

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

EQUALITY IMPACT ASSESSMENT

School planning days – January 2022

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

We have developed an Infection Control Decision Framework ([‘The Framework’](#)) for schools and settings which sets out arrangements for the delivery of learning in schools. The Framework enables schools and settings to tailor interventions to reflect local risks and circumstances.

On 16 December 2021, the Minister for Education and Welsh Language announced the arrangements for schools on the return in January 2022, including the allocation of the first two days of the spring 2022 term as planning days without most learners on site. On the second day, we would expect schools to consider what provision may need to be put in place for vulnerable children and the children of critical workers. Schools and local authorities should also have regard to the wider needs of their community and the impact of any decisions not to put in place such provision.

These planning days should be used by schools to assess staffing capacity and put the necessary measures in place to support the return of learners, as well as ensure they have robust plans in place should onsite learning be disrupted over the coming weeks and months.

The general proposals are outlined in brief below. 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

In July 2021 the First Minister published the updated [Coronavirus Control Plan for Wales](#), which sets out arrangements to move to “alert level zero” – a new phase which is designed to ensure a proportionate approach to COVID-19, reflecting the impact of vaccination and the balance of risks and harms.

The Control Plan signals the expectation that education settings should operate as normally as possible at alert level zero. Baseline measures including risk assessments, hygiene, ventilation and preventing attendance by individuals with COVID-19 symptoms will continue to be in place, but other measures are being relaxed as part of a proportionate system of controls. For schools, this will allow some flexibility for local decision-making and tailored interventions, supported by local authorities, Incident Management Teams (IMTs) and public health.

Wales moved to alert level zero on the 7th August 2021. But COVID-19 has not gone away and it remains a health risk.

Given continued staffing pressures as a consequence of staff absences coupled with lack of sufficient levels of supply cover and the potential impact of the Omicron variant, we have allocated the first two days of the spring 2022 school term as planning days. These should be used by schools to review and update contingency plans, ensuring robust plans are in place to respond to further instances of disruption over the coming weeks and months.

What does this mean for measuring equalities actions?

The aim of these planning days is to reduce longer-term disruption to teaching and learning.

The Children's Commissioner for Wales' [Coronavirus and Me](#) consultations with children and young people (May 2020 and January 2021) [sought](#) the views and experiences of 19,737 children and young people aged 3-18 in the COVID restrictions. The top three things young people (12-18) said the stay at home rules impacted on the most were 'not being able to spend time with friends' (72%), 'not being able to visit family members' (59%) and 'school or college closing' (42%). 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.

Focus groups were organised by Children in Wales and the office of the Children's Commissioner for Wales in July 2021, with children and young people to obtain their feedback on operational arrangements in schools. The consistent message was that pupils wanted disruption to their school day minimised as much as possible, to be in school and not having to learn remotely, and to avoid the need to self-isolate as much as possible. Pupils accepted that measures would still need to be place within schools and settings and that there would not be an immediate return to pre-pandemic days and ways of working. They also referenced significant impact to their education caused by the pandemic as a result of school closures or missing face-to-face learning as a result of self-isolation.

Estyn has published the findings of its engagement work with primary schools and secondary schools in June 2021. In summary, school leaders reported that the most recent period of distanced learning had a detrimental effect on pupils' wellbeing. One of the guiding principles of the framework, is that schools should offer as wide a range of experiences as possible, is likely to improve overall wellbeing and mental health for learners.

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

As part of it's *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.

Disability

Staff with disabilities

All schools will be able to make use of these planning days. Schools should decide which members of staff are required to be on the school site, and which members of staff can undertake their preparatory work remotely, during the planning days.

It is likely that a higher number of staff in schools and settings with physical disabilities will need to take precautions within the school or setting compared with staff without a disability – these considerations will continue to apply during these planning days. Some of these will be clinically extremely vulnerable and may previously have been shielding. It is likely that a higher number of staff in schools and settings with physical disabilities will need to take precautions within the school or setting compared with staff without a disability. Some of these individuals may be clinically extremely vulnerable. The framework states that staff who are identified as clinically extremely vulnerable should follow the published [guidance](#). These members of staff should continue to discuss with their schools how they will be supported.

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 limitations to operational arrangements have a greater negative impact on their wellbeing than their peers. The same group of people may be more likely to be anxious about further changes to operational arrangements in schools and settings. These planning days are aimed to ensure staff are well-prepared for the forthcoming term, and are given space to consider what steps need to be put in place should there be further disruption to onsite provision during this period. This will assist schools to achieve our aims of offering as wide a range of experiences possible (including the provision of free breakfast and after school clubs, extra-curricular activities and practical subjects) in order to secure the best outcomes for all learners by considering both their educational needs and wellbeing by managing ongoing risks of COVID -19 as safely as possible (as with other infections) and ensure clarity of actions required if there is a case in the school.

Sex

Caring responsibilities

These planning days may have an impact on those with caring responsibilities. We recognise that women who are staff are more likely to have been caring responsibilities for their own children. Local authorities have been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day. On the first planning day they will need to assess staff levels.

