



Circular Letter 0063/2019.

To: The Presidents of the Institutes of Technology and Technological Universities

SCHEME FOR LEAVE OF ABSENCE FOLLOWING ASSAULT

The Minister for Education and Skills directs you to implement the regulations and procedures regarding the Scheme for Leave of Absence following Assault for lecturers employed in an Institute of Technology and Technological University.

The regulations and procedures are to be implemented by each employer from 7th October 2019 and all lecturers must adhere to the terms of the attached Scheme for Leave of Absence following an Assault.

This circular supersedes all previous circulars, memoranda, rules and regulations in relation to Leave of Absence following an Assault for lecturers in Institutes of Technology & Technological Universities. Please ensure that the contents of this circular are brought to the attention of all lecturers in your employment including those on leave of absence.

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21st November 2019



Contents

Definitions.....	3
1. Introduction.....	4
2. Institute of Technology & Technological University Policy.....	4
3. Entitlement to Leave of Absence following Assault	5
4. Application process.....	6
5. Occupational Health Service (OHS) referral.....	6
6. Recording of Leave of Absence following Assault.....	6
7. Status while on leave.....	6
8. Correspondence address.....	7
9. Compliance.....	7
10. Data Protection	7
11. Further information.....	7
Appendix A Application Form for Leave of Absence following Assault	8



SCHEME FOR LEAVE OF ABSENCE FOLLOWING ASSAULT

Definitions

For the purposes of the scheme the following terms have the meanings assigned to them here unless the context indicates otherwise:

Assault – means physical contact from a third party causing physical injury to a lecturer in the course of the lecturer's duties and during approved Institute / University activities.

Employer – means the Institute of Technology / Technological University

The Department – means The Department of Education and Skills (DES).



1. Introduction

- 1.1 Leave of absence under this scheme may be granted to a lecturer who is unable to perform his/her duties due to a physical injury following an assault in the course of the lecturer's duties and during approved activities.
- 1.2 The incident giving rise to an application for leave under this scheme must not have been due to any negligence or any act or omission on the part of the lecturer and all due procedures and protocols in regard to personal safety must have been adhered to.
- 1.3 Granting of leave under this scheme is not an admission of liability on the part of the employer and any such leave is granted on a strictly without prejudice basis.
- 1.4 The Scheme for Leave of Absence following Assault will operate on a pilot basis for 2 years commencing 7th October 2019.
- 1.5 A substitute lecturer may be employed by the Institute of Technology / Technological University to cover a lecturer who has been granted Leave of Absence following Assault and such substitute lecturer will be paid by the Institute of Technology / Technological University.

2. Institute of Technology & Technological University Policy

- 2.1 The Health and Safety Authority (HSA) is the national statutory body responsible for regulating health and safety in the workplace. The employer has a duty under Section 8 of the Safety, Health and Welfare at Work Act 2005 to “ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees”. Employers should familiarise themselves with their responsibilities and obligations under the Acts and the various Regulations
- 2.2 Institutes of Technology / Technological Universities should have in place a clearly defined policy/ Code of Behaviour/ Safety Statement which includes procedures to be implemented in the event of an assault on an employee. These procedures should include;
 - (i) Seeking medical assistance, where necessary.
 - (ii) Immediate reporting of incidents to appropriate HR management
 - (iii) Recording of incidents in an Incident Report Book.



- (iv) Reporting of the incident to the Health and Safety Authority.
- (v) Reporting to the Gardaí, where appropriate.
- (vi) Ensuring that all appropriate safeguards have been put in place to protect persons at risk and to prevent, in so far as is practicable, the occurrence of assault

3. Entitlement to Leave of Absence following Assault

3.1 Only absences medically certified as a physical injury qualify for leave under this scheme.

To be acceptable, a medical certificate must;

- be signed by a duly qualified medical practitioner registered with the Irish/UK Medical Council/Dental Council of Ireland, and must state the medical practitioner's Medical Council registration number. (This will also apply to MC1/2 forms where appropriate)
- normally cover a period of no more than one week. However, certification for periods of up to one month may be permitted at the discretion of the employer, and
- state fitness to work or otherwise.

3.2 The maximum leave available under the Scheme for Leave of Absence following Assault is 3 months (92 days) at full pay in a rolling 4 year period. In exceptional cases, such as where a significant period of hospitalisation is required or in situations of a second or subsequent incident of assault, the leave may be extended for a further period not exceeding 3 months (91 days) at full pay, subject to an overall limit of 6 months (183 days) at full pay in a rolling 4 year period. Any subsequent absence will be dealt under the Sick Leave scheme.

3.3 Leave of Absence following Assault includes weekends, Institute of Technology / Technological University closures and days on which a lecturer is not timetabled for attendance, occurring within the period of absence.

3.4 When calculating a lecturer's entitlement, any Assault Leave/Leave of Absence following Assault granted in the previous four years from the current absence will be taken into account in determining access to leave under this scheme.



- 3.5 Leave of Absence following Assault ends on:
- the ceasing of the certification by a duly qualified medical practitioner of the physical injury; or
 - the maximum leave limits available under this scheme being exhausted; or
 - certification of fitness to return to duties.
- 3.6 A lecturer who has exhausted the maximum period of paid leave under the Scheme for Leave of Absence following Assault and who is still medically unfit to resume duty may avail of Sick Leave under the Sick Leave scheme, subject to the normal rules of that scheme.
- 3.7 Fixed term/fixed purpose contract of employment: The lecturer's entitlement to Leave of Absence following Assault shall cease on the expiry of the contract and that contract not having been renewed.

