

**DRAFT FAQs ON HR AND EMPLOYMENT
CONSIDERATIONS FOR THE OPERATION OF
EARLY LEARNING AND CARE AND SCHOOL AGE
CHILDCARE SETTINGS DURING COVID-19**

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Introduction

The COVID-19 Pandemic created major challenges for Ireland, and retention of valued staff has been identified by the sector as a key priority, as is supporting employers to operate in sustainable way during the COVID-19 pandemic.

All employers are encouraged to read this material and to engage proactively with the various Government supports available.

The purpose of these FAQs is to provide answers to staffing questions that employers may have.

These FAQs aim to be informative and will be added to and/or amended as more information becomes available. In the event that any further corrections need to be made, these changes will be highlighted in future versions.

Throughout this document the employer is encouraged to consult with their employees, and it should be noted that the employer should advise the employee to seek the support of their trade union if they are a member of one. It should also be noted that there is no obligation on employers to recognise Trade Unions for the purpose of negotiation, but employees do have a constitutional right to join a trade union should they wish to do so.

These FAQs are for information purposes only and do not provide legal advice and the information provided should not be considered to be such or relied or acted upon in that regard. If you need legal advice, you should consult a suitably qualified person.

This document should be read in conjunction with the following [Providers FAQ](#)

Frequently Asked Questions

1. What is the current public health guidance for the ELC and SAC sector?

The [COVID-19 Infection Prevention and Control Guidance for Early Learning and Care and School Age Childcare settings during the COVID-19 Pandemic](#) is the currently public health guidance for the sector. This document is reviewed and updated regularly.

Tusla Early Years Inspectorate have also released a COVID-19 guidance document which can be [at the Tusla Guidance for Early Years Settings](#).

In addition, [the Isolation Quick Guides for Adults](#) and the [Isolation Quick Guide for Children](#) are important resources in preventing the spread of COVID-19 and keeping staff and children safe. Both documents are regularly updated.

2. What is the Work Safely Protocol – National Protocol for Employers and Workers?

The Protocol continues to offer advice and guidance for employers and workers to put infection prevention and control (IPC) and other measures in place to prevent the spread of Covid-19 in the workplace. The Work Safely Protocol also covers the measures needed to both ensure the safe operation of workplaces and the re-opening of workplaces following temporary closure. In addition, a range of checklists and templates, based on the Protocol are available on the Health and Safety Website.

Employers are reminded to review the updated Work Safely Protocol. A copy of the Protocol updated 18.11.2021 can be found here: <https://www.gov.ie/en/publication/22829a-return-to-work-safely-protocol/>

3. What is the role of the Lead Worker Representative?

Each workplace will appoint at least one Lead Worker Representative. Their role is to work together with the employer to assist in the implementation and monitoring of adherence to the IPC measures and to prevent the spread of COVID 19 in their workplace.

Further information and a short online course on the role of Lead Worker Representative can be found on the [HSA website](#).

4. What type of Face Masks should employers make available for their staff?

Employers should ensure that their staff have an adequate supply of appropriate PPE and that all staff follow the [HSE guidelines on the use of facemasks and coverings](#). The National Standards Authority of Ireland (NSAI) advise that face coverings made to the SWiFT 19 or CEN/CWA 17553 specifications be used as detailed at page 56 of the [Work Safely Protocol](#).

[Guidance for the sector](#) recommends that staff should wear a surgical mask indoors when in close proximity to children. A properly worn surgical mask offers better protection than cloth

masks. In addition surgical masks or FFP2 masks are recommended in certain circumstances as per [the Isolation Quick Guide for Adults](#).

The Ventilation grant, which originally closed to new applications on 7 January, has been reopened with a new closing date of 31 January. Eligible expenditure for the Ventilation grant is being extended to include PPE, providing an opportunity to source high grade surgical or FFP2 masks. Providers who have already claimed a ventilation grant will be able to claim for PPE, the extension will not just apply to new applicants. Full details and application guidelines can be found on [the Early Years Hive](#).

5. What is happening with the EWSS?

The Government has recently announced that the EWSS will continue to run until 30 April 2022. Up until this date, all Tusla registered Early Learning and Care and School Age Childcare services will have access to the scheme and are exempt from the turnover requirement for eligibility. EWSS rates are subject to further change which is covered in the subsequent question.

Full guidance on operating the EWSS can be found on the EWSS page on the [Revenue Website](#).

