

**Business and Regulatory
Impact Assessment (BRIA)**

**COVID-19
Guidance for Laboratories
and Research Facilities**

(published 29 June 2020)

September 2020



Scottish Government
Riaghaltas na h-Alba
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Business and Regulatory Impact Assessment

Business and Regulatory Impact Assessment (BRIA) for the introduction of, and subsequent 3 weekly reviews of, the COVID-19 Scottish Government (SG) Guidance for laboratories and research facilities (published 29 June 2020) eRDM ref: A29218035.

Purpose and intended effect

Publication of cross-sectoral guidance for laboratories and research facilities, to enable the sector to plan and prepare effectively for restart of operations safely under Phase 2. Phase 3 of the Scottish Government's Route map was introduced on 9 July 2020 and confirmed that non-essential offices and call centres can re-open following implementation of the relevant guidance (including risk assessments, physical distancing and enhanced hygiene measures). This includes laboratories and research facilities.

Context

The First Minister announced that Scotland would be entering a lockdown on 23 March 2020. All non-essential businesses were advised to close on a precautionary basis in order to help control the spread of the virus.

However, it should be noted that some laboratories and research facilities remained operational to carry out essential work.

Under law, the Scottish Government is required to review the progress out of lockdown at least every 3 weeks. [The Coronavirus \(COVID-19\): framework for decision making – Scotland's route map through and out of the crisis](#), was published on 21 May 2020 and sets out the phases by which we will aim to ease lockdown. Progress through the 4 phases of the route map will be gradual and incremental, and will be matched with careful monitoring of the virus.

On 29 June 2020, the Scottish Government published the [COVID-19 guidance for laboratories and research facilities](#), to give employers the time to plan and prepare for the safe reopening of non-essential labs and research facilities in phase 2 of the Scottish Government's Route Map out of lockdown. It sets out the Scottish Government's expectations on what laboratories and research facilities of all sizes, sectors and disciplines need to consider as part of their planning for restart, while recognising that some essential research related to COVID-19 has continued throughout the pandemic.

On 9 July 2020, labs and research facilities in Scotland, including those on university campuses, could re-open and resume non-essential research unable to be conducted remotely, subject to the implementation of relevant guidance (including risk assessments, physical distancing and enhanced hygiene measures).

In line with 3 weekly reviews of lockdown, the guidance for labs and research facilities is reviewed on 3 weekly cycles.

Objective

The objective of publishing guidance for labs and research facilities is to support them to restart their operations in a safe way, that has been developed in collaboration with employers and trade unions from universities and the life sciences and other science-related sectors to ensure that this guidance is evidence based, fair and ethical, clear and realistic. As each workplace is different, it is for individual organisations to work with trade unions or workforce representatives to determine how best to apply this guidance to their circumstances.

The guidance emphasises in particular the importance of undertaking robust and ongoing risk assessments with full input from trade unions or workforce representatives, and to keep all risk mitigation measures under regular review so that workers, staff and students continue to feel, and be, safe.

This guidance is a living document, subject to 3 weekly reviews in line with lockdown legislation.

Rationale for Government intervention

Providing clear guidance for the interpretation of