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 periods and restrictions, can exacerbate a number of the symptoms associated with these conditions. These planning days are aimed at reducing longer-term disruption to learning.

Pregnancy and maternity

Pregnant members of the workforce should continue to follow the latest guidance set out in the Framework, and employers should conduct risk assessments. These arrangements continue to apply during the planning days.

Religious spaces

It should be ensured that provision remains available for staff to access religious spaces at expected times of day. These arrangements continue to apply during the planning days.

Wellbeing

We recognise that supporting staff wellbeing remains paramount. These planning days are aimed to ensure schools have robust plans in place for the forthcoming term, which in part will help reduce anxiety that some staff members may have experienced during recent periods of disruption to learning due to staffing pressures.

Low-income households

We recognise that these planning days may have an impact on some families in particular. Local authorities have been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision. In addition, those eligible for free school meals should receive free school meals during the two planning days.

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 access to onsite provision, routine and social contact.	Children and young people are the groups most directly impacted by school and college closures.	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision.
Disability	Children and young people with disabilities and additional or special learning needs may be more adversely impacted by not attending school or college.	We have clear evidence that limiting contact time on site, face to face with a teacher will have a disproportionate impact on children and young people from lower socio-economic	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for

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?
		backgrounds, disabled children young people and those with additional learning needs and some Black, Asian and Minority Ethnic children. Based on evidence including the Coronavirus and Me children's survey, it is more likely that children and young people in poverty will have less space and quiet at home to work.	vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision.
Gender Reassignment	None	--	--
Pregnancy and maternity	None	--	--
Race	Some Black, Asian and minority ethnic learners, including Gypsy, Roma and Traveller learners may be adversely impacted by remote learning, particularly in accessing technology.	EHRC report: <i>How coronavirus has affected equality and human rights</i> , October 2020 We have clear evidence that limiting contact time on site, face to face with a teacher will have a disproportionate impact on children	

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?
		and young people from lower socio-economic backgrounds, disabled children young people and those with additional learning needs and some Black, Asian and Minority Ethnic children. Based on evidence including the Coronavirus and Me children's survey, it is more likely that children and young people in poverty will have less space and quiet at home to work.	
Religion, belief and non-belief	None	--	--
Sex / Gender	None	--	--
Sexual orientation	None	--	--
Marriage and civil partnership	None	--	--
Children and young people	A Children's Rights Impact Assessment	Children and young people are directly	A full CRIA is available separately.

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?
up to the age of 18	(CRIA) for the framework approach has been carried out separately.	impacted by disruption to schools. A key principle of the framework is for schools to operate as near to normal as possible.	
Low-income households	Learners from low income household may be disproportionately adversely impacted by disruption to school settings eg closures	National Survey for Wales, 2018-19 <i>Internet use and digital skills</i> Evidence sessions with young people held by the office of the Childrens Commissioner for Wales and Children in Wales.	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision. Free school meal provision will also be in place for the planning days. •

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	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. As part of the changes introduced from September, we aim to minimise the number of children required to self-isolate, thus reducing the impact on working-age adults with young children in particular who will need care and be supervised when required to self-isolate. 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	Periods of self-isolation may have meant many working parents who are not critical workers have had to make arrangements with their employers to change working patterns and locations. Reliance on wider family and friend childcare networks has also been restricted under the wider COVID-19 measures in place in recent months, however acknowledging that wider social mixing is possible now that we are in Alert Level Zero.	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision.

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?
	employment, which in turn could all lead to an increase in low income households.		
Disability	Parents and carers with disabilities may be disproportionately adversely impacted by the need to provide additional childcare and support during periods of disruption in schools.	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.	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision.
Disability	None	--	--
Gender Reassignment	None	--	--

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?
Pregnancy and maternity	None	--	--
Pregnancy and maternity	Staff working on site may include staff who are pregnant.	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	Pregnant staff and their employers should follow the advice in the framework which states that they should be encouraged to take up vaccination and have a workplace risk assessment. If home-working is not possible, pregnant staff and their employers should follow the advice in the COVID-19: advice for pregnant employees . This advice will also apply for the planning days. Schools should decide which members of staff are required to be on the school site, and which members of staff can undertake their preparatory work remotely, during the planning days.
Race (include different ethnic	None	--	--

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?
minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)			
Religion, belief and non-belief	Staff may be concerned that they will be unable to find suitable space onsite for religious worship.		It should be ensured that provision remains available for staff to access religious spaces at expected times of day. This advice will also apply for the planning days.
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	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any

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?
			decisions not to put in place such provision.
Sex / Gender	None	--	--
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 to support their children through home schooling.		Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have

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?
			regard to the wider needs of their community and the impact of any decisions not to put in place such provision.
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.	Given the importance of access to onsite education, the aim of the planning days is to minimise longer-term disruption to onsite learning. Local authorities have also been asked to consider what provision may need to be put in place for vulnerable children and the children of critical workers from the second planning day, as well as have regard to the wider needs of their community and the impact of any decisions not to put in place such provision. Free school meal provision will be in place for the planning days.

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?

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.