4. Application process

- 4.1 In order for an absence to be recorded as Leave of Absence following Assault, the Application Form (attached at Appendix A) must be completed by the lecturer concerned and the employer and forwarded by the employer to the Institute of Technology / Technological University within a week of the incident occurring. Where in exceptional cases a lecturer is unable to complete his/her part of the application within a week of the incident due to physical incapacity, this period may be extended by the employer – applications must be forwarded to the Institute of Technology / Technological University within a reasonable period in this event.
- 4.2 The Application Form must set out details of the incident and be accompanied by copies of the required reporting documentation.

5. Occupational Health Service (OHS) referral

- 5.1 Absences recorded under this scheme will be combined with previous Sick Leave absences for the purposes of non-discretionary referral to the OHS in cases where a lecturer is absent on a long term sick absence, if the absence is of four weeks or greater.
- 5.2 The OHS Standard Operating Procedures will apply, including in relation to referral and fitness to return to work.

6. Recording of Leave of Absence following Assault



6.1.0 IOT/TU paid Lecturers

- 6.1.1 For the duration of the scheme, a lecturer's initial absence on Leave of Absence following Assault will be entered on the employers' payroll, upon receipt of a fully completed application form for such leave from the relevant HR personnel. Any continued absence under this scheme must be entered on the employers' payroll by the employer upon receipt of an acceptable medical certificate and subject to a maximum period of 3 months (92 days).
- 6.1.2 In exceptional circumstances, the lecturer's absence may then be extended by the employer for a further period, subject to receipt of the appropriate medical certification and subject to a maximum of 91 days. Leave of Absence following Assault is subject to an overall maximum period of 6 months (183 days) in a rolling 4 year period.

7. Status while on leave

- 7.1 The lecturer's Sick Leave record will not be affected by any absences recorded as Leave of Absence following Assault.

8. Correspondence Address

- 8.1 The employer will address all necessary correspondence to the lecturer at the address last notified by the lecturer and no fault shall lie with the employer in the event that the lecturer does not receive such correspondence.

9 Compliance

- 9.1 All lecturers/employers must adhere to the regulations and procedures set out in this circular. Failure to abide with the regulations and procedures will be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary in the case of lecturers.
- 9.2 All documentation relating to Leave of Absence following Assault must be retained by the employer with the relevant personnel records for 10 years. These records may be selected for inspection by nominated Department officials. All records should correspond with the data input on the Institute of Technology's / Technological University's payroll system.



10 Data Protection

The Department of Education and Skills and the respective employers of data subjects are joint controllers within the meaning of article 26 of the GDPR. The arrangements regarding the respective responsibilities of the Department and individual employers for compliance with the obligations under GDPR are outlined on the DES website.

11 Further Information

- 11.1 In accordance with the introductory paragraph, the regulations in this circular are to be implemented by the employer. All queries should initially be brought to the attention of the employer who may wish to consult with their representative organisation, who may further wish to consult with the Department at the following email address: esr@education.gov.ie



Appendix A

Application Form for Leave of Absence following Assault

Completed forms, with attachments, should be submitted to the relevant HR personnel.
(A copy of the completed form should be retained in the lecturer's personnel file).

Name of Lecturer: _____

PPSN: _____

Name of IOT/TU: _____ Employee No.: _____

Date and Time of incident:

Place where incident occurred:

Brief summary of incident:

I, the undersigned, declare that the above information is true, accurate and complete; that I have read Circular 0061/2019 and that the leave of absence applied for is in accordance with the terms of that circular.

Signature: _____
(Lecturer)

Date: _____



To be completed and signed by the Employer

Period of leave of Absence following Assault: From _____ to _____.

I confirm that (*please tick as appropriate*):

- I have received medical certification in relation to the period of absence above in accordance with the scheme as set out in Circular 0061/2019.
- The incident has been recorded in the Incident Report Book.
(*Copy of record to be attached*)
- The incident has been reported to the Health and Safety Authority if applicable.
(*Copies of relevant correspondence to be attached*)
- The incident has been reported, where appropriate, to An Garda Síochána (*Copies of relevant correspondence to be attached*), **OR**
- The incident was considered inappropriate to be reported to An Garda Síochána.
- All appropriate safeguards have been put in place to protect persons at risk, and to prevent, in so far as is practicable, the re-occurrence of a similar incident.

I, the undersigned, declare that I have read the circular, that the information recorded in this form is true, accurate and complete and that the leave of absence applied for is in accordance with the terms of the circular.

Signature: _____ **Date:** _____
(*on behalf of Employer*)

Full name and address of IOT/TU:

Email address: _____ Telephone number: _____



Privacy Statement

The main purpose for which the Institute of Technology and Technological University requires the personal data provided by you is to consider your application for leave of absence following assault and the management of such incidents. The respective employer of data subjects will retain the personal data of applicants as described in the employer's Data Retention Policy. The privacy notice outlining further information in relation to this form can be found at [\[insert link\]](#). While the Department of Education and Skills do not hold any of your personal data collected for the purpose of this scheme, full details of the Department's data protection policy as well as information regarding your rights as a data subject are available www.education.ie.