



School and college opening from September

NEU advice on medically vulnerable and higher risk groups



Coronavirus crisis
Workplace checklist



This advice is for school and college employees who are medically vulnerable or otherwise at higher risk from Covid-19 or who live with or care for such people. It is intended to ensure that medical conditions, other personal characteristics (in particular age, sex and ethnicity), which increase the risk to individuals, and local circumstances with regard to the prevalence of Covid-19, 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 NEU workplace reps in ensuring that such risk assessments are conducted properly.

Protecting school and college employees from September

The Department for Education (DfE) has issued advice for [schools](#), [special education settings](#), [FE colleges](#) and [early years settings](#). The DfE expects most staff to return to their workplace in September. The NEU continues to believe that staff should only attend the workplace when it is sufficiently safe for them to do so.

The situation in September and beyond cannot be predicted with certainty and certainly not as confidently as the DfE assumes. A continuing fall in the prevalence of the virus should make it safer for staff generally to attend the workplace, as the general risk of contracting it will be lower. However, staff who are medically vulnerable or otherwise at higher risk will still be at a greater risk of an adverse outcome if they should contract the virus. Protective measures will remain even more important for them than for others and, in some cases, may need to include the right to work at home.

The NEU will not allow the Government's wish to see all schools open to full capacity to deter us from supporting members who require protection.

Legal obligations on risk assessment for individuals

The DfE advice 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.

Employers continue to be required to assess the circumstances of each employee before requiring them to attend the workplace. They must review the assessment where circumstances change and involve employees in risk assessments.

These circumstances include the individual's own health conditions and also any other circumstances which place them at higher risk for other reasons. The degree to which individuals are at risk is affected most significantly by their underlying health; but it is also affected very significantly by age, ethnicity, sex, and other circumstances described in this guidance.

Before directing any individual who is medically vulnerable or at higher risk to attend the workplace, the employer must consider as part of the risk assessment 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.

NEU expectations with regard to individual risk assessments

The NEU expects all employers to carry out individual risk assessments for each employee 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 circumstances regarding the prevalence of Covid-19. **All relevant circumstances must be considered when undertaking risk assessments for individual staff.**

These individual risk assessments should be reviewed immediately before the start of the new academic year, with particular reference to any changes in local circumstances, before any direction to attend the workplace is confirmed.

These assessments should also be kept under regular review, and in particular they should be reviewed whenever there is any significant change in local circumstances regarding the prevalence of Covid-19. Employers should consider whether any increase in local prevalence poses increased risks to particular employees as well as to employees generally.

Assessments for employees who are identified as being in medically vulnerable or higher risk groups should first consider whether the individual's situation is such that the appropriate protective measure is to allow the employee to work at home.

When employees are working at home, they should in all cases receive full pay and this time should not be treated as a period of 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 which are specific to the individual and 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 greater social distancing or wear personal protective equipment (PPE).

The NEU's advice on the circumstances in which employees should be provided with PPE, including wearing of medical masks, can be found [here](#). The NEU advises that PPE must be provided to staff in certain situations, including when working in close contact with students who cannot control behavior, which creates a greater risk of transmission of Covid-19 and when supervising students with symptoms who are awaiting collection. It should be available in all workplaces for use whenever risk assessments suggest its use is necessary in other situations.

All employees should be informed that they will be permitted to wear face coverings where they wish to do so for reasons of personal reassurance. The DfE advice states that face coverings are "not recommended" in schools and colleges (and notes that face coverings are largely intended to protect others, not the wearer) but the DfE has confirmed that this is not intended to prohibit face coverings and that school leaders may agree that individuals may wear them if they wish. It is not reasonable, in

the NEU's view, 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, of course, remove or reduce the need for full consideration of necessary protective measures for staff who are medically vulnerable or at greater risk.

Summary of DfE advice regarding medically vulnerable or higher risk groups

The DfE advice for schools and colleges is largely the same. The quotations below are taken from the DfE advice for schools.

The DfE advice notes that, from August onwards, wider Government policy on going to work changes; that Public Health England does not currently consider schools and colleges to be high risk settings compared to other workplaces; and that "it is therefore appropriate for teachers and other school staff to return to their workplace". The DfE also argues that most education roles are not suited to home working.

The DfE advises that employees in the clinically extremely vulnerable (CEV) group, in other clinically vulnerable (CV) groups (including pregnant women), and in other higher risk groups can all return to school safely, provided that their school has implemented and explained the system of protective measures and controls set out in the DfE advice (in particular on hygiene, contact and social distancing) and that those employees follow those measures.

The DfE advises that, where any such staff are concerned about their position, employers should "discuss any concerns individuals may have around their particular circumstances and reassure staff about the protective measures in place".

The DfE advice with regard to employees living with people who are CEV or CV or who are in higher risk groups simply says that they "*can attend the workplace*".

The NEU's advice

Staff in the extremely clinically vulnerable group

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. This does not alter the fact that those individuals continue to be most at risk if they do contract Covid-19.

The NEU is therefore asking employers to agree, as part of their risk assessments for staff, that all CEV employees will be permitted to work at home in September if they wish to do so. The NEU does not accept that, even with a significant reduction in risk of exposure to Covid-19, it will be sufficiently safe for such staff to travel to and from school and to work in school, whatever other safety measures are adopted.

Where such staff decide that they do wish to return to work if possible, the NEU expects 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 the NEU locally for advice and assistance.

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

The 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. It also continues to be the case that many individuals are known to be at higher risk for other reasons, with age, sex and ethnicity being very significant factors. Finally, it is obvious that a combination of factors relating to medical vulnerability and known higher risk characteristics will compound and significantly increase the risk to individuals.

For all employees who are in medically vulnerable or known higher risk groups, **the NEU expects employers to conduct individual risk assessments which consider whether the employee should**

be permitted to work at home and, if working in school, what protective measures in terms of distancing and personal protection should be adopted for them personally.

It is not sufficient simply for employers to decide that the DfE advice considers it generally safe for such employees to return to work and that protective measures being put in place for employees generally are sufficient. Each employee is entitled to an individual assessment which considers their personal and local circumstances and the protection they personally require and for this to be reviewed if circumstances change.

The NEU is asking employers to accept now that it is likely that not all employees will be able to go in to work in September and reflect this in their planning for September opening as outlined below.

Again, 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 the NEU locally for advice and assistance.

If you need support to raise your personal circumstances with your employer, you can talk to your NEU rep or read [this advice](#) on seeking support with mental health and wellbeing.

The following sections consider the position of staff in specific groups – pregnant women, older and male staff, Black staff, and disabled staff. They should be read in conjunction with the advice set out above.

The NEU argues that not only should age, sex, ethnicity and disability form part of every employer's risk assessment for individual staff members, but also 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 - this must be part of the planning to make access to work safe.

Staff who are pregnant

Pregnant women are included in the Government's list of those who are medically vulnerable. The Royal College of Obstetricians and Gynaecologists (RCOG) has [issued advice](#) which notes that while there is no specific evidence of general increased risk due to pregnancy, precautionary measures are still important and, of course, that individuals may be at increased risk due to other factors.

The RCOG advice in relation to pregnant women in public-facing roles (which includes school staff) is that "pregnant women who can work from home should continue to do so" and that modifying work roles should be discussed with employers. The RCOG also advises that *"if you are in your third trimester (more than 28 weeks' pregnant), or have an underlying health condition – such as heart or lung disease – you should work from home where possible". The DfE advice says "we advise employers and pregnant women to follow this advice".*

The NEU advice is that employers should follow this advice, allowing pregnant women to work from home until their chosen date for starting maternity leave, and also that it is unlawful for employers to seek to trigger maternity leave as an alternative.

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.

Black staff

Black¹ people are known to have suffered a disproportionate impact from Covid-19, which is not yet fully understood and remains a considerable cause of concern to Black employees as outlined in [this NEU briefing](#).

Black staff often feel less able to raise their concerns within workplaces because of stereotypes and prejudice they may face. This is an important context to understand and acknowledge. The DfE has previously confirmed to the NEU that it believes that "schools should be especially sensitive" to the needs and concerns of Black staff.

Disabled staff

The level of 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 are also often stereotyped at work and may be worried about the impact of the crisis on their health and job security. It is important to remember that employers are under a legal obligation to make reasonable adjustments for disabled staff to ensure they can continue to do their jobs.

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

The NEU does not accept the DfE position that all such staff can simply return to the workplace. Risk assessments must be conducted on an individual basis and consider the employee's domestic circumstances and also the local circumstances with regard to the 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, the NEU expects 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.

¹ Black is used by the NEU in a political context to encompass all members who self-identify as Black, Asian and any other minority ethnic groups who do not identify themselves as white.

Staff who are otherwise anxious about returning to work

With regard to employees who are anxious about returning to work, the DfE advises employers that they should have regard to staff wellbeing, reminds them that the 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.

The NEU agrees that employers should consider the mental health of employees when undertaking risk assessments. This is particularly true where staff have previously experienced mental health conditions, as this might suggest a greater risk.

Therefore, even where there is no specific risk-based reason for adjustments greater than those for other employees, **the NEU expects employers to consider what measures can be taken to address such employees' concerns**, including adjustments to working arrangements as well as counselling support.

The NEU advises members who are anxious about returning to work to contact the employer (below) about this. You should not simply stay away from work as your employer may treat your absence as unauthorised.

The DfE advice does not discuss the position of employees with other personal circumstances such as travel or childcare difficulties. The NEU's advice in relation to childcare is available [here](#).

Staff in early years settings

The DfE advice for early years settings is much less detailed than for schools and colleges. It does not refer specifically to CEV or CV people but advises that, for people at increased risk, settings should *"try as far as practically possible to accommodate additional measures"*.

The NEU advises employers 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 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. **Specific and fuller NEU advice for these groups is available [here](#).**

Your own employer should adopt a similar approach to risk assessment that takes into account the full range of likely working circumstances and individual workplaces as well as your own circumstances and local circumstances with regard to Covid-19. Your employer 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 your employer's own 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 their own 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 any significant proportion of staff is 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 in September.

Pressure should not be put on staff to return to work in September simply because no planning has been done to accommodate the possible need for some staff to work at home.

Contacting your employer

Your employer 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](#) 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 NEU rep or NEU local officers 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 the union

Please ensure that you tell your NEU workplace rep 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 and represent members. If there is no rep in your school, please [volunteer](#).

Details on how to contact the NEU locally if you require further support can be [found here](#).