6. Are there any changes to the EWSS rates?

As announced on 9 December 2021, enhanced rates for the EWSS will continue to be paid, up until 30 January 2022. There are no changes to eligibility, however the scheme will close to new employers as of 1 January 2022. The full extended rate structure can be found below:

Gross pay per week	Rate from 20 Oct 2020 to 31 January 2021	Rate from 01 February 2022 to 28 February 2022	Rate from 01 March 2022 to 30 April 2022
Less than €151.50	No subsidy applies	No subsidy applies	No subsidy applies
€151.50 - €202.99	€203	€151.50	€100
€203 - €299.99	€250	€203	€100

€300 - €399.99	€300	€203	€100
€400 - €1,462	€350	€203	€100
Over €1,462	No subsidy applies	No subsidy applies	No subsidy applies

7. Can I use the EWSS to pay my staff during their annual leave?

Yes, the EWSS can be used to pay staff whilst taking their annual leave entitlement.

8. When should staff isolate or restrict their movements?

Staff members should follow the restricted movement/isolation periods and advice as outlined by public health in [the Isolation Quick Guide for Adults](#). Employers should support their employees in relations to isolation and restricted movements to prevent the transmission of COVID-19.

It is also extremely important to remember that if a staff member has symptoms of any sort of respiratory infection, they should not be permitted to come to the setting even if they have received a negative result on a Rapid Antigen Diagnostic Test.

9. If a staff member has been diagnosed with COVID-19, or has to restrict their movements (stay at home) or self-isolate due to being notified as a close contact, should I pay them on the EWSS?

We would advise providers to follow the normal procedure in their Sick Leave Policy.

Where staff are required to self-isolate or restrict their movements it is worth noting that the EWSS will operate as normal to ensure staff do not suffer a loss of earnings and can adhere to the self-isolating requirements.

If someone has been notified that they are a close contact, or have been diagnosed with COVID-19 they may be eligible for the Enhanced Illness Benefit.

10. Do I pay a staff member that is absent for 5 days because they are a household close contact of a positive COVID case?

If a staff member is isolating as a close contact of a positive COVID case in their household, they can apply for COVID enhanced illness benefit. COVID enhanced illness benefit can be

applied for if the staff member has been told to self-isolate by the HSE. More information available here: [COVID-19 enhanced Illness Benefit \(citizensinformation.ie\)](https://citizensinformation.ie)

It is also extremely important to remember that if a staff member has symptoms of any sort of respiratory infection, they should not come to the setting even if they have received a negative result on a RADT

11. If a staff member cannot come to work for health reasons, are they to be paid? What should you do in such circumstances?

As is always the case, the terms and conditions of employment are a matter for the employer and the employee. The employee should be asked to submit a medical certificate confirming that they are medically unfit to return to work. If the settings sick leave policy allows for payment for sick leave, then this should be followed and the EWSS will operate as normal for this staff member. Otherwise the employee should be advised to contact the DSP in relation to possible entitlements to illness benefit.

You can read more about the Enhanced Illness Benefit for Covid-19 on the [Department of Social Protection website](https://www.dsp.gov.ie).

You can read more about the EWSS [in the EWSS page on Revenue.ie](https://www.revenue.ie).

Staff members on certified sick leave accrue annual leave as normal.

12. Our staff member has handed in their notice and advised they will not be returning to work now – What do we do about the EWSS and removing the staff from it?

The DCEDIY and Revenue have noted that the EWSS represents a method of paying staff wages and so does not change the conditions of contracts. The staff member could be asked to work the notice period from home, if this is in line with your service's notice policies, and notice should run as normal up to the final day and on that day the staff member should be removed from the EWSS. Otherwise, their final day will be the day they give their notice.

You can read more about the EWSS [here on the Revenue.ie website](https://www.revenue.ie).

13. A number of staff in my service have mentioned that they are considering travelling abroad. What should I do in this instance?

Travel restrictions have recently changed and up-to-date information is available on the [gov.ie](https://www.gov.ie) website and we recommend to both employers and staff that this is checked regularly for updated advice and guidance.

Staff members who plan to travel must be aware of the quarantine periods, if any, required according to their vaccination status, destination or otherwise. Staff should keep themselves up to date on government guidance before and during their planned travel, and this should be

highlighted by employers. Staff members travelling must factor quarantine periods into their annual leave considerations before undertaking any travel.

Employers are reminded to follow the measures set out in the [Work Safely Protocol](#) in relation to the return to work checklists and forms.

14. I am worried that my staff are not adhering to COVID-19 regulations outside the service and are going to gatherings. What can I do?

This is a very difficult situation, and adherence with the COVID-19 regulations should be encouraged amongst all staff. Staff should be aware of the responsibilities they have towards safeguarding the health, safety and welfare of children in the service and the health and safety of their fellow colleagues. However, employers should be aware that they are limited in controls they can place on staff outside of the workplace, and what staff can do in their personal time. Instead, encouragement can be provided on adherence to regulations, a support environment can be fostered to ensure staff understand their responsibilities and information can be provided on government guidance in place at the time.

