

Coronavirus (COVID-19): childcare provision for January 2021

Supplementary guidance for regulated early learning and childcare and school age childcare services.

Updated 7 January 2021

Purpose of this guidance

1. This guidance has been issued in response to the First Minister's announcement of 19 December 2020 and updated following her statement to Parliament on 4 January 2021. It is intended to provide clarity on arrangements for day care of children ("childcare") settings during January 2021. The arrangements set out in this guidance are currently expected to be in place until at least 1 February, subject to a further review in mid-January.
2. This guidance, therefore, supplements the following existing guidance:
 - [Guidance for early learning and childcare services](#)
 - [Guidance for school aged childcare services](#)
3. Childminding services currently caring for 12 or more children should also follow this guidance, which is intended to supplement the following existing guidance:
 - [Guidance for childminding services](#)
4. Childminding services caring for fewer than 12 children may continue to operate their setting for all children during this period. There are no additional restrictions placed on childminding services, other than to follow the existing safe operating guidance relevant to their local authority protection level.
5. The guidance for informal childcare in level 4 is unchanged, and is available on Parent Club. This includes guidance on the use of nannies and babysitters.
 - [Guidance on Informal Childcare available on Parent Club](#)
6. This guidance is specifically intended to support childcare settings over the period from 26 December 2020 until 31 January 2021. All aspects of the existing guidance and accompanying mitigations continue to apply while childcare settings are open.

Background

7. These exceptional arrangements are being put in place as a precautionary measure in light of the latest developments in the path of the virus. A range of previously published evidence has made clear that childcare settings are not high risk environments when the appropriate mitigations and safety measures outlined in the sectoral guidance are implemented, and this remains our judgement – there is to date no evidence that transmission within childcare settings is a significant driver of increasing infection levels.

8. However, the emergence of a new variant of COVID-19 means that reopening childcare settings at this time would not be consistent with a safety-first approach for children and staff. This is because:
 - the overall level of community transmission is currently very high. Controlling levels of community transmission plays an important role in ensuring that our childcare environments can stay safe, open and welcoming – this approach is reflected in the [Scottish Government's COVID-19 strategic framework protection levels](#); and
 - evidence about any impact of the new variant on transmission amongst children and young people is still being assessed.
9. These exceptional arrangements are therefore intended to ensure sufficient time to reduce community transmission and to assess the implications of the new variant of the virus.
10. It is the Scottish Government's intention that childcare settings and schools should be the first places to reopen as we emerge from lockdown, when it is safe to do so.

Arrangements for childcare settings opening in January - timeline

11. Local authorities and childcare providers should put in place the following exceptional arrangements for childcare settings during January 2021. An educational continuity direction has been issued to provide the legal basis for this approach, and will be updated in due course. Private, voluntary and independent settings should follow this guidance in compliance with their obligation to have regard to the Chief Medical Officer's advice in relation to coronavirus as established in [paragraph 10\(1\) of schedule 17 of the Coronavirus Act 2020](#).
12. From 26 December, formal childcare settings should open in line with their previously agreed term dates. However, from 26 December attendance in childcare settings should be restricted to:
 - Vulnerable children and children of key workers only. Definitions are provided later in this supplementary guidance; and
 - Staff who, in the judgement of the local authority or setting manager, are required to attend in person to give effect to these revised reopening arrangements.

This may, for example, include: staff needed to ensure the safe opening and operation of the setting, including senior leadership teams, facilities management staff, cleaners, etc.; and childcare and support staff required to attend to deliver in-person support to vulnerable children and children of key workers. In light of the strict lockdown conditions in place at the current exceptional time, settings should ensure that only those staff who are required to support these essential activities are requested to attend in

person, and ensure that updated guidance on individuals on the shielding list is followed.

