UNISON Cymru Wales advice on medically vulnerable and higher risk groups

This advice is for staff who are medically vulnerable or otherwise at higher risk from Covid-19, or who live with or care for people who are. It is intended to ensure that medical conditions, pregnancy, other personal characteristics (in particular such as age, sex and ethnicity), and the impact of economic disadvantage (which increases the risk from underlying health conditions) are all taken into account in determining whether it is safe for employees to attend the workplace and what safety measures are required for them. The advice can also be used by school and college leaders when conducting individual risk assessments, and by union workplace reps in ensuring that such risk assessments are conducted properly. We would also want school and college leaders to require any contractors – catering, cleaning etc - operating on site, to follow this guidance.

Protecting school and college employees from September

The Welsh Government Department for Education and Skill (DfES) in Wales has issued [operational guidance for schools](https://gov.wales/operational-guidance-schools-and-settings-autumn-term-version-3-html), special education settings, FE colleges and early years settings. The Welsh Government expects that most staff will go to work at their workplace from September so long as they are deemed “COVID secure” – have taken reasonable measures to minimise to risk to pupils and staff.

A workforce [risk assessment tool](https://gov.wales/covid-19-workforce-risk-assessment-tool) has been developed in partnership with Welsh Government and trade unions and it is essential this tool is utilised in order to properly assess risk and determine whether appropriate measures have been taken to allow a safe return to work. The joint unions continue to believe that staff should only attend the workplace when it is sufficiently safe for them as individuals to do so.

The Wales Test, Trace, Protect programme is in full operation and will be a key part of managing the virus as we move into autumn. Full details of the programme are available on the [Public Health Wales site](https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/guidance-accordion/test-trace-protect-coronavirus/). UNISON is calling for periodic testing of school staff as we move through the autumn term. It is important to remember, however, that individuals can [request a test](https://gov.wales/apply-coronavirus-covid-19-test) if they are presenting with COVID symptoms.

With regards to PPE, school staff should be able to wear a face covering if they wish to and should not be prevented from doing so. Some local authorities have already agreed to provide masks for staff. We are working to achieve a consistent arrangement across Wales.

Legal obligations on risk assessment for individuals

The Welsh Government [operational guidance](https://gov.wales/operational-guidance-schools-and-settings-autumn-term-version-3-html) emphasises that employers must comply with health and safety law, which requires them to undertake risk assessments and put in place proportionate control measures and keep them under review. This includes assessing the individual circumstances for each employee before requiring them to attend the workplace. These circumstances include the individual’s own health conditions, alongside any other circumstances which place them at higher risk for other reasons. The degree to which individuals are at risk is affected by their underlying health and also vary significantly by age, ethnicity, sex, and other circumstances described in this guidance.

Expectations with regard to individual risk assessments

UNISON expects all employers to carry out individual risk assessments using the agreed [risk assessment tool](https://gov.wales/covid-19-workforce-risk-assessment-tool) for employees before directing them to attend the workplace. The assessment must take account of their personal and household circumstances and, where necessary, medical advice. Employers should seek information proactively from each employee. The assessment must also take account of local prevalence of Covid-19. Previous individual risk assessments should be reviewed prior to the start of the new academic year, with particular reference to any changes in local circumstances, before any direction to attend the workplace. Risk assessments should also be kept under regular review to account for any change eg increase in local infection rates and the risk posed to employees. Assessments for employees who are identified as being in medically vulnerable or higher risk groups should consider whether it is possible to allow them to work at home as a protective measure and what other measures are needed to ensure it is safe for them personally to attend the workplace.

When employees are working from home, they should receive full pay and this time should not be treated as paid or unpaid leave. Assessments should then consider what other protective measures would be required for that employee, should they attend the workplace. This may include measures specific to the individual, in addition to those adopted for employees and students generally. Appropriate measures might include allowing the employee to work in roles where it is possible to maintain strict social distancing and wearing personal protective equipment (PPE).

