

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

EQUALITY IMPACT ASSESSMENT

Increasing onsite learning from 15th March 2021 as part of phased return to schools and settings in connection with COVID-19

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

This proposal will increase the opportunity for more learners to return to face-to-face teaching from 15 March 2021.

This proposal builds on the increased opportunity for groups of learners including within the Foundation Phase to return to face-to-face teaching from 22 February 2021 and is set in context of the continuing improvement in the public health situation in Wales.

The general proposals are outlined in brief below. We understand the precise arrangements for each year group will vary from school to school dependent on a number of factors including but not restricted to timetabling and school transport. Schools and settings will require flexibility to best meet the needs of their learners.

We fully accept that any change to education arrangements has a varied and broad impact on different groups including learners, staff, families and communities.

Proposal

From Monday 15 March 2021, if the public health situation continues to improve, the remainder of primary aged learners will return to onsite learning. Secondary aged learners will also be able to return to onsite learning from this date, with provision planned on the following basis:

- The majority of time and resources for onsite learning should be allocated to learners in Years 11 and 13.
- The time that is allocated to face to face learning should focus on activity that is more difficult to achieve remotely.
- Remote learning will need to continue during this period for those not engaged in face to face learning, with an acknowledgment that this poses specific challenges as the proportion of face to face learning increases.

Beyond this current proposal and the considerations given within this impact assessment, subject to the continuing improvement in the public health position in Wales, our ambition is to enable all pupils to be back onsite after Easter 2021.

The Welsh Government's [operational guidance for schools and settings](#) from 15 March 2021 was updated on 3 March 2021.

The [report](#) produced by the Children's Commissioner for Wales, *Coronavirus and me: A second nationwide survey of the views and experiences of children and young people in Wales, January 2021*

Following on from the first consultation in May 2020, this second consultation and report presents the views and experiences of 19,737 children and young people aged 3-18 in the COVID restrictions.

The report outlines in its summary findings that life has generally been difficult for all age groups with many expressing frustration and sometimes anger about the impact of the pandemic on their lives. Many spoke about missing their friends, teachers, schools and families. 30 per cent of 17 and 18 year olds reported being worried 'most of the time'.

Over half enjoyed learning at their own pace from home, but many were worried about falling behind with their learning. Levels of confidence and motivation with education are shown to be decreasing with age.

In both consultations we see that children who often face more barriers to accessing their rights have also faced more struggles on average than their peers. Disabled children and young people are more likely to be worried about coronavirus, more likely to feel sad, and more likely to feel unsafe. Children and young people of Black, Asian and other minority ethnicities are more likely to feel lonely and less likely to say they feel safe.

Many children and young people also reported positive experiences in both consultations, including enjoying spending time at home and receiving good support from schools and youth workers.

The (EHRC) 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. The key findings about school closures and remote learning include:

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

In general, where we refer to staff, we refer to the full range of staff involved in schools and settings including all teaching and non-teaching, administrative, facilities, and school transport staff.

Returning to school buildings

We expect that children, young people and staff who are clinically extremely vulnerable and shielding will be asked to continue to do so, unless given advice from a GP or healthcare provider that they can return. All those in the first four priority areas have now received their vaccinations. We acknowledge that the vaccine programme is moving at some pace across Wales.

It will be important for school leaders to consider practical options for how best to support their teaching workforce and classroom assistants: as staff and learners return to school buildings; and as over time onsite provision increases and remote provision continues but decreases.

The Welsh Government’s operational guidance for schools and settings with limited attendance sets out a suite of important mitigations that Local Authorities and

schools and settings will be asked to implement. These include comprehensive risk assessments; Black, Asian and Minority Ethnic Toolkit; enhanced cleaning regimes; good hand and respiratory hygiene; ventilation; use of high quality three-layer face coverings where appropriate, including for learners in secondary school age settings in classrooms only if social distancing cannot be maintained; continuous vigilance for symptoms; and surveillance, testing and outbreak management.

For other members of the workforce, including cleaners, catering staff and technicians, similar considerations will need to be taken to ensure staff can return to work safely, with awareness of factors unique to each role taken into consideration.

Additional financial support has been made available to support Local Authorities with additional costs associated with the phased return of learners.

Disability

Staff with disabilities

It is likely that a higher number of staff in schools and settings with physical disabilities will need to take precautions about returning to site compared with staff without a disability.

For members of staff with additional support needs it will be important for any changes to routine to be clearly communicated.

Staff mental wellbeing

Staff suffering with mental ill health may have found closures to onsite learning to have a greater negative impact on their wellbeing than their peers. The same group of people may be more likely to be anxious about the phased return of learners. Mental health and wellbeing support is set out in the Welsh Government's Operational guidance for schools.