13. If a setting is term time only, they may open in accordance with that timetable – they are not required to open any earlier than planned.
14. Local authorities should ensure provision of funded ELC to vulnerable children and children of key workers in accordance with a child's normal pattern of attendance and their anticipated return to their setting (i.e. from when the child would ordinarily have returned to childcare). While the expectation is that all settings should remain open during this time, if in exceptional circumstances any children in these categories cannot attend their normal setting – whether local authority or private provision – they should be offered an alternative placement for the duration of these restrictions if practically possible.
15. There will be no universally free at the point of access critical childcare for key worker families and vulnerable children as was the case in March to August 2020.
16. A review of these arrangements will be undertaken on Monday 18 January, taking into account the latest evidence about the new variant and progress in reducing community transmission levels. Arrangements for the period from Monday 1 February onwards will be communicated at the earliest opportunity following this review.
17. All of the above is subject to [updated guidance on attendance for clinically vulnerable staff and children](#), including the enhanced protections at levels 3 and 4.
18. Local authorities and settings should ensure that local risk assessments and individual risk assessments for clinically vulnerable individuals are up to date to ensure the safe running of services under these arrangements. Consideration may, for example, be given to any additional mitigations that could be put in place due to fewer numbers of people being in childcare settings. Local decisions should be made about whether specific staff may work from home or be offered furlough where their attendance is not required to give effect to these arrangements and how this can be facilitated.

Support for vulnerable children and children of key workers

19. Some children and young people rely upon the care and protection provided by childcare settings in relation to a range of specific circumstances.
20. Local authorities (including through joint working between Chief Social Work Officers and Directors of Education) and childcare settings should ensure and prioritise continued care and support for these children during the period 26 December 2020 to 31 January 2021. In doing so, they should consider how best to apply the definitions below whilst balancing the overarching policy aims of reducing the number of children and staff who need to attend settings in person as far as possible.

21. Vulnerable children and children of key workers may continue to access childcare services in nurseries and other childcare providers in accordance with their normal pattern of attendance. This includes:
 - benefiting from their funded early learning and childcare entitlement.
 - continuing to access privately paid for childcare according to usual demand.
22. Individual nursery and other childcare settings should determine eligibility to continue attending childcare services, and this guidance is provided to aid that decision. All settings should be mindful that the purpose of these restrictions is to reduce households mixing as far as possible in order to suppress the virus and take firm preventative measures, particularly in light of the new variant of COVID-19 identified.

Vulnerable children and young people – definition

23. Children and young people may be vulnerable because of factors related to their personal development, features of their family life, or because of wider influences that impact on them within their community.
24. Those children who were considered to be vulnerable prior to the pandemic should have been known to services, and are likely to have had a child's plan. The pandemic has brought others into this category, for example through loss of family income.
25. Children who are eligible for a funded 2 year old place can continue to access provision, even if they do not strictly meet the definition of vulnerable children.
26. It will be the decision of individual providers to ensure that children who attend are those of key workers, vulnerable children, or children who are eligible for a funded 2 year old place.
27. Where a child requires co-ordinated support from more than one agency, this is likely to suggest greater vulnerability, and the plan would be co-ordinated by a lead professional. This would include a range of children and young people, such as those:
 - at risk of significant harm, with a child protection plan
 - looked after at home, or away from home including kinship care
 - 'on the edge of care', where families would benefit from additional support
 - with additional support needs, where there are one or more factors which require significant or co-ordinated support
 - affected by disability
 - where they and/or their parents are experiencing poor physical or mental health
 - experiencing adversities including domestic abuse and bereavement
 - requiring support when they are involved in making transitions at critical stages in their lives.

28. Children and families may also experience adversity because of the impact of poverty and disadvantage, and many will be facing this because of the necessary measures to respond to the pandemic. This will include families with loss of income, experiencing social isolation, or otherwise struggling because of the restrictions.

Decision making for this group

29. Local authorities and health boards, working with partners including third sector organisations, will either know or be able to identify the children and families within their areas who are potentially at risk and therefore need additional support. The need for additional support can be identified prior to birth, so this should include help for pregnant women.
30. Crucially, vulnerability is not an exclusive concept, but should take account of all of these factors and others, that means that a child and family may need additional support. The judgement of the children's sector professionals – critically those working most closely with the family – will be paramount in assessing vulnerability.
31. Those who work directly with children and young people are best placed to identify children and young people who will require support in order to ensure their wellbeing, as a result of these exceptional phased opening arrangements.
32. As noted above, when determining which vulnerable children should attend in person, local authorities and childcare settings should have regard to the overarching policy aim of these exceptional setting closures, which is to reduce the number of children, young people and adults from different households interacting in-person within communities (including in childcare settings) as far as possible, in order to prevent COVID-related harms. If it is possible for children to be cared for safely and have their learning and wellbeing supported sufficiently well at home, that approach should be preferred.

Named Person (key point of contact) service

33. Named persons as key points of contact are a very important first response for vulnerable children (as defined above).
34. Local authorities will consider how best to continue to provide key points of contact during the period from 26 December to 31 January 2021.

Support for children of key workers

35. The definitions of key workers agreed with local authorities previously during the pandemic will continue to apply. The need for local flexibility to suit local circumstances is acknowledged.
36. There should be a particular focus on key workers in posts which ensure that essential services can be delivered and cover tasks within the local community

which support the vulnerable and aid community resilience. This may be slightly different in each community to allow the country to address local priorities. Whilst decisions will be taken at the local level, we would expect this to include consideration of:

- Category 1 – Health and Care workers directly supporting COVID response, and associated staff; Health and Care workers supporting life threatening emergency work, as well as critical primary and community care provision; Energy suppliers (small numbers identified as top priority already); staff providing childcare/learning for other category 1 staff.
 - Category 2 – All other Health and Care workers, and wider public sector workers providing emergency/critical welfare services (for example: fire, police, prisons, social workers, courts), as well as those supporting our Critical National Infrastructure, without whom serious damage to the welfare of the people of Scotland could be caused.
 - Category 3 – All workers (private, public or third sector) without whom there could be a significant impact on Scotland (but where the response to COVID-19, or the ability to perform essential tasks to keep the country running, would not be severely compromised).
37. For the avoidance of doubt, during these exceptional arrangements we would expect that education and staff providing daycare of children's services, including early learning and childcare, who are required to attend their work in person would qualify as category 1 or 2 key workers. Wider groups of healthcare workers who have been brought in to support vaccination rollout and Test and Protect would also be expected to qualify under category 1.
38. While there are differences between the current situation and the previous strict lockdown (from March 2020), it is now necessary to limit household contacts by reducing numbers attending childcare settings as much as possible while still enabling essential childcare support for key workers. The following key principles should be applied by local authorities and settings, and communicated clearly to parents and carers:
- There should be clarity on the way in which key workers or their employers can apply for places in childcare settings.
 - Only those children that meet the criteria (i.e. those that are vulnerable or are the children of keyworkers as defined in this guidance) should be offered a place within childcare settings.
 - Only key workers who are physically attending their workplace or who cannot fulfil their critical functions when working remotely may qualify for places.
 - Where alternative options are available – e.g. where childcare can be provided or supported by one non-key-worker parent or carer who is able to work from home – these should be used instead of attending childcare settings in person. Consideration should be given to ensuring application of this approach does not limit the ability of health and care staff (in category 1) to support the COVID-19 response during this period of acute pressure.

- If it is possible for children to be at home during this exceptional period, until settings reopen more fully to them, then they should be.
- Decisions should be taken based on the circumstances of individual families. Whole workforces or entire groups of staff should not be designated as key workers. Doing so would undermine the collective effort we must all make to stay at home, protect the NHS and save lives during this period of strict lockdown.

Advice for employed parents and carers

39. The following advice is for employed parents or carers who are considering applying for a space in a childcare setting for their child during this exceptional period on the basis that they are key workers.
40. During this period of strict lockdown, employed parents and carers should first talk to their employer if they are an employee and they believe:
 - they are a key worker
 - it is absolutely necessary for them to attend their place of work to fulfil their critical functions; and
 - they have no access to appropriate alternative childcare arrangements. Alternative childcare arrangements may include informal childcare or accessing a childminding service (which remain open to all children at present). See [Parent Club for further information on informal childcare](#).
41. You can then make appropriate decisions about whether childcare is required and how to apply for a place, drawing on guidance from your provider.
42. Employees may also seek advice and support from their trade union in these matters.

