



To: Chief Executive Officer
Each National Director
Each Assistant National Director HR
Each Assistant Chief Finance Officer
Each Hospital Group CEO
Each Hospital Group Director of HR
Each Chief Officer CHOs
Each Head of HR CHOs
Head of HR, PCRS
Each CEO Section 38 Agencies
Each HR Manager Section 38 Agencies
Each Employee Relations Manager
Each Group Director of Nursing & Midwifery
Each Group Director of Midwifery
Each Clinical Director
Director National Ambulance Service

Re: Resumption of Grievance, Disciplinary and other HR processes – COVID-19

Ref: CERS 37/2020

Date: 07th July 2020

Dear Colleagues

This memorandum is effective from 29 June 2020 and supersedes CERS Memo 12/2020.

In line with the *Roadmap for Re-opening Society and Business* and the *Return to Work Safely* protocols, the normal operation of grievance, disciplinary, Dignity at Work, Trust in Care and other HR processes should resume subject to compliance with current public health advice and the Safety, Health and Welfare at Work Act, 2005. This is necessary to ensure that grievances, complaints, disputes, performance issues, alleged misconduct etc. are dealt with in a timely manner and to prevent the build-up of a large volume of cases during this period.

Managers should liaise with their local HR/Employee Relations Department with a view to progressing cases (including those that had been temporarily postponed) in line with the latest public health advice and guidance. Meetings/hearings for all employees should be conducted on-site at a suitable workplace premises, to the maximum extent possible, in the interest of fairness and equity provided there is strict adherence to COVID-19 health and safety measures. In exceptional circumstances meetings/hearings may be conducted remotely using video-conferencing technology provided the prior agreement of the participants is obtained. In all

cases the meeting/hearing must adhere to the principles of fair procedures and natural justice and ensure that the health and safety of participants is protected.

When arranging meetings/hearings in respect of employees who are currently working from home due to COVID-19, priority should be given in the first instance to arranging face-to-face meetings/hearings in the physical workplace and facilitating the employee (and his/her representative) to attend the workplace for this specific purpose. These on-site meetings must be held at a suitable workplace premises and conducted in accordance with the provisions of the Return to Work Safely Protocol [here](#). The HSE's National Health and Safety Function has published comprehensive guidance documents designed to support managers and staff in implementing the Return to Work Safely Protocol. Please refer to *HSE HR Circular 046/2020 – NHSF Advice and Guidance*. These documents are part of a suite of information that is available to support healthcare services in responding to COVID-19 and ensuring a safe return to work. These documents can be accessed [here](#).¹

Each health service employer has a legal obligation under the Safety, Health and Welfare at Work Act 2005 to ensure the health and safety of individuals in the workplace. It is a matter for each employer to identify what measures should be implemented in the workplace so as to mitigate any risks that have been identified further to a risk assessment. This duty also applies to arranging and conducting meetings/hearings required under HR policies and procedures and encompasses both employees and other persons whose presence is deemed essential, for example, union representatives. These measures should be determined by the employer in advance and include the following:

- Where possible, meetings should be held in non-clinical sites during the period of COVID-19 restrictions.
- In addition to the main meeting room, ensure that a separate meeting room is available to cater for adjournments and allow the employee and his/her representative to confer in private.
- Ensure that there is safe access to and exit from the workplace where the meeting will be held.
- One-way systems/routes should be put in place around the workplace.
- Ensure that the size and layout of the meeting rooms will enable the participants to maintain physical distancing throughout the proceedings.
- Maintenance of a contact tracing log to document the arrival of all attendees and comply with the organisation's contact tracing procedures.
- Provision of facilities in the workplace to support good hand hygiene and respiratory hygiene. All attendees should be reminded of the requirement to wash or sanitise their hands immediately upon entering the premises.
- Provision of hand-sanitiser, waste receptacle with bin liners, tissues/wipes and other items in meeting rooms.
- Display posters with advice on COVID-19 measures such as hand and respiratory hygiene in visible locations to ensure that all attendees are aware of what is expected from them.