Section 4 of the [Work Safely Protocol “Worker Role – Workplace and community settings”](#) provides guidance on the question.

15. If an employee has not returned to work due to health reasons or they are self-isolating or restricting their movements can I make them take this as annual leave then?

As per question 7 above, in such a situation you should be asking the employee to provide a medical certificate and as an employer you cannot require an employee to take annual leave for a certified period of illness or for covid related reasons.

16. How do you deal with staff anxiety about working during the COVID-19 pandemic?

Public Health remains of the view that the Covid mitigation measures applying in Services are effective and appropriate and that early learning and childcare services can continue to operate at this time. It is important to note that, while no environment is without risk in relation to Covid-19, services can significantly reduce their risk level by closely following the expert guidance for ELC/SAC services which was provided by the HSE.

Employers should carry out regular risk assessments and communicate the results with their staff and outline the measures to be taken to eliminate the risks identified. Employers are reminded of their obligations under the Work Safely protocol including their obligation to appoint a Covid- 19 Worker Representative and the need to engage with this Representative, as set out in the Protocol.

It is not possible to completely eliminate the risk of staff coming into contact with Covid-19 in the workplace, however, by following HSE guidance the risk will be minimised.

Both Employers and Staff should read in detail [COVID-19 Infection Prevention and Control guidance for settings providing childcare during the COVID-19 Pandemic](#) and [the Work Safely Protocol COVID-19 Setting Preparation Plan Template](#).

Staff should also be encouraged to access any Employee Assistance Programmes (EAP) that may be available to them through their place of work, or through their Health Insurance, PRSA or Group Pension schemes. EAP schemes can provide vital counselling and mental health services for staff who are experiencing anxiety or stress.

If employers do not have an EAP in place, they can consider implementing one. EAPs are often affordable for employers and are best practice for safeguarding employee mental wellbeing, for helping to improve staff retention and contributing to a positive work environment. Employers can make enquiries with providers such as VHI Ireland, Laya Healthcare or other providers. Alternatively, you can discuss with your representative organisation or financial and pension advisors for suggestions.

Early Childhood Ireland group scheme policy holders with Arachas already have access to their counselling helpline provided by Arag and can contact Arag at 01 670 7470 for details of, and how their employees can access it.

The Department of Health has also just launched the [Healthy Workplace Framework](#) “which aims to support the growth of effective approaches to enhance health and wellbeing in the workplace”. The framework provides supports and tools for workplace wellbeing and enables staff engagement in the creation of wellbeing initiatives.

[The Work Safely Protocol on page 41](#) deals with Mental Health and wellbeing and provides details of the following supports.

The HSA has a range of supports, resources and advice such as:

- Dealing with stress as a result of the changes in a worker’s personal and/or working life during COVID-19, and a free online risk assessment tool for addressing work related stress: WorkPositive.
- The Government’s “In This Together Campaign” also provides information on minding one’s mental health as well as tips on staying active and connected and may be useful for use by employers and workers.

17. What if a staff member confirms they are vulnerable/lives with someone who is?

The [guidance from the HSE](#) and the Return to work safely Protocol and [the Work Safely Protocol COVID-19 Setting Preparation Plan Template](#) should be followed in relation to vulnerable people or those living with vulnerable people. If an at-risk or vulnerable worker cannot work from home and must be in the workplace, employers will make sure that they are preferentially supported to maintain a physical distance of 2 metres. It is recognised by the DCEDIY that, by its very nature, setting based childcare does not lend itself to remote working arrangements; however, employers should enable vulnerable workers to work from home where possible (e.g., administrative or support work, CPD training and other remote activities with the children).

Where remote working cannot be facilitated then this should be discussed fully with staff members prior to them returning and any concerns considered and addressed by way of adjustments to their work where possible and if required. It is important to remind all staff that the risk of infection can be reduced significantly by following up to date guidance on infection control, respiratory hygiene, hand hygiene and cleaning control protocols.

Employers are reminded that all staff, including at risk or vulnerable workers may prefer to wear a face covering at all times in the setting, including when providing direct care to children. In such instances, employers are asked to support this choice.

Employers and Staff should also read in detail the [COVID-19 Infection Prevention and Control guidance for settings providing childcare during the COVID-19 Pandemic](#) and the [Work Safely Protocol COVID-19 Setting Preparation Plan Template](#)

18. What do I do if a staff member is unhappy or has a concern in relation to their work or their terms of employment?

Where an employee has a problem or concern that arises during the course of their employment, and it has not been resolved informally then they should be advised to raise it as a grievance using the Grievance Procedure for the setting. The employer should then use this procedure to ensure the concern is dealt with fully and fairly.