UNISON believes that PPE must be provided to staff in certain situations, including but not exclusively: 

* when providing intimate social care/ medical procedures; 
* working with pupils who cannot control behaviour which creates a greater risk of transmission of Covid-19; 
* supervising students with symptoms who are awaiting collection; and  for catering and cleaning roles.

It should be available in all workplaces for use whenever risk assessments deem it necessary.

Employees should be permitted to wear face coverings where they wish to do so. Further, the Health and Safety Executive is calling on employers to support employees who wish to wear face coverings. It is not reasonable, therefore, to seek to prevent employees or students from wearing face coverings if it makes them feel less anxious. Allowing the wearing of face coverings will not remove or reduce the need for full consideration of all necessary protective measures for staff who are medically vulnerable or at greater risk.

Staff in the extremely clinically vulnerable group

The Chief Medical Officer wrote to medically vulnerable and high risk groups advising that it shielding does not need to continue beyond 16 August. The [letter contained information and advice about the next steps for those previously shielding](https://gov.wales/sites/default/files/inline-documents/2020-07/Letter.pdf).

The Government has ended its shielding advice to individuals who were previously classed as clinically extremely vulnerable, citing the reduced prevalence of Covid-19 in the community. Nonetheless, those individuals continue to be most at risk if they contract Covid-19. Many scientific and medical experts warn of the risk of further spikes in the virus as winter approaches. We are asking employers to agree, as part of their risk assessments for staff that all CEV employees be permitted to work from home from September if they wish to do so. There are numerous challenges that need to be addressed in order to ensure sufficient safety whilst travelling to work and whilst in the workplace.

For some staff whose role cannot be undertaken from home, this may involve a mutually-agreed temporary change to duties/ redeployment to facilitate home working. Where such staff decide that they do wish to return to work if possible, then we expect the individual risk assessment to consider appropriate protective measures on the same basis as for other staff in medically vulnerable or known higher risk groups (below). Please read the advice below about contacting your employer with regard to your risk assessment. If you are concerned about an instruction or possible instruction to attend the workplace, please contact your union rep or [branch](https://branches.unison.org.uk/) locally for advice and assistance.

Staff in the clinically vulnerable group or in other higher risk groups

The Welsh Government recognises that a wider group of people continues to be more clinically vulnerable to Covid-19 than the general population due to their medical circumstances. Many individuals are at higher risk for other reasons, with age, sex, ethnicity, pregnancy and factors linked with economic disadvantage being very significant. A combination of factors relating to medical vulnerability and known higher risk characteristics will compound and could significantly increase the risk to individuals. For all employees who are in clinically vulnerable or known higher risk groups, the joint unions expect employers to conduct individual risk assessments which consider whether the employee should be permitted to work at home and, if working in school/ college, what protective measures, such as social distancing and personal protection, should be adopted for them. The agreed [Welsh Government COVID-19 risk assessment tool](https://gov.wales/covid-19-workforce-risk-assessment-tool) should be used to make this assessment.

Each employee should have an individual assessment which considers their personal and local circumstances and the protection they require which should be reviewed if circumstances change. We are asking employers to accept that it is likely that not all employees will be able to go in to work from September and reflect this in their planning for September opening, and beyond, as outlined below. If you are concerned about an instruction or possible instruction to attend the workplace, please contact your local UNISON [branch](https://branches.unison.org.uk/) for advice and assistance. If members need support to raise their personal circumstances with their employer, they can talk to their local UNISON [branch](https://branches.unison.org.uk/). UNISON members can seek confidential Coronavirus crisis: advice and support from UNISON’s own welfare charity, [There for You](https://www.unison.org.uk/get-help/services-support/there-for-you/).

The following sections consider the position of staff in specific groups – pregnant women, older and male staff, obese staff, Black staff, and disabled staff. They should be read in conjunction with the advice set out above. We believe that not only should age, sex, ethnicity and disability form part of every employer’s risk assessment for individual staff members, but that the process should recognise the anxiety that particular staff may feel about their circumstances. Employers must take proactive, sensitive and supportive steps to build up a full picture of the ethnicity and health status of their workforce as part of the planning to make work safe.

