

# January 2020: Higher Education

This advice applies to those working in higher education in England (and the general principles will also apply in other nations).

## Introduction

This advice has been written in light of the highest ever daily infection and hospitalisation rates due to the new, more infectious COVID-19 variant. This advice has also been written after the announcements on the evening of 4 January 2021 that the four nations will be in lockdown for differing periods of time, extending at least until the February half-term in England, and subject to reviews.

The introduction of the lockdown, with the government advice to stay at home, has been to “save lives and protect the NHS”. We know that staff working in higher education are keen to ensure that colleagues working in the health and social care receive all the support that they can. The need to minimise staff and students both on campus and travelling to work on public transport, must be remembered when talking to employers about how universities will operate over the coming weeks and months.

The core principles running through this advice is both to protect the health and wellbeing of university staff *and* to protect the jobs and income of university staff.

## Background

Over the Christmas holidays the English government changed their advice about the return of students to campus for spring term 2021. Only those studying subjects in the following categories should now be back on campus for face-to-face teaching:

- Medicine and dentistry
- Subjects allied to medicine
- Veterinary science
- Education
- Social work

According to [government's revised advice](#), all other students should engage in online learning, until at least mid-February 2021. Students have been further

advised not to travel to university from home - if they have a different home – back to campus, nor to their family home if they have stayed in student accommodation over Christmas.

## Working from home during lockdowns

The ways in which many university staff have worked over the past ten months has shown that many support staff jobs can be carried out remotely and that staff can work successfully from home. Given the new lockdown, it is vital that universities maximise the number of staff working from home. Universities must continue to fully support their employees in working from home in terms of physical resources, risk assessments, good line management and mental health support.

Under the English lockdown restrictions, the government's advice remains:

*You may only leave your home for work if you cannot reasonably work from home.*

Whilst the advice also states that “...employees working in essential services, including childcare or education, should continue to go into work”, UNISON does not believe that this should encourage university employers to unnecessarily bring staff back to campus. Only those posts deemed to be essential should be on campus.

UNISON recognises that there are some essential support services in universities. This may include: catering and cleaning for those students who live on campus and need to stay in their student accommodation; technical support for vital research; estates; IT support to facilitate remote learning; remote access to learning/library resources; pastoral and mental health support. It is also recognised that some of these services can be provided remotely and others can only be delivered on-site.

In order to maximise safety for all, staff and students should only be on site after the measures set out below have been considered.

## Safety in universities

Nationally, infection rates are far higher than at the end of last term. This increase has been promoted by the new variant of the COVID-19 virus which was not properly understood at that time and so university life should not be continuing in the way it was before the Christmas holiday. These developments mean that risk assessments already in place cannot be relied on and we are calling on all employers to review and update their risk assessments and safety measures before asking employees to return to the workplace.

## **Health and safety – the legal responsibilities on employers**

Employers have legal responsibilities under the Health and Safety at Work Act 1974 to ensure the health, safety and welfare at work of all employees and to ensure other persons, not in their employment, are not exposed to a risk to their health and safety.

The Management of Health and Safety at Work Regulations 1999 require employers to undertake a suitable and sufficient assessment of the risks to health and safety of employees and others, such as students, contractors, visitors etc., affected by the conduct of the employer's undertaking. The Regulations also require the risk assessment to identify the measures necessary to comply with the statutory duties owed by the employer. Where the employer implements such measures, the primary duty is to avoid risks or combat the risks at source. The duties also include having appropriate procedures in place in the event of a serious and imminent danger, the virus being such a threat as indicated by the Health Protection (Coronavirus, Restrictions) Regulations 2020.

Further, and considering the new situation outlined above, the statutory provision makes clear that:

Under the 1999 Regulations, any assessment shall be reviewed by the employer or self-employed person who made it if there has been a significant change in the matters to which it relates;

Every employer shall enable persons who are exposed to serious, imminent and unavoidable danger to stop work and, save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

In addition, the employer owes duty to inform and consult with safety representatives. Under the Safety Representative and Safety Committee Regulations 1977 (recognised unions) and the similar regulations applying where unions are not recognised, every employer shall consult safety representatives in good time with regard to the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the safety representatives concerned represent.

The employer owes other duties – for example, to ensure that employees who are exposed to risk to their health and safety are provided with suitable personal protective equipment.

UNISON advises the following steps should be taken in higher education.

**UNISON branches should engage** with higher education employers as soon as possible so that unions are able to actively work with the employers to ensure health and safety on campus. We know that many members of staff are extremely worried about coming into work. Any decision to bring staff into work should only be on the basis that it is essential that they are there.

The following is a list of items that UNISON branches should discuss with employers:

- **Urgently review and update all risk assessments** taking into account the higher infection rates of the new COVID variant. Stringent safety measures should be in place including on social distancing, adequate ventilation, indoor mask wearing, provision of sufficient PPE especially in areas where social distancing and ventilation are compromised.
- Ensure that reviewed risk assessments are **resourced, implemented and communicated** to all concerned.
- **Urgently review the list of staff** being asked to work on campus to minimise the numbers as far as possible. Only those who are essential should be on campus. This will, in turn, create a reduced risk for those staff who *must* be on campus. Make sure that each job required to be on campus is covered by an up to date risk assessment.
- Consider the **safest transport options** for those staff who must be on campus. This might include reviewing start/finish times to reduce staff travel during peak times, providing taxi fares, waiving parking fees, improving cycling facilities, etc. Again, the fewer staff who needed on campus and the fewer people on public transport, the lower the risk for all concerned including NHS and social care colleagues.
- Ensure that all staff and students who must be on campus are encouraged to take **COVID-19 tests**. It needs to be remembered that the lateral flow device tests cannot provide proof that an individual does *not* have COVID-19, but rather the tests can screen out some people who may be positive (in which case this should be followed by with an NHS PCR test). Testing should *not* be used as a replacement for any of the safety measures as set out above.
- Additionally, universities will need to consider **appropriate support and flexibility** for all employees who have children who are not in school or nursery including those with children learning remotely (see “essential workers” section below). Those employees who need to look after children and/or support family members who are self-isolating or are ill, will need to have flexibility in their working arrangements.

## What if the employer does not reduce risks?

If your role can be done from home but your employer is insisting on you returning to work on campus without having put in place adequate control measures to enable safe working, then please talk to your UNISON branch as soon as possible. Your UNISON branch can advise you and raise concerns with the employer. If necessary, the letter below can be adapted. This would be in circumstances where there is inadequate health and safety provision, for example, if you will be in contact with large numbers of staff and/or students without the appropriate safety measures put in place.

You can get further advice on this situation on the [UNISON website](#) and in the UNISON [bargaining guide](#).

**You should discuss this with your UNISON branch before sending and see if other options are available to secure safe working environments.**

**On the link is a sample letter for you to send to your employer. The letter warns the employer that they urgently need to take steps to remedy a health and safety situation that places staff in danger.**

### [Model letter](#)

If the situation is not remedied then you will need to take further advice from your UNISON branch and region before sending in a second letter asserting your legal right to be protected against any detrimental action by your employer, including pay protection, if you are not able to work due to facing serious and imminent danger by working.

Each case of 'serious and imminent danger' needs to be considered separately as circumstances will differ from one workplace to another.

## Face to face teaching

We accept that universities will be potentially providing face-to-face provision for the limited list of essential courses (set out above) and that essential research needs to continue.

This should happen only after risk assessments have been reviewed and appropriate measures taken to ensure safety, including for necessary social distancing and limits on student group sizes and the other safety measures outlined above. UNISON believes that not all students studying courses on the list above will need to have face to face learning for all course modules. Many of the modules for students on those courses can also be delivered remotely.