Employers are advised of their employees' right to representation when raising any issue through the grievance procedure as laid out in SI 146 of 2000 Industrial Relations Act 1990 Code of Practice on grievance and disciplinary procedures (Declaration) Order 2000. For the purposes of this Code of Practice, "**employee representative**" includes a colleague of the employee's choice and a registered trade union, which the employee is a member of.

[Code of Practice on Grievance and Disciplinary Procedures](#)

19. Should I facilitate staff with paid time off work to attend their vaccination appointments?

Given that public health is encouraging the take up of the vaccine, staff should be supported by their Employer in every way to attend their vaccine appointments. This means Staff should be facilitated with reasonable time off work without loss of pay when the appointment is scheduled during working time or when they need time off work to travel to and or from their appointment. It is not good practice to require staff to take unpaid leave or to take the time as annual leave, in circumstances where the EWSS is available to employers to support with wage costs of facilitating staff attending their vaccine appointment.

Employees should be asked to notify their employer as soon as possible after they receive the text message confirming their appointment.

The [Work Safely Protocol](#) also deals with various points to be considered in relation to Vaccination, see section D14 on page 34.

20. I have staff who do not want to take the COVID-19 Vaccine, what should I do?

Currently in Ireland vaccines are not mandatory, and uptake for one of the COVID-19 vaccines is voluntary. Therefore, employers cannot compel their employees to take the vaccine. Employers should also note that they also cannot compel employees to tell them whether they intend to get vaccinated or not.

However, if an employee decides not to avail of the offer of a vaccination, and the employer is made aware of this by the employee then the employer must review their risk assessment in line with the guidance in the [HSA Work Safely Protocol](#).

21. Can we use Rapid Antigen Diagnostic Tests (RADTs) in our setting?

The Department of Children, Equality, Disability, Integration and Youth in conjunction with the HSE and Public Health has set out scheme for the use of RADTs where a child has tested positive for COVID-19 in a pod. Parents, children and staff will now have the opportunity to administer RADTs where they have been notified as contacts within a pod. More information on this scheme can be found in [the DCEDIY press release and letter to providers and parents](#).

It remains important to remember that the National Public Health Emergency Team has urged caution on the use of RADTs that are available domestically. It's important to ensure you are following [HSE Guidance on their use](#), and taking note of the following considerations:

- RADTs should carry a CE mark with a 4-digit number and are most effective when used in accordance with the manufacturer's instructions.
- RADTs should be used under the advice of trained medical professionals and should meet the minimum performance requirements [as set out by HIQA](#).
- RADTs are best used in conjunction with the public health contact tracing system, and all positive RADT results should be confirmed by a HSE approved PCR test.
- Strict data protection measures should be put in place to safeguard the personal data of employees being tested.
- RADTs are most effective when there is a large viral load present. If viral loads are low, the results may not be sufficient in finding cases.
- Self-swabbing can be a difficult task, [this video provides a helpful instruction for administering the test](#).
- False positives and false negatives can happen, particularly if the tests are incorrectly used.

It is advisable that any setting planning to use these tests to take careful note of the above considerations. Employers should consult with workers and their representatives as well as the Lead Work Representative and the Safety Representative before introducing a RADT testing regime. Agreement should be reached on a process for workers who do not wish to take part in the RADT testing. Information is included in the [Work Safely Protocol on pages 30 to 33](#).

We would also advise careful review of [the HSA Checklist](#) before considering the implementation of rapid testing in your service, and particularly when implementing the new scheme. We would recommend a thorough policy is drawn up before use that clearly outlines how and when tests are used, why they are being used, how data is collected and stored, what occurs in the case of a positive, and what occurs in the case of a false positive. We would also recommend discussing

with your staff members the possibility of introducing rapid testing as a health and safety measure and discuss how your service might successfully trial or introduce this. Consider what is set out in the above HSA checklist then as a team draft the policy around it, with the aim of increasing buy in and sign ups to the scheme.

It is also extremely important to remember that if a staff member has symptoms of any sort of respiratory infection, they should not be permitted to come to the setting even if they have received a negative result on a RADT.

22. Can I employ students with Garda vetting if I am short staffed during this time?

All employers will still be subject to the Child Care Act 1991 (Early Years Services) Regulations 2016 and the Child Care Act 1991 (Early Years Services) (Amendment) Regulations 2016 for early learning and care settings and the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 for school age childcare provision. As such, any requirements under the regulations, such as vetting and qualifications, will still apply.

