

THE HEALTH PROTECTION (CORONAVIRUS RESTRICTIONS) (NO. 5) (WALES) (AMENDMENT) REGULATIONS 2021

EQUALITY IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

These Regulations require the proprietor of a school or a Further Education Institution (FEI) to, subject to the exceptions set out in the Regulations, not permit pupils to attend the school premises, or students to attend FEI premises, in Wales from the day the Regulations come into force until 21 February 2021. These restrictions do not apply to vulnerable learners or the children of critical workers or those learners who are undertaking assessments or examinations.

The Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease known as Covid-19 or coronavirus.

The advice of the Chief Medical Officer for Wales is that further action is needed if we are to mitigate the ongoing transmission of Covid-19 and to prevent NHS capacity in Wales becoming stressed and potentially overwhelmed. These Regulations are intended to prevent direct Covid-19 deaths and deaths related to the non-availability of NHS services as a consequence of widespread community transmission of the virus.

On 4 January 2021, the four UK Chief Medical Officers have agreed that the UK is now at the highest level of risk, Joint Biosecurity Council level 5. In the light of that decision the Welsh Government, in consultation with the WLGA and Colegau Cymru, agreed that all schools, colleges and independent schools should move to online learning.

On 7 January the First Minister announced that this approach would continue, but would be brought in line with the three week review cycle. Unless there is a significant reduction in cases of coronavirus before that review on 29 January, schools and colleges in Wales will continue to provide online provision until the end of February half term.

These Regulations put that decision, and the subsequent decision to bring this in line with the review of the wider societal restrictions in Wales, on a legal footing.

The Equality and Human Rights Commission's report *How coronavirus has affected equality and human rights*, October 2020

As part of its *Is Britain Fairer?* report series the EHRC reports on how the pandemic has affected different groups. Some of the key findings about school closures and remote learning are outlined below.

“There is a real danger of a lost ‘COVID generation’ as young people miss out on education and are likely to be hardest hit by job losses.

“Differences in support for remote learning during the pandemic threaten to widen inequalities for those who already perform less well than their peers, particularly boys, Black pupils, some Gypsy, Roma and Traveller pupils, pupils who need support in education, and those who are socio-economically disadvantaged.

“The response to the coronavirus pandemic has created gaps in the education of most children in Britain. These gaps threaten attainment at primary and secondary level.

“Boys continue to perform worse than girls and attainment by children with SEND / ASN / ALN is much lower than those without such needs.

“Black pupils have lower attainment levels than other ethnic minority groups although Gypsy, Roma and Traveller pupils continue to have the lowest attainment levels of any ethnic group by a significant amount.

“Children eligible for free school meals or from deprived areas perform below the average. These groups are at risk of falling further behind. There are also inequalities in the amount of time spent on home-learning, with some indication that boys are spending less time on home learning than girls.

“Research suggests that 20% of pupils on free school meals in the UK had no access to a computer at home, compared with 7% of other children.

“In Wales, there are also concerns that pupils attending Welsh language schools who do not have Welsh-speaking parents are not getting sufficient attention.”

We fully accept that any change to education arrangements has a wide variety of impacts on different groups. At this time, these impacts are balanced against the need to protect the health of all of Wales' citizens.

We have identified some specific impacts by protected characteristic and have listed these below.

Record of impacts by protected characteristic:

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
Age	<p>Children and young people may be adversely impacted by a loss of schooling and routine – a full Children’s Rights Impact Assessment (CRIA) has been carried out separately.</p>	<p>Children and young people are the groups most directly impacted by school and college closures.</p>	<p>A full CRIA is available separately.</p>
	<p>Working-age adults who are parents may be adversely impacted by the need to provide childcare and extra support to their children while home schooling.</p> <p>Some of these parents will have had to use leave or even seek alternative employment where working from home has not been an option, which in turn could lead to an increase in low income households.</p>	<p>School closures have meant many working parents who are not critical workers have had to make arrangements with their employers to change working patterns and locations.</p>	<p>We are using campaigns, and networks, to distribute information and advice to parents, for example the Parenting. Give it Time campaign which is used to get messages out to parents; the Flying Start Facebook page; and our Parenting Expert Action Group, Childcare, Flying Start and Families First Networks.</p>
	<p>Older, retired people who provide childcare for grandchildren may be adversely impacted by the need</p>	<p>Grandparents have been called upon to help with childcare and home schooling where working</p>	