Pregnant women and new mothers

The law requires employers to consider, when conducting risk assessments, the risks to pregnant women or new mothers (those who have given birth in the previous six months) and to suspend them on full pay if it is impossible to avoid risks to their health and safety.

Pregnant women continue to be included in the Government’s list of those who are clinically vulnerable. The Royal College of Obstetricians & Gynaecologists (RCOG) has issued advice which notes that, while pregnant women may not be more likely to become infected by Covid-19, those who contract any respiratory illnesses in the third trimester of pregnancy (ie the 28th week and beyond) can become seriously unwell. It also notes that absolute assurance cannot be given that contracting Covid-19 carries no greater risk to women at an earlier stage of their pregnancy and carries no risk to the unborn baby. Finally, it notes that some pregnant women and new mothers may be at increased risk due to other factors.

The Welsh Government says in relation to the RCOG guidance that “we advise employers and pregnant women to follow this advice”. The RCOG has previously recommended, in relation to healthcare workers, that for women in the first two trimesters of pregnancy, employers should “remove any risks that are greater in the workplace than to what they would be exposed to outside of the workplace”, and that women in the third trimester should be allowed to work at home. We believe that education employers should consider this in their individual risk assessments for pregnant women and new mothers.

Given the known greater risks to women in their third trimester of pregnancy, they should be permitted to work from home until their chosen date for starting maternity leave or, if this is not possible, medical suspended on full pay. It will be unlawful for employers to seek to trigger maternity leave in these circumstances. This should also be considered as an appropriate measure to remove risks to other pregnant women, in particular those who may be at increased risk due to other factors.

Older staff and male staff

Age is the biggest single factor in increasing risk to individuals other than specific health conditions. It is also known that men are at greater risk of adverse outcomes than women should they contract the virus. Both these characteristics should be taken into account in risk assessments.

Risks from being overweight

Science also suggests staff with weight issues as per the NHS BMI calculator might be at extra risk, especially staff over 50.

Black staff

Black people are known to have suffered a disproportionate impact from Covid-19. Why is not yet fully understood and remains a considerable cause of concern to Black employees.

A report from the Runnymede Trust race equality think-tank has found that people from ethnic minority backgrounds in the UK are more exposed to Covid-19 and “face greater barriers” when trying to protect themselves from the virus. Black staff often feel less able to raise their concerns within workplaces because of stereotypes and prejudice. This is an important context to understand and acknowledge.

Schools should be especially sensitive to the needs and concerns of Black staff and this is a factor in the Welsh Government [workplace risk assessment tool](https://gov.wales/covid-19-workforce-risk-assessment-tool).

Disabled staff

Risk to disabled employees also requires careful consideration even if their particular health condition does not itself place them in the medically vulnerable category. Disabled staff often experience discrimination at work and may be worried about the impact of the current crisis on their health and job security. It is important to remember that employers are under a legal obligation to make reasonable adjustments, which may in some cases include working at home, for disabled staff to ensure they can continue to do their jobs.

Staff with family members who are medically vulnerable or at higher risk

Individual risk assessments must be conducted which consider the employee’s domestic circumstances and local prevalence of Covid-19. Where an employee’s domestic circumstances are such that there is a significant risk of passing on the virus to family members who are themselves at greater risk, we expect employers to consider allowing the employee to work at home until that risk can be reduced, either by changing their working arrangements or by changes in the local situation.

Staff who are otherwise anxious about returning to work

In relation to such staff, employers should have regard to staff wellbeing. Employer’s duty of care extends to mental health, and notes that mechanisms to support well-being will be important where staff are anxious about returning to work.

Employers should consider the mental health of employees when undertaking risk assessments, particularly where staff have previously experienced mental health conditions. Even where there is no specific risk-based reason for adjustments greater than those for other employees, the joint unions call on employers to consider what measures can be taken to address employees’ concerns, including adjustments to working arrangements and counselling support.

Support is also available for the education workforce through the [Education Support Partnership](https://www.educationsupport.org.uk/helping-you/telephone-support-counselling), a charity dedicated to supporting the health and wellbeing of education staff. We also advise members who are anxious about returning to work to contact the employer (see below). Members should also speak to their GP if they are experiencing mental health concerns or other work related health issues. Members should not simply stay away from work as your employer may treat your absence as unauthorised.

The Welsh Government advice does not discuss the position of employees with other personal circumstances such childcare difficulties. Travel advice is available via [Transport for Wales](https://trc.cymru/school-transport). The Welsh Government advice differs for early years settings compared to schools and colleges. We are clear that employees in early years settings should be treated in the same way as set out earlier for employees in all other education settings.

Supply, agency and peripatetic staff

Supply staff working on a regular or ad hoc basis, peripatetic subject staff, school improvement advisers, educational psychologists, home tutors and others who do not work consistently in the same workplace are all entitled to support, both from their own employer and the employer at the particular workplace they are visiting.

All employers should utilise the agreed COVID-10 [workplace risk assessment tool](https://gov.wales/covid-19-workforce-risk-assessment-tool) and take into account the full range of likely working circumstances and individual workplaces as well as individual and local circumstances.

Employers should not just assume that all workplaces will be safe – steps should be taken to obtain the necessary information from other employers in order to validate any risk assessment.

Supply staff working for agencies are covered by specific legal provisions which impose obligations upon agencies before placing workers even though the agency is not legally the employer. Employers in schools and colleges should ensure that safety measures take visiting professionals into account and offer protection to them, as well as their own employees. These safety measures should be communicated on (or even better before) arrival, in particular where engagements or visits will last for a whole day or longer.

Planning for the implications of staff absence

Employers’ planning for September opening should include consideration of how the workplace will operate if a significant proportion of staff are unable to return to work, or if significant numbers of staff have to self-isolate or take sick leave as the term progresses.

Planning should not assume that all staff will be able to go in to work from September. Pressure should not be put on staff to return to work from September simply because planning has not been done to accommodate the possible need for some staff to work at home.

Advice to members on contacting their employer

Employers should already have conducted a risk assessment which considered your personal circumstances when preparing for wider opening in June.

You can download and use our template letter (see appendix below) to write to your employer if you want to ensure the employer is aware of your health and other personal circumstances, in particular any recent changes of which it may not be aware. You could also contact your GP beforehand and discuss risk factors and possible protective measures in order to help you to explain matters to your employer. If you are unhappy with your employer’s response, you should contact your GP to discuss it and seek further evidence to support you in trying to reach agreement.

Contact your UNISON [branch](https://branches.unison.org.uk/) for further advice about what is reasonable to say to your employer, or if you are being asked to work at school when you do not feel it is safe to do so.

Contacting your [branch](https://branches.unison.org.uk/)

Please ensure that you tell your local [branch](https://branches.unison.org.uk/) if you have sent a letter to the head – they will need this information to keep up to date on the position of staff who require protective measures or feel unable to work at school/ college and represent members. If there is no rep in your school, please volunteer.

Details on how to contact UNISON [branch can be found here](https://branches.unison.org.uk/).

Contacting your employer

Use the template letter below (also [available to download](https://cymru-wales.unison.org.uk/content/uploads/sites/9/2020/09/Schools-letter-to-employer.docx) separately) to write to your employer if you need to.

Dear [add name]

I am writing regarding your planning for September onwards, your risk assessment for staff, and my own position. I would like to draw your attention to the following matters, which I would like you to consider when you are looking at staff availability and my role following wider opening:

· insert information regarding your personal position as discussed above

I would like you to agree that, given these circumstances, I will be able to continue to work from home and confirm to me that that will be the case. If you propose to require me to return to the workplace, I would be grateful if you would let me know the reasons (including a copy of the risk assessment and where appropriate the equality impact assessment relating to my position) for that request.

With best wishes.

[Your name]