¹ Further information and support on Occupational Safety and Health can be found at: <https://www.hse.ie/eng/staff/safetywellbeing/>

- Signs and markings should be displayed around the workplace to remind attendees to adhere to physical distancing.
- All attendees should be made aware of the details of the relevant Covid-19 Response Manager and Lead Worker Representative(s).
- All attendees should be made aware of the procedure to follow should they start feeling ill during the meeting and the location of the designated isolation room.

The identity and contact details of all persons who are required to attend the meeting should be obtained in advance. A letter should be sent to all participants setting out the meeting arrangements and enclosing a **Pre-Return to Workplace Form**². The purpose of this Form is to highlight to individuals the symptoms of COVID-19 before they enter the workplace and potentially put themselves or others at risk of infection, and to allow management to make informed decisions about the individual's attendance in the workplace. This form should seek confirmation that the person has no symptoms of COVID-19 and that the person is not self-isolating or restricting their movements. All attendees (both employees and non-employees) should be requested to complete and submit the form to a named manager *at least 3 days in advance of the scheduled meeting*. All attendees should be advised of the requirement to notify the named manager without delay if there is any change in their situation in the intervening period.

The letter to participants should also contain a brief summary of the COVID-19 measures that must be adhered to, for example, the requirement to go directly to reception/designated area immediately upon arrival so that their details can be entered in the contact-tracing log; maintain physical distancing; compliance with good hand hygiene and respiratory etiquette, etc.

Where it is not feasible to conduct meetings/hearings on-site in the workplace, consideration may be given to holding meetings remotely using video-conferencing technology as an *exceptional measure*. The relevant parties should be consulted and their agreement sought to participate in this manner. Remote meetings using video-conferencing facilities preserve most of the benefits of a physical meeting, allowing parties to interact with each other on a real-time basis. It is essential that virtual meetings/hearings³ replicate as closely as possible the core requirements of face-to-face meetings/hearings under the relevant HR policy/procedure to ensure procedural fairness. This includes the employee's right to be represented by a union official or work colleague during the proceedings.

In addition to the agreement of the parties, the factors that should be considered prior to going ahead with virtual meetings/hearings include each participant's access to the necessary equipment, electronic and broadband capability to enable them to join remotely. Participants will also require access to a quiet secure location to ensure that they will not be interrupted or distracted during the virtual meeting.

Further guidance on holding virtual meetings/hearings is available at **Appendix A**.

² See HSE's *Pre-Return to Workplace Form* which can be adapted for non-employees. Return to work forms should be tailored to collect the minimum information necessary to achieve this objective and should generally not be processed for any other purposes in line with GDPR provisions.

³ Further information on remote meetings is available from the HSE's website [here](#).

COVID-19 Arrangements – WRC and Labour Court

The Workplace Relations Commission (WRC) has published a document setting out its proposed matrix for service delivery to progress alternative approaches for adjudication complaint processing over the forthcoming period. This document contains guidance on preparing for and conducting remote hearings and is available from the WRC's website [here](#).

With effect from 2 June 2020, the Labour Court has been scheduling hearings in virtual courtrooms wherever possible. Further information (including a *User's Guide to Virtual Labour Court Hearings*) is available from the Court's website [here](#).

Please bring this memorandum to the attention of managers within your area of responsibility.

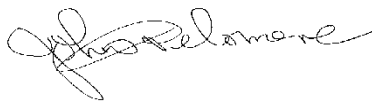
Queries

Queries from individual employees or managers should be referred to local HR/Employee Relations Departments.