Specifically, regarding qualifications requirements, it should be noted that school age childcare does not currently have a minimum qualifications standard established. Further, for early learning and care, some current students may already have received a Letter of Eligibility to Practise in the sector and thus will be permitted to work under the Regulations.

However, on a temporary basis DCEDIY has arranged an accelerated process for assessment of equivalence with the level 5 minimum qualification requirement for students currently enrolled on a recognised level 6, 7 or 8 course. Students who are approved through the accelerated assessment process will receive a “Letter of Temporary Permission to Practise” from DCEDIY.

Further information on how students can apply for a “Letter of Temporary Permission to Practise” can be found [here](#).

23. Did staff who were laid off accrue annual leave?

Where staff members were laid off temporarily due to the reduction in work, they do not accrue annual leave for the lay off period. Staff who were laid off are entitled to leave accrued before layoff commenced. Upon return, such annual leave should be taken within the appropriate leave year or with consent, within 6 months of the relevant leave year. It will be necessary to discuss and agree with your employees about scheduling of this leave and whether it is necessary to facilitate a carry over into next year if leave cannot be taken due to business constraints.

24. What do you do if a staff member is off on sick leave due to Covid-19 and then wants to return to work?

Sick leave and return to work should be managed in line with the sick leave policy in your Staff Handbook. It is recommended that this policy be updated in line with current best advice around Covid-19. Staff members should follow the restricted movement periods and advice as outlined in

[the Isolation Quick Guide for Adults](#). Upon their return they should complete the relevant forms and checklists contained in the Return to Work Safely Protocol -COVID-19 Setting Preparation Plan Template and liaise with their manager and the Settings Worker Representative.

If a staff member is told to self-isolate, restrict their movements or diagnosed with COVID-19, they can apply for a [COVID-19 enhanced Illness Benefit payment](#).

Both employees and self-employed people can qualify for the COVID-19 enhanced Illness Benefit.

25. We have a staff member who is returning to the setting after period of maternity leave, can we get EWSS for that staff member?

Employees can be added to the EWSS at any time during its operation, up until the scheduled end date of 30 April 2022. Therefore, when an employee returns from maternity leave the subsidy should be claimed for them in the payroll submission in the usual way.

You can read more about the EWSS [here](#).

26. Staff who are pregnant are worried about the risk to them. What do I need to do?

Current public health advice suggests that pregnant women are no more likely to become infected with COVID-19 than women of a similar age who are not pregnant (see [more information here](#))

However pregnant employees may have particular anxieties in relation to attending work and as an employer it's important that such anxieties are given due consideration. Where an employee is pregnant and has expressed concerns about attending work then they should be advised to talk to their GP in relation to this and discuss whether they are medically fit to attend whether for physical or mental health reasons. Where they are not medically fit to attend work and have a medical certificate then your normal sick leave policy will apply. They may have an entitlement to illness benefit and should contact their social welfare office to discuss options and eligibility. You can read more about illness benefit [at the Department of Social Protection website](#).

The Safety, Health and Welfare at Work (General Application) Regulations, 2007, requires all hazards associated with pregnancy and the work to be identified and any risk to the health and/or safety of the employee assessed. You can read more about pregnancy at work and risk assessments [here from the Health and Safety Authority](#). If your risk assessment identifies a particular risk to a pregnant employee and that risk cannot be removed, then you can put the employee on health and safety leave. You can read more about Health and Safety Leave and benefit [at Citizens Information here](#). The employee should be advised to contact Social Welfare themselves to discuss the benefit options and eligibility.

27. Does my staff handbook need to be changed and updated now?

It may be necessary to update your staff handbook to reflect operational changes in your service as per the various Covid-19 guidelines. It would therefore be good practice to review the handbook and update it where necessary.

This can be done by way of an addendum document that highlights any updates. Some updates you may wish to consider are:

- Sick leave policy and return to work procedure.
- Dress code and personal hygiene
- Infection control
- Rest breaks procedure
- Covid-19 related staff leave.

*this list is non exhaustive.

It is good practice to consult with staff (staff may seek advice and support from a suitable person including their Trade Union representative if applicable) in relation to proposed changes to workplace policies. In certain circumstances, it is necessary, where the proposed changes to workplace policies / work patterns constitute a change to agreed terms and conditions of employment then negotiation and agreement with staff (staff may seek advice and support from a suitable person including their Trade Union representative if applicable), should take place to agree any temporary restructuring of work patterns / policies to implement the necessary COVID 19 prevention measures in the workplace.

It is recommended that staff sign to say they received notification of changes and updates.