Routine testing

We recognise increased onsite learning in schools and settings will result in greater community mobility with pupils and parents and guardians travelling more. We also recognise there may be other easing measures within the 21 day review period which could also lead to greater community mobility.

The Welsh Government's Operational guidance for schools provides information on the measures schools and settings and individuals can take to remain safe. The updated Operational guidance includes information on asymptomatic testing for schools and settings to quickly detect asymptomatic adults to reduce the likelihood of clusters and outbreaks in settings. Tests have been available to all staff working in schools and settings including school transport operators, peripatetic teachers and supply staff from February 2021.

Sex

Caring responsibilities

We recognise that women who are staff are more likely to have been juggling caring responsibilities with supporting home learning whilst working from home or whilst working in school supporting vulnerable learners and children of critical workers. As learners return to schools and settings on a phased basis, staff who are parents or carers will be dependent upon childcare being available to enable them to return to previous or amended working patterns themselves.

Women who are parents or carers, and who make up the wider education workforce for example learning assistants and cleaners are also likely to be dependent upon childcare being available to enable them to return to their contracted working patterns.

Safety and wellbeing

There is a risk that there has been an increase in domestic abuse during lockdown. For staff impacted by this, a return to the workplace is likely to have a positive impact overall, but support should be available to support these members of staff.

Women's health

At any one time, a proportion of the female education workforce will be dealing with the often debilitating effects of the menopause and other menstrual health issues such as endometriosis. Stress, which we know has increased for some as a result of lockdown, can exacerbate a number of the symptoms associated with these conditions and returning to a repurposed school estate where access to toilets might have changed may be challenging. With workplaces moving towards being 'menopause friendly' schools should consider how they offer support in this context.

Gender reassignment

Transgender members of the workforce may have experienced delays to gender-affirming treatment due to COVID-19, which could have a negative impact on mental health and wellbeing. There is no data available to know how many members of the workforce may be impacted.

Pregnancy and maternity

Pregnant members of the workforce should continue to follow the latest guidance set out in the Welsh Government's Operational guidance for schools during limited attendance, and employers should conduct risk assessments.

Returning to work

Some members of staff will be returning to the workforce after maternity leave and will not have experienced home learning in the same way as their colleagues.

Experts have warned Covid-19 has had a negative impact on maternal mental health beyond that seen in the general population, where reported rates of anxiety have more than doubled. Consideration should be given to their re-induction to the workforce.

Religious spaces

Our operational guidance states that all available space should be utilised to assist with maintaining social distance from staff and learners. Where rooms are potentially being repurposed, it should be ensured that provision remains available for staff to access religious spaces at expected times of day.

Wellbeing

We recognise that supporting staff wellbeing at a time of increasing onsite operations is paramount. The All Wales Risk Assessment Tool enables staff to consider both their health and well-being, and understand their personal risk of developing more serious symptoms if they come into contact with the COVID-19 virus as either low, high or very high.

Low-income households

Whilst the closure of schools and settings has caused some members of staff to be furloughed, which may have decreased their monthly income, it is expected that increasing operations will allow for those people to return to work and to their previous salary.

Record of Impacts by protected characteristic

Children and young people

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	Children and young people may be adversely impacted by a loss of schooling, routine and social contact.	Children and young people are the groups most directly impacted by school and college closures.	Schools and settings have been open for vulnerable children and children of critical workers. Our priority for phased return focused on our

			<p>youngest learners, recognising they find remote learning particularly challenging, and progresses to the critical transition points of Years 11 and 13.</p> <p>Under an overarching learning offer, a phased return to onsite provision is being delivered in a regulated environment with COVID safety measures in place. Measures are informed by operational guidance, advice from the HSE and based on scientific and technical advice to the Welsh and UK Governments.</p>
<p>Disability</p>	<p>Children and young people with disabilities and additional or special learning needs may be more adversely impacted by not attending school or college.</p>	<p>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.</p>	<p>Children and young people who are identified as vulnerable or who have a statement of SEN can be expected to attend their usual school or college as normal. This is stipulated in the Regulations.</p> <p>This mitigates some impact of not having access to the usual equipment and support from school or</p>

			college that may have caused issue, and will contribute to the easing of, but not fully address issues that arise from reduced social interactions and changes to routine.
Gender Reassignment	None	--	--
Pregnancy and maternity	We understand there could be cases of pregnancies in young people who may still be in attendance at school or college.	Studies from the UK show that pregnant women are no more likely to get seriously unwell from coronavirus but pregnant women have been included in the list of people at increased risk as a precaution. Pregnant women should follow the latest government guidance on social distancing and avoid anyone who has symptoms suggestive of coronavirus. Pregnant women in their third trimester should be particularly attentive to social distancing.	Central messaging and information made available may be relevant and provide reassurance.
Race	Some Black, Asian and minority ethnic learners, including Gypsy, Roma and Traveller learners may be adversely impacted by remote learning,	EHRC report: <i>How coronavirus has affected equality and human rights</i> , October 2020	As part of the 'Stay Safe. Stay Learning' programme, the Welsh Government has been working with Local Authorities to