*As stated above, where courses can be taught online, this should remain the default mode of provision whilst we are in lockdown and until the threat of coronavirus infection has reduced.*

## Essential workers

The government has designated university staff, as well as college, school and early years staff, as 'essential workers'. This means that their children should be able to attend school if the parents are required to attend work. *However, UNISON's view is that this does not mean that universities should bring more staff onto campus than are absolutely necessary.* It also does not mean that the children of those staff who are able to work from home should be sending their children to school. Schools are seeking to minimise the numbers of pupils coming in to reduce risk to both school staff and the local community. The prime minister referred to schools as "vectors of transmission" and on this basis schools should only be used by key workers who cannot work from home (along with the other categories of eligible pupils). UNISON's view is that attending school should be for those pupils whose parents need to be working on campus only.

## Furlough

Universities and contractors on campus should make use of the furlough scheme as needed to ensure that jobs and salaries of those who cannot work at work during lockdown are protected. UNISON branches should negotiate with the university to ensure that employees, whether they work directly for the university or for a contractor, receive full pay - not just the 80% of wages provided by the government's coronavirus job retention scheme).

You can find updated information about furlough and pay during the lockdown on the [UNISON website](#), and negotiating advice in the [Bargaining Guide](#)

## Clinically extremely vulnerable staff

As of 20 December 2020, the government reinstated the advice that those who are in the category '**clinically extremely vulnerable**' and who are in a tier 4 area, should not go to work. Employers should make sure that any members of staff in this category are able to work from home again. The definition of those who are in this category can be found on the [government's website](#) or the individual will have been notified to shield by their GP or the NHS. You can find a [template letter](#) for staff in this position to adapt and send to their employer. Remember, that the health and safety of pregnant workers needs to be considered – see the government advice (insert link).

Whilst some staff will fall into the 'clinically extremely vulnerable' group there will be other employees who will have certain clinical conditions that may not be covered by this protection. Other staff may have certain characteristics (which may, for example, include age, ethnicity, weight) which may place them at a higher risk of becoming more seriously ill if they catch coronavirus. It would be helpful if the employer agrees that they will not force staff to come onto campus who may have concerns based on these clinical or other characteristics, and

that they will, instead, seek to provide these staff with alternative work if possible or consider other options to protect their job and income during this period.

## Libraries

The Department for Education have confirmed that university libraries will remain open but only for those studying the critical worker subjects listed above. UNISON has raised concerns about this nationally.

UNISON branches should engage with universities to urgently review all risk assessments in relation to libraries to make sure that they are as safe for staff and users. This would include significant safety measures to restrict access and limit the numbers in the library at any given time, reduce any form of contact and to reduce all potential methods of transmission. It might be agreed that sufficient access can be provided in other ways.

## Contractors on campus

Many of the essential support roles on campus are carried out by colleagues employed by private contractors, this often includes vital services including catering, cleaning and security. It is important that UNISON branches engage with both universities *and* with private contractors to ensure that safety, jobs and income are protected and prioritised. Make sure that all of the points about reviewing, implementing and communicating **risk assessments** is adhered to by the contractor as well as by the university and that all employees have access to adequate supplies of PPE if required.

The employer should provide **written reassurance** to staff that their jobs and income are protected once agreement has been reached whether they are placed on furlough or not.

If you haven't already done so, talk to the university and to the contractor about providing **full occupational sick pay** for anyone who gets ill. If the contractor only provides statutory sick pay then it makes it harder for low paid staff to stay at home and isolate for the time needed if they have been in close contact with someone who has COVID or if they themselves contract the illness.

## Supporting jobs

Universities should provide assurances that jobs and incomes will be protected during the pandemic and until working on campus can return to normal. UNISON is continuing to campaign for improved funding to support the higher education sector through the pandemic.

**UNISON is calling for the government to provide the funding needed to**

**support universities, and those who work in them, to ensure the long-term viability of higher education institutions and to protect jobs.**

## Further information

[Scottish Government coronavirus guidance](#)

[English coronavirus government guidance](#)

[Welsh government coronavirus guidance](#)

[Northern Ireland coronavirus guidance](#)