Advice for employers of parents and carers

43. The following advice is for employers who believe their employees may be key workers and are considering supporting them to apply for a space in a childcare setting for their child during this exceptional period on that basis.
44. During this period of strict lockdown, employers should:
 - only contact the relevant local authority or childcare setting to support the case for key worker designation for an employee who meets the relevant criteria if that has been requested by the parent or carer;
 - think critically about what staff they consider to be key workers and prioritise those providing absolutely essential services to the public in these emergency times;
 - revisit work with unions and workers to identify only the absolute minimum number of staff performing essential roles to deliver the COVID-19 response and provide basic, safe services;
 - reduce in-person staffing levels to the lowest possible number required to maintain the production of essential goods;

- have discussions with staff to identify if they can access any appropriate alternative childcare or remote learning arrangements. This may include another parent/carer who is not a key worker and is able to provide such support effectively from home. Alternative childcare arrangements may include informal childcare or accessing a childminding service (which remain open to all children at present).
45. Where it is requested by the parent or carer, you can then support your employee to make appropriate decisions about whether and how to apply for a place, drawing on guidance.
46. Please contact your local authority for information about the arrangements they have in place. Further information: [contact details for your local authority](#).

Complex queries and issues regarding key worker access to childcare

47. The main port of call to resolve any issues or challenges over key worker status should always be the provider concerned, which may be a local authority. Consideration is being given with local government to any further requirement for support and co-ordination regarding complex queries and issues relating to key worker status.

Implementation of guidance (including approach to groupings)

48. All staff (including student practitioners) and children attending childcare settings during the period 26 December 2020 until 31 January 2021 should continue to implement and strictly observe the Level 4 mitigations set out in the safe operating guidance for their setting type (and any additional mitigations that may be identified within updated risk assessments; for example, additional mitigations that are appropriate as a result of fewer people being in childcare settings). The small number of local authority areas in Level 3 should implement Level 3 restrictions, although they will also be subject to timeline for the phased reopening of childcare settings set out in this guidance.
49. Links to a set of four infographics can be found as a single download covering the key messages for each sector in the following guidance documents:
- [Guidance for early learning and childcare services](#)
 - [Guidance for childminding services](#)
 - [Guidance for school aged childcare services](#)
50. It has been agreed with clinicians that, during this exceptional period (26 December 2020 to 31 January 2021), settings may exceptionally re-group vulnerable children and children of key workers (i.e. move them into different groups to those they were in prior to the festive break). This should be kept to the minimum necessary to ensure effective, safe learning and play arrangements are in place. It should be done in a way which meets children's needs and enables them to engage in learning which is age and stage appropriate.

51. All those working in a setting and parents should continue to be vigilant for coronavirus symptoms. Unless staff are symptomatic or are advised to get a test by a healthcare professional, testing is not a requirement. However, if members of staff are concerned that they have been at risk from infection, then they may request a test whether or not they have symptoms. Staff should make such requests via their employer, who can book a test for them using the employer portal, or for staff in Orkney, Shetland and Comhairle nan Eilean Siar, can advise staff on the testing arrangements with their local Health Board.

Clinically vulnerable staff and pupils (including individuals on the shielding list)

52. Following consideration by clinicians of the increased risks of transmission of the new variant of coronavirus, new guidance for individuals on the shielding list has been issued for the duration of the lockdown period. This now makes clear that:
- **staff at the highest clinical risk (individuals on the shielding list) should work from home, and if they cannot do so, they should not work.** A CMO notification will issue to affected individuals in week commencing 4 January 2021. This acts as a fit note for as long as these additional measures are in place – initially until the end of January, to be reviewed after two weeks. The CMO letter means that a GP fit note is not required.
 - **children and young people at the highest clinical risk (individuals on the shielding list) should not attend childcare settings in person.**
53. This lockdown advice does not change the existing Level 4 advice, which may replace this exceptional advice following any return to childcare settings after lockdown ends.
54. The arrangements for all other clinically vulnerable school staff and pupils as set out in the reducing risks in the [early learning and childcare services guidance](#) should be followed. This includes the [baseline advice](#) (which applies as standard throughout all levels) and the enhanced protections at Levels 3 and 4. This guidance makes clear that individual risk assessments should be in place for clinically vulnerable staff. Local authorities and service providers should ensure that clinical advice is taken fully into account when updating these individual risk assessments and agreeing appropriate mitigations with employees. [Updated guidance](#) for pregnant employees is now available and should be followed (note that staff who are both pregnant and on the shielding list should follow the guidance for staff at the highest clinical risk above).
55. Information on shielding, including who would be considered within the highest risk group, is available in [Covid-19: shielding advice and support](#). Where concerns exist, [guidance for people with underlying health conditions](#) has been prepared and will continue to be updated. Staff who have underlying health conditions will wish to be aware of this advice in order to inform discussions with their employer, trade union and/or healthcare team in line with the current guidance on reducing risks in settings.