	<p>particularly in accessing technology.</p>		<p>support digitally excluded learners.</p> <p>Additional funding 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 and carers, including non-digital options for those without access to technology.</p> <p>Every learner with access to technology may benefit from the Hwb digital learning platform for Wales including Office 365.</p>
<p>Religion, belief and non-belief</p>	<p>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.</p>	<p>School or college may represent the only opportunity for some children and young people to practice religious observance with their peers.</p>	<p>Through Hwb, the digital learning platform for Wales, learners and practitioners from maintained schools have access to a range of online learning tools.</p> <p>Video conferencing can provide an interactive experience and an opportunity to collaborate and engage in religious observance through school or college in a</p>

			safe and accessible way.
Sex / Gender	All learners develop in different ways and whilst complex, we understand gender can be an influencing factor in cognitive development, in participation and achievement; though gender may also indicate the existence of other barriers and challenges which may have a greater impact.	Attainment information over time and international evidence from for example PISA (Programme for International Student Assessment)	The individual nature of learners and learning and the need for targeted support will be recognised in our action to support children and young people to return to schools and settings and move beyond COVID.
Sexual orientation	None	--	--
Marriage and civil partnership	None	--	--
Children and young people up to the age of 18	A Children's Rights Impact Assessment (CRIA) for this next phase of increasing access to onsite learning has been carried out separately.	Children and young people are the groups most directly impacted by school and college closures.	We will build on the issues identified in the CRIA. 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	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 has been working with Local Authorities to

	<p>have limited access to digital devices and the internet.</p>		<p>support digitally excluded learners.</p> <p>Additional funding was made available to support these learners in 2020.</p> <p>In addition, schools and settings continue to be encouraged to have a range of communication channels in place for parents and carers, including non-digital options for those parents and carers without access to technology for this period when some learners will remain being taught remotely, whilst others will return to school.</p>
<p>Low-income households</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>Data gathered by Data Cymru has shown that since the end of June 2020 the number of children receiving free school meals has increased by 12,969 from 91,700 at the end of June to 104,669 at the 9 December 2020. This</p>	<p>Local Authorities are reminded that legal duties with regard to the provision of free school meals still apply throughout school closures and phased reopening.</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</p>

		increased to over 105,000 by the end of January 2021, and we expect to see a continued increase over the coming months.	<p>learner cannot be identified by any person, other than a person authorised under legislation, as a learner who receives a free school lunch.</p> <p>Further information on free school meals is contained within the Operational guidance for schools and settings.</p>
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Staff in schools and settings and families

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>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 seek alternative employment where working from home has not been an option, and in some cases will have been furloughed or lost employment, which in</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>Reliance on wider family and friend childcare networks has also been restricted under the wider COVID-19 measures in place.</p>	<p>We continue to use campaigns and networks to distribute information and advice to parents and provide reassurance, for example the <i>Parenting. Give it Time</i> 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. Our recent reassurance</p>

	turn could all lead to an increase in low income households.		campaigns have focused on Keeping Wales Learning, Testing and Keeping Wales Safe.
Age	Older, retired people who provide childcare e.g. for grandchildren may be adversely impacted by the need to provide additional help with childcare and support with home schooling and are more likely to have health vulnerabilities and concerns regarding transmission of COVID. This is likely to decrease as greater numbers are able to return to onsite learning.	Grandparents have been called upon to help with childcare and home schooling where working parents have been unable to make alternative arrangements.	
Age	Increasing onsite operations will require greater numbers of staff to work onsite and to travel between home and their settings. This may include older staff members, who we know are of higher risk of developing more serious symptoms from COVID-19. It may require reliance on public transport. Older staff members may also have concerns over health	Whilst this does enable staff members to re-engage with face-to-face learning with learners, age is known to be a factor in determining risk of developing more serious symptoms from Covid-19.	An All Wales Risk Assessment Tool developed in collaboration with the sector takes age into account and helps the individual and their employer to take additional steps to mitigate these risks. This is over and above the mitigating measures introduced for learners, staff and others on school sites. The risk assessment tool will have both immediate and long

	<p>vulnerabilities of loved ones within their household or in care arrangements.</p>		<p>term implications for those individuals who assess their personal risk factors. In the longer term, some people who may have been in harm's way will have been protected from severe COVID-19 infection or possibility of death. In addition to the immediate action taken, in the longer term individuals will be able to identify and understand lifestyle improvements that if actioned may have longer term effects on their health and wellbeing.</p>
<p>Disability</p>	<p>Parents and carers with disabilities may be disproportionately adversely impacted by the need to provide additional childcare and support during school closures.</p>	<p>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.</p>	<p>The Welsh Government's operational guidance recognises that some parents and carers may be more anxious about their children's return to onsite learning. It is critical that schools follow up on concerns around engagement, or the welfare of a learner. Schools and Local Authorities should work with the family to support learners to access the full curriculum and</p>

			minimise disruption to their education.
Disability	Increasing onsite operations will require greater numbers of staff to work from school sites. This may include staff with disabilities.	It is likely that a higher number of school staff with physical disabilities will need to take precautions about returning to school compared to school staff without a disability.	Through our operational guidance we emphasise that staff should talk to their employers about how they will be supported. This will be particularly important where staff members are now required to return to face-to-face learning.
Gender Reassignment	<p>We recognise that transgender members of the workforce may have experienced delays to gender-affirming treatment due to COVID-19, which could have a negative impact on mental health and wellbeing.</p> <p>There is no data available to know how many members of the workforce may be impacted.</p>	--	--
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 and provide reassurance, for example the <i>Parenting. Give it Time</i> campaign which

	<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>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>
Pregnancy and maternity	<p>Increasing onsite operations will require greater numbers of staff to work from school sites. This may include staff who are pregnant.</p>	<p>Pregnant women are in the people at increased risk category and are generally advised to follow the above advice, which applies to all staff in schools and the advice to general public but in doing so be aware that they are at increased risk</p>	<p>We have noted in our operational guidance that that pregnant staff and their employers should follow the advice in the COVID-19: advice for pregnant employees. This is alongside the All-Wales Risk Assessment Tool.</p>
Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum	<p>Increasing onsite operations will require greater numbers of staff to work from school sites. This may include Black, Asian and minority ethnic people, who we know are of higher risk of</p>	<p>Whilst this proposal does enable staff members to re-engage with face-to-face learning with learners, ethnicity is known to be a factor in determining risk of developing more</p>	<p>An All Wales Risk Assessment Tool developed in collaboration with the sector takes age into account and helps the individual and their employer to take additional steps to</p>

<p>seekers and Refugees)</p>	<p>developing more serious symptoms from Covid-19.</p>	<p>serious symptoms from Covid-19.</p>	<p>mitigate these risks. This is over and above the mitigating measures introduced for learners, staff and others on school sites.</p> <p>The risk assessment tool will have both immediate and long term implications for those individuals who assess their personal risk factors. In the longer term, some people who may have been in harm's way will have been protected from severe COVID-19 infection or possibility of death. In addition to the immediate action taken, in the longer term individuals will be able to identify and understand lifestyle improvements that if actioned may have longer term effects on their health and wellbeing.</p>
<p>Religion, belief and non-belief</p>	<p>Staff may be concerned that they will be unable to find suitable space onsite for religious worship.</p>		<p>Our operational guidance states that all available space should be utilised to assist with maintaining social distance from staff and learners. Where rooms are potentially being repurposed, it should</p>

			be ensured that provision remains available for staff to access religious spaces at expected times of day.
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 reassure and distribute information and advice to parents, for example the <i>Parenting. Give it Time</i> 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.
Sex / Gender	Increasing school operations will require greater numbers of staff to work from school sites. This may include men, who we know are of higher risk of developing more serious symptoms from COVID-19.	Whilst this does enable staff members to re-engage with face-to-face learning with learners, age is known to be a factor in determining risk of developing more serious symptoms from COVID-19.	An All Wales Risk Assessment Tool developed in collaboration with the sector takes age into account and helps the individual and their employer to take additional steps to mitigate these risks. This is over and above the mitigating measures introduced for learners, staff and others on school sites.

			<p>The risk assessment tool will have both immediate and long term implications for those individuals who assess their personal risk factors. In the longer term, some people who may have been in harm's way will have been protected from severe COVID-19 infection or possibility of death. In addition to the immediate action taken, in the longer term individuals will be able to identify and understand lifestyle improvements that if actioned may have longer term effects on their health and wellbeing.</p>
Sexual orientation	None	--	--
Marriage and civil partnership	None	--	--
Children and young people up to the age of 18	N/A – see section on children and young people	--	--
Low-income households	Parents from low income households may lack the intellectual resources		Through Hwb, the digital learning platform for Wales, learners and

	to support their children through home schooling.		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.
Low-income households	Members of the education workforce and others working in schools and settings may be concerned with financial matters and in need of additional support, including those in low-income households.	Whilst we do not measure free school meals eligibility by household, the data gathered by Data Cymru showing an increase in the number of pupils receiving free school meals may signal wider financial concerns.	The Welsh and UK Governments have put in place a number of support measures for people in low-income households including financial support, discretionary assistance and enhancement schemes.

Human Rights and UN Conventions

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 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.