk is attached to this Info Bulletin.

Alternative Working Arrangements

An employee who is medically fit for work and has been medically/HSE advised to restrict his/her movements or an employee who is in the Very High Risk group remains available to work remotely.

- For teachers, this includes the duties outlined at paragraph 4.6.3 of [CL 0042/2021](#).
- For SNAs, the duties are as outlined in paragraph 4.6.5 of [CL 0042/2021](#). If remote working in an SNAs current role is not feasible, then the assignment of work may be outside of their usual core duties.

If a VHR employee is not required to be retained in providing services to the school, the VHR employee may be reassigned on a temporary basis to support other essential public services. Further guidance in relation to reassignment will be provided by the DE in due course.

Employees with childcare or caring responsibilities or living with High Risk or Very High Risk individuals

Special Leave with Pay is not available for an employee who has COVID-19 related caring or childcare responsibilities or for an employee who is living with a High Risk or Very High Risk individual. An employee who lives with a Very High Risk individual should attend the workplace. An employee may avail of existing leave entitlements (Parental/Force Majeure/Carer's Leave) where eligible in line with the terms of the relevant Department circular letter.

Workplace Risk Assessment

The updated [COVID-19 Response Plan \(v5 August 2021\)](#) for the safe and sustainable operation of post-primary schools provides guidance on keeping the school environment protected to minimise the risk of COVID-19 to students, staff and others.

COVID-19 represents a hazard in the context of health and safety in the school environment. A COVID-19 Risk Assessment template to identify the control measures required to deal with the risk of COVID-19 is included in **Appendix 4** of the [COVID-19 Response Plan \(v5 August 2021\)](#). This should now be reviewed, and any changes should be documented and incorporated into the school's Safety Statement.

Pregnant Employees and Workplace Pregnancy Risk Assessment

Under the Maternity Protection Acts, an employer has a duty of care relating to pregnant, post-natal and breastfeeding employees. This duty involves assessing the workplace for hazards which may pose a risk to the employee or her pregnancy. A Workplace Pregnancy Risk Assessment must be carried out by school management for all pregnant employees. A [Template Pregnancy Workplace Risk Assessment](#) from the Health & Safety Authority is linked to assist this process.

Note: [Circular Letter 54/2020](#) and the recent [DE letter of 21st July 2021](#) (*working arrangements for staff (other than teachers and SNAs) who are categorised as Very High Risk (VHR) and for pregnant staff (other than teachers and SNAs) for the 2021/22 school year*) remain relevant to employees using grant funding (SSSF funding) in the following posts:

- School Secretary
- Caretaker
- Cleaner
- Bus Escort

2. The Department has published two circulars in relation to Special Needs Assistants:

1. [Circular Letter 0039/2021](#) – Extended Breastfeeding Breaks for SNAs and
2. [Circular Letter 0040/2021](#) – Partial Return to Work for SNAs (to facilitate an SNA who is recovering from an illness to transition back to full duties over an agreed limited period).

Circular Letter 0039/2021– Extended Breastfeeding Breaks for Special Needs Assistants

This circular letter extends the provision of breastfeeding breaks for SNAs for up to one hour per day without loss of pay beyond the statutory entitlement of 26 weeks to **104 weeks of the birth of the child.**

Application Process

Applications should be made at least 4 weeks in advance of the planned commencement date using the Application Form provided in [Circular Letter 0039/2021](#). The Application Form must be accompanied by a copy of the relevant child's birth certificate.

The Application Form must be re-submitted prior to the start of each subsequent school term during which the special needs assistant continues to breastfeed and therefore intends to avail of breastfeeding breaks.

Breastfeeding breaks may be taken as follows:

- a) one break of 60 minutes, or
- b) two breaks of 30 minutes each, or
- c) three breaks of 20 minutes each

An SNA working less than the full school day may avail of breastfeeding breaks on a pro-rata basis.

There is no provision for substitution to cover breastfeeding breaks.

- Each application should be considered on a case-by-case basis. Although the employer should make reasonable efforts to facilitate an application for breastfeeding breaks, the welfare and care needs of the students must take precedence when considering an application and it may not always be possible to facilitate breastfeeding breaks.
- The pattern of breastfeeding breaks should be agreed following consultation between the employer and the special needs assistant. Where it is not possible for the employer to facilitate the breastfeeding breaks pattern, as initially requested by the SNA, alternate patterns may be explored.
- Where an application has been approved, it may not always be possible for an SNA to take the planned break if other school staff are absent on a particular day or cover cannot be provided.
- Where it is not possible to facilitate the breastfeeding breaks, the basis for refusal should be provided in writing to the SNA setting out the grounds for the refusal. An application for breastfeeding breaks may be reviewed by the employer if circumstances change.

Circular Letter 0040/2021 Partial Return to Work for Special Needs Assistants

The purpose of a partial return (PWR) to work is to facilitate an SNA who is recovering from an illness to transition back to full duties over an agreed limited period of time.

Access to a Partial Return to Work is subject to the recommendation of the OHS (Medmark) and the approval of the employer. The exact duration of a PWR arrangement will be based on the advice of the OHS and is permitted for a maximum period of one school term, regardless of the date on which the PWR commences.

An SNA who avails of a PWR must undertake to carry out their responsibilities in accordance with their contract for a minimum of 2 full days every week. The SNA will be paid their full rate of pay for the school days worked. The remaining days on which the SNA does not work during PWR, including weekends, must be recorded as Sick Leave on the OLCS. The school may appoint a substitute to cover these days.

3. Upcoming Seminars provided by Spectrum.Life.

Principal and Deputy Principal Mental Health Seminars

Spectrum.Life is providing upcoming mental health seminars for Principals and Deputy Principals. The dates and links to join are as follows:

- Wednesday, 25th August at 4:15 p.m. for – **Building Resilience**
Link to join: <https://app.sli.do/event/cxpido9>
- Tuesday, 7th September at 4:15 p.m. for – **Conflict Resolution**
Link to join: <https://app.sli.do/event/qm7dfep9>
- Wednesday, 29th September at 4:15 p.m. for – **Promoting Communication**
Link to join: <https://app.sli.do/event/veagl3vx>

The poster attached also contains an embedded direct link to join each seminar.

For any issues associated with accessing the seminars, please contact hello@spectrum.life.

Attendees do not need to register for the events. Simply click on the link provided.

Is mise,
Le mór mheas,



John Irwin,
GENERAL SECRETARY.