	to provide additional help with childcare and support with home schooling.	parents have been unable to make alternative arrangements.	
Disability	Children and young people with disabilities and additional or special learning needs may be more adversely impacted by not attending school or college.	Vulnerable learners are identified by educational providers or local authorities (including children's social care services), as those who could benefit from continued full-time attendance at school or college.	Children and young people who are identified as vulnerable or who have a statement of SEN may still attend their usual school or college as normal. This exception is stipulated in the Regulations.
	Parents and carers with disabilities may be disproportionately adversely impacted by the need to provide additional childcare and support during school closures.	Physical disabilities and learning disabilities may affect a parent's ability to perform the role of both care giver and educator on a full-time basis, even for a short timeframe.	This mitigates some impacts of not having access to the usual equipment and support from school or college, but cannot fully address issues that arise from reduced social interactions and possibly changes to routine.
Gender Reassignment	None.		
Pregnancy and maternity	Pregnant women and those with very young children as well as older children who attend school or college may be adversely impacted by the need to provide extra childcare and	EHRC report: <i>How coronavirus has affected equality and human rights</i> , October 2020	We are using campaigns, and networks, to distribute information and advice to parents, for example the Parenting. Give it Time campaign which is used to get messages out to

	<p>support for home schooling.</p> <p>Those who have become unpaid carers are more likely to be women, younger and have young children. They have faced competing demands, which have challenged their physical and mental health and wellbeing and placed additional strain on their relationships, finances and ability to do paid work.</p>		<p>parents; the Flying Start Facebook page; and our Parenting Expert Action Group, Childcare, Flying Start and Families First Networks.</p>
Race	<p>Some learners from ethnic minorities, including Gypsy, Roma and Traveller pupils may be adversely impacted by remote learning, particularly in accessing technology.</p>	<p>EHRC report: <i>How coronavirus has affected equality and human rights</i>, October 2020</p>	<p>As part of the ‘Stay Safe. Stay Learning’ programme, the Welsh Government is working with local authorities to support digitally excluded learners.</p> <p>An additional £3m was made available to support these learners in 2020.</p> <p>In addition, schools and settings are encouraged to have a range of communication channels in place for parents/ carers, including non-digital options for those</p>

			parents/carers without access to technology.
Religion, belief and non-belief	Children and young people who attend a school or college with a religious character may be adversely affected by the closures if school or college represents their only access to collective worship or other teachings important to those individuals.	School or college may represent the only opportunity for some children and young people to practice religious observance with their peers.	Through Hwb, the digital learning platform for Wales, learners and practitioners from maintained schools have access to a range of online learning tools. Video conferencing can provide an interactive experience and an opportunity to collaborate and engage in religious observance through school or college in a safe and accessible way.
Sex / Gender	Women are more likely to carry the burden of additional childcare and home schooling, even if they are in employment, than their male partners.	EHRC report: <i>How coronavirus has affected equality and human rights</i> , October 2020	We are using campaigns, and networks, to distribute information and advice to parents, for example the Parenting. Give it Time campaign which is used to get messages out to parents; the Flying Start Facebook page; and our Parenting Expert Action Group, Childcare, Flying Start and Families First Networks.

Sexual orientation	None.		
Marriage and civil partnership	None.		
Children and young people up to the age of 18	A full Children's Rights Impact Assessment (CRIA) has been carried out separately.	Children and young people are the groups most directly impacted by school and college closures.	A full CRIA is available separately.
Low-income households	Learners from low income household may be disproportionately adversely impacted by school and college closures where they have limited access to digital devices and the internet.	National Survey for Wales, 2018-19 <i>Internet use and digital skills</i>	As part of the 'Stay Safe. Stay Learning' programme, the Welsh Government is working with local authorities to support digitally excluded learners. An additional £3m was made available to support these learners in 2020. In addition, schools and settings are encouraged to have a range of communication channels in place for parents/ carers, including non-digital options for those parents/carers without access to technology.
	Parents from low income households may lack the		Through Hwb, the digital learning platform for Wales,

	<p>intellectual resources to support their children through home schooling.</p>		<p>learners and practitioners from maintained schools have access to a range of online learning tools. Using applications through Hwb can provide an interactive experience and an opportunity to collaborate and engage in a safe and accessible way.</p>
	<p>Learners eligible for free school meals provision may be adversely impacted by school closures.</p>	<p>Some families are reliant on the provision of free school meals for their children’s nutrition and health needs.</p>	<p>Local authorities are reminded that legal duties with regard to the provision of free school meals still apply throughout school closures.</p> <p>Additionally, when making arrangements for providing eligible learners with free school meals, school governing bodies and local authorities must take reasonable steps to ensure that a learner cannot be identified by any person, other than a person authorised under legislation, as a learner who receives a free school lunch.</p>

European Convention on Human Rights

Whilst the Regulations engage individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights, the Welsh Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by these Regulations.

Each of these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health and are proportionate.

Any interference with these rights also needs to be balanced with the State's positive obligations under Article 2 (right to life). It balances the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence.