

## Joint union advice on medically vulnerable and higher risk groups

This joint unions' advice is for staff working in schools and colleges who are medically vulnerable or otherwise at higher risk from Covid-19, or who live with or care for such people. It applies specifically to England but its principles apply equally in Wales and elsewhere.

### Protecting staff at higher risk - Summer Term 2021

Schools and colleges reopened fully to all students from 8 March. The virus continues to circulate through communities, however, and, despite progress in vaccination, continues to pose a significant risk, particularly to those at greater risk of poor outcomes.

The Government's shielding advice to the clinically extremely vulnerable (CEV) group ends as of 1 April. The Government continues, however, to advise that this group should work at home where possible. The letter ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/970375/Clinically\\_extremely\\_vulnerable\\_letter\\_guidance\\_from\\_010421.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/970375/Clinically_extremely_vulnerable_letter_guidance_from_010421.pdf)) that has been sent to those shielding up to 31 March sets out that 'until the social distancing rules are eased more widely, it is important that you continue to keep the number of social interactions that you have low and try to reduce the amount of time you spend in settings where you are unable to maintain social distancing.' The letter notes that no vaccine is 100% effective and therefore even with both doses, there is still no absolute guarantee that a CEV person will not become ill from COVID-19.

The joint unions' advice is that CEV education staff in this group should continue to work at home at this time, with no change to current arrangements. The joint unions continue to believe that this will also be an appropriate safety measure for clinically vulnerable staff aged 60 and above, until advised by their GP that their first vaccine is effective. This advice is intended to assist in ensuring safety for those employees and others.

### Legal obligations on risk assessment for individuals

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 factors 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, very significantly, by age, ethnicity, sex, and pregnancy.

### **DfE advice regarding medically vulnerable or higher risk groups**

The DfE continues to argue that schools and colleges are safe workplaces but has acknowledged that they act as 'vectors for transmission' of the coronavirus in the community, hence the need for partial closures from January to March 2021. The joint unions continue to take the view that the DfE advice for schools and similar advice for other settings do not offer sufficient safeguards to employees. We therefore advise all employers that, in order to ensure compliance with their legal obligations regarding staff safety, the joint unions' advice set out in this document should be followed.

### **The joint unions' advice**

#### ***Joint unions' expectations with regard to individual risk assessments***

The joint unions expect all employers to undertake individual risk assessments before directing employees in vulnerable and higher risk groups to attend the workplace, and to subject these to regular further review.

Risk assessments must take account of personal and household circumstances, local prevalence of Covid-19 and, where necessary, medical advice. Employers should seek information proactively from each employee. If you have concerns that a risk assessment does not adequately reflect your risk factors, talk to your employer and if necessary, seek advice from your GP, particularly if you are concerned that you have not received a shielding letter and think that you should have done (see below).

Assessments should consider what protective measures are required for employees who attend the workplace, including 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, in a location where risk is lower, or where necessary providing personal protective equipment (PPE). Risk assessments should have the support of the employee concerned. Measures implemented should be kept under constant review.

The onus is on the employer to demonstrate that a safe work environment is in place for each worker.

### ***Staff in the clinically extremely vulnerable group and wider shielding group***

Clinically extremely vulnerable (CEV) individuals continue to be most at risk if they contract Covid-19. In January, the Government extended the CEV category to cover a further 1.7 million people (in addition to the 2.2 million previously defined as CEV) regarded as being at potential serious risk on the basis of multiple factors, including medical vulnerability, age, weight, ethnicity and locality. Further information is available at [Information for patients about the COVID-19 Clinical Risk Assessment Tool - NHS Digital](#).

The Government's shielding advice has been that CEV staff must not attend work, and should instead work at home, until 31 March 2021, even after vaccination. Employers have been required to comply with this and the [DfE advice](#) for schools and for other settings sets out that CEV staff should be paid on their usual terms.

The Government's shielding advice ends on 1 April. The Government advises, however, that this group should continue to work at home where possible. The joint unions' advice is that education staff in this group should therefore be permitted to continue to work at home as now with no change to current arrangements. This should also apply to pregnant women in their third trimester. If you are in this category and are concerned about any instruction or possible instruction to attend the workplace, please contact your union rep or branch locally for advice and assistance.

### ***Staff in the clinically vulnerable group including pregnant women***

The Government recognises that a wider group of people, including pregnant women, are more clinically vulnerable (CV) to Covid-19 than the general population. Others are also at higher risk for other reasons, with age, sex, ethnicity and factors linked with economic disadvantage being very significant.

The joint unions continue to believe that working at home is an appropriate safety measure for staff in this group to protect them from the risk of Covid-19 if other measures cannot adequately safeguard their health and until vaccination has taken effect.

In line with our previous advice, staff who are clinically vulnerable (CV) and staff aged 60 or over should be permitted to work at home, until they are advised by their GP that their initial vaccination has taken effect. In some cases, this may involve some staff taking on alternative duties that can be done from home, or in a small number of cases, being at home on full pay without duties to fulfil. Following vaccination, individual assessments should be undertaken prior to a return to work. Safety measures should include ensuring that they are allocated to the best ventilated classrooms and provided with higher quality masks which offer protection to the wearer, not just to others.

Where an employer insists that a CV employee should attend the workplace, prior to the GP advising that the initial vaccination should have taken effect, and the employee does not believe that the measures identified by the employer are enough to keep them safe, they should inform their local union rep and immediately seek supporting evidence from their doctor and/or a referral to occupational health. Referring to the [NHS risk assessment tool](#) and to the [NHS COVID-19 clinical risk assessment tool](#) may be helpful.

Whilst this process is underway, we would support all CV employees being permitted to work at home until a decision can be made based on all the relevant medical information.

Again, if you are in this category and are concerned about any instruction or possible instruction to attend the workplace, please contact your union rep or branch locally for advice and assistance.

### ***Pregnant women and new mothers***

The law requires employers to consider, when conducting risk assessments, the risks to employees who are pregnant 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 & safety. Pregnant women continue to be included in the Government's list of those who are clinically vulnerable and are currently advised to receive either the Pfizer or Moderna vaccine. Recent

evidence has shown that 90,000 pregnant women have been vaccinated with these vaccines and no safety concerns have been identified.

Joint advice from HM Government, Royal College of Midwives, Royal College of Obstetricians and Gynaecologists (RCOG) and the Health & Safety Executive: [Coronavirus\(COVID-19\): advice for pregnant employees](#) advises that employers must carry out a risk assessment for pregnant workers who should only continue working at the workplace if the risk assessment advises that it is safe to do so. DfE guidance sets out that employers should consider whether adapting duties and/or facilitating home working may be appropriate to mitigate risks.

The DfE has referred schools to advice and guidance from the Royal College of Obstetricians & Gynaecologists 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 (i.e. the 28th week and beyond) can become seriously unwell and are at greater risk of pre-term birth. It further notes that 'for many workers, this may require working flexibly from home in a different capacity and that 'all employers should consider both how to redeploy these staff and how to maximise the potential for homeworking, wherever possible.'

The RCOG has previously recommended, in relation to healthcare workers, that women in the third trimester should be allowed to work at home. The joint unions believe that education employers should consider this in their individual risk assessments for pregnant women and new mothers. All women in their third trimester of pregnancy should be permitted to work at home, included those who have been vaccinated.. We are calling on employers to design rotas with a view to ensuring that pregnant women earlier in their pregnancy are also supported to work at home. No pregnant woman should be in the workplace unless an agreed risk assessment advises that it is safe.

We advise pregnant women who are seeking to work at home, or are suspended on maternity grounds, to write to their employer to confirm they intend their maternity leave to start at the Expected Week of Childbirth (EWC).

*Staff in other higher risk groups - age, sex, ethnicity and disability*

The joint unions expect employers to conduct individual risk assessments for employees who are in known higher risk groups. In some circumstances, working at home will again be an appropriate protective measure.

Age, sex, ethnicity and disability should form part of every employer's risk assessment for individual staff members and 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.

Age is the biggest single factor in increasing risk to individuals other than specific health conditions. Men are at greater risk of adverse outcomes than women should they contract the virus. Both these characteristics should be considered in risk assessments. Staff aged 60 or over in particular should be permitted to work at home until they are advised by their GP that their initial vaccination should have taken effect. Where possible measures should be taken to protect others in phase 1 of the vaccination programme aged 50 and over who may still be awaiting their first vaccination. Following vaccination individual risk assessments should be undertaken prior to return.

Black<sup>1</sup> people are known to have suffered a disproportionate impact during the pandemic. This issue remains a considerable cause of concern to Black employees who may feel less able to raise their concerns within workplaces because of stereotypes and prejudice.

Risk to disabled employees also requires careful consideration even if their particular health condition does not itself place them in the medically vulnerable category. ONS statistics show that disabled people made up 60 per cent of all UK Covid deaths. Disabled staff often experience stereotypes 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 will in some cases, for disabled staff, include working at home to ensure they can continue to work safely.

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

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<sup>1</sup> 'Black' is used 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.

Individual Covid-19 risk assessments should also consider an employee's domestic circumstances. The joint unions are asking employers to adopt arrangements which can support staff whose household members are vulnerable to work at home until the risk of infection is significantly reduced. The DfE guidance states that staff living with CEV household members can attend the workplace "where it is not possible to work from home". The joint unions advise that the onus is therefore on the employer to consider arrangements which do make it possible for these staff to be supported to work at home.

### ***Impact of the vaccination programme***

Despite the undoubted success of the vaccination programme, the virus is still circulating widely in many communities and as the Government's letter announcing the end of shielding makes clear, until social distancing rules are eased more widely, even with vaccination, there is still no guarantee of protection. <sup>1</sup> It would therefore be wholly inappropriate for any employer to seek to use vaccination status as a way of compelling a vulnerable employee to attend the workplace. As described above the joint unions believe that staff aged 60 or over should be permitted to work at home until they are advised by their GP that their initial vaccination should have taken effect.

### **Advice to members on contacting their employer**

Employers should already have conducted a risk assessment which considered personal circumstances. 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 suffering from stress which is impacting upon your mental health, then this should also be raised with your GP.

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 local union 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 union

Please ensure that you tell your local union 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 your union locally can be found [here](#) for NEU members and [here](#) for UNISON members. GMB guidance can be found [here](#) and [here](#). Unite guidance is [here](#).

## Further advice

NEU members can read [this advice](#) about seeking support with mental health and wellbeing. UNISON members can seek confidential advice and support from UNISON's own welfare charity, [There for You](#). GMB guidance can be found [here](#).

Risks for ethnic minorities - The GMB has published a COVID19 risk indicator [here](#) while an NEU analysis is available [here](#).

Childcare advice - The NEU's advice in relation to childcare is available [here](#). UNISON's advice can be found [here](#) for school staff and [here](#) for college staff. GMB guidance can be found [here](#).

Specific and fuller NEU advice is available for [supply staff](#) and for [peripatetic staff](#). UNISON's advice can be found [here](#) for school staff and [here](#) for college staff. GMB guidance can be found [here](#).

## Joint unions –

NEU, UNISON, GMB & UNITE



## Appendix

### Contacting your employer

Use the template letter below to write to your employer if you need to.

Dear [add name]

I am writing regarding your planning for staffing levels, 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 in the current circumstances:

- insert information regarding your personal position as discussed above

I would like you to agree that, given these circumstances, I will be able to work at home and confirm to me that that will be the case. If you propose to require me to come into 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]