Queries from HR/Employee Relations Departments on this memorandum and related matters may be referred to Anna Killilea, Corporate Employee Relations, HR Directorate, 63-64 Adelaide Road, Dublin 2. Tel: 01 6626966, Email; anna.killilea@hse.ie

Please note that the National HR Helpdesk is also available to take queries on 1850 444 925 or ask.hr@hse.ie

Yours sincerely



John Delamere

Head of Corporate Employee Relations Services

Appendix A Guidance on Virtual Meetings/Hearings

Where cases are deemed suitable for a virtual meeting/hearing and the parties have given their agreement, the participants should be advised in writing of the protocol to be followed so as to ensure the efficient and smooth running of the meeting. The following points are intended as general guidance and employers/managers should provide further details as appropriate:

Pre-Meeting/Hearing

1. Email notifications will issue to the parties with instructions on how to join the virtual meeting/hearing. Each participant should be requested to confirm that they have received the email invite to ensure that they are ready to join the meeting in good time on the appointed day.
2. A copy of all relevant documentation should be sent in advance of the meeting along with an index and participants should be requested to confirm receipt of all documents listed in the index.
3. The email invite should include the name and phone contact details of a staff member who can be contacted in the event of technical difficulties. Where a participant cannot access the meeting via the link to the video-conferencing platform, s/he should immediately contact the named staff member.
4. Participants should test their equipment beforehand, so the technology is not a distraction following the commencement of proceedings. Participants should familiarise themselves with the technical functionality of the platform being used so they can operate basic functions such as ‘muting’ and ‘unmuting’ their microphone.
5. Participants should ensure that there is sufficient internet coverage in their location whether by direct connection, WIFI or mobile/smart phone hotspot.
6. The participants should be ready at least 20 minutes before the scheduled start time and check that their access device is fully charged so they do not drop out of the meeting at any stage.
7. Screens should be set at 90 degrees to the keyboard so the participant’s face can be seen properly. Ideally the background should be blank or neutral.

Commencement of the Virtual Meeting/Hearing

The manager who is conducting the meeting/hearing will confirm that all the parties are in attendance and will outline what is expected of participants. This includes the following points:

1. The recording of virtual meetings/hearings is strictly prohibited. The manager conducting the meeting should seek confirmation from the parties at the outset that they will not engage in the unauthorised recording or live streaming of the meeting to another location. If the manager has reason to suspect that any of the participants are failing to comply with this requirement, s/he may decide to postpone the meeting.
2. All mobile phones or other electronic devices not being used for the specific purpose of the proceedings should be turned off or turned onto silent for the duration of the meeting.

3. Unless directed otherwise, all participants should leave their cameras turned on during the allotted time. Participants should not move away from the screen during the remote meeting. Participants may be requested to demonstrate (by moving the camera) that they are alone in the room.
4. Participants may be requested to have their microphones muted and only be unmuted when invited to speak by the manager conducting the meeting. Features such as a 'raise hand' function should be brought to participants' attention prior to the start of the meeting and the general etiquette outlined.
5. Some video-conferencing platforms such as Cisco Webex provide a 'share content' function for displaying a document on screen, viewable by all participants. Any such document-sharing function should only be used on the instruction of the manager conducting the meeting. An index of documents/correspondence sent in advance of the meeting will assist in referring participants to relevant documentation during the meeting.

During the Virtual Meeting/Hearing

1. During the meeting the manager should permit reasonable requests for short breaks to facilitate an employee to consult with their representative on a confidential basis via an appropriate off-line communications method of their choosing including by telephone.
2. In the event of unforeseen and unavoidable technological issues during the meeting, the manager will temporarily adjourn to allow those issues to be addressed by the party experiencing those issues. If the technical issues cannot be resolved such that all parties can participate effectively, the meeting will be adjourned and rescheduled.

Data Protection

The use of video-conferencing technologies and applications for conducting virtual meetings/hearings and distribution of documentation by electronic means must comply with the organisation's Data Protection Policy and GDPR requirements. The Data Protection Commission has published *Tips for Avoiding Data Breaches* when using virtual technology and this guidance is available [here](#). Participants and their representatives must take all necessary steps to ensure the confidentiality and security of any correspondence or documents of a confidential or sensitive nature being transmitted electronically and must comply with data protection requirements.