Communicating with families and online resources

56. Settings should ensure arrangements are put in place to clearly communicate with all parents and carers that this decision means their services will close to children other than those who meet the criteria for attendance based on the above guidance as soon as is practically possible, and continue to communicate regularly thereafter. Consideration should be given to matters such as the needs of separated parents (having regard to the appropriateness of both parents being provided with information), parents for whom English is an additional language and parents/carers with disabilities.
57. Settings should inform those parents and carers of children who will be invited to continue to attend as soon as possible, and ensure that parents understand this will be on the basis of continuing to use services they would normally have used. If those services are normally paid for privately, that will continue to be the case.
58. Information to support parents includes:
 - [Parent Club Covid-19 internet microsite](#), which contains advice on working from home whilst caring for children, advice on helping children with remote and blended learning as well as links to advice and support resources for parents of children with additional support needs.
 - Education Scotland's [Scotland Learns](#) initiative provides newsletters and online resources for teachers and for parents/carers.
 - Education Scotland's [Learning at home | Parent Zone \(education.gov.scot\)](#), which has online resources to support children to learn through play
59. Further support and advice is available from the Education Scotland website [A summary of Early Learning and Childcare \(ELC\) resources | Practice exemplars | National Improvement Hub \(education.gov.scot\)](#), the section on Early Learning and Childcare has recently been enhanced.

Financial Support for Impacted Childcare Providers

60. Further information on support available to the sector throughout the recovery can be found on the [Scottish Government website](#).
61. Settings which can, may wish to consider if it is possible to furlough any members of staff, while continuing to operate their services for children who can access their care at this time. Under the [Coronavirus Job Retention Scheme](#) all UK employers with a PAYE scheme can access support to safeguard workers from being made redundant. The UK Government announced on 17 December that the Scheme [is being extended](#) until 30 April 2021.

62. You can claim for employees who were employed on **30 October 2020**, as long as you have made a PAYE RTI submission to HMRC between the 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee.
63. Employers can furlough employees for any amount of time and any work pattern, while still being able to claim the grant for the hours not worked.
64. Childminding services should note that the UK Government has [extended](#) the Self-Employment Income Support Scheme (SEISS). The extension will last for 6 months, from November 2020 to April 2021. More information is [on our website](#).
65. We know that continuation of payments for funded ELC was an important aspect of support to providers during the initial restrictions from March 2020. We also know that many local authorities have continued to issue these payments even where services have closed due to COVID-19 or children have been self-isolating since reopening.
66. We have agreed with local government that these payments should continue during this period of additional restrictions, even for those children who are not able to attend, to ensure that local ELC capacity is retained to ensure sustainability for the future delivery of ELC.
67. Payments will be based on existing, agreed rates for delivery of funded ELC. Providers should continue to engage with local authorities on an open book basis to evidence, among other things, the public grants and support received and the extent of local authority support needed to maintain business continuity. Local authorities should refer to the joint letter from the Minister for Children and Young People and COSLA Spokesperson for Children and Young People, issued on 23 December, for further information.
68. The Scottish Government is encouraging all childcare providers to be reasonable and balanced in their dealings with parents, recognising the unprecedented situation brought about by the COVID-19 outbreak.
69. It is of particular importance that childcare providers are sensitive to families' financial situations when considering their charging policies, particularly at a time when the country continues to respond to the extraordinary circumstances brought about by this outbreak.
70. We recognise that not all childcare providers may be able to access support through the existing routes to meet the additional costs and income losses incurred to comply with the latest public health guidance in response to COVID-19.
71. Consideration is being given to the possible provision of additional support and further details will be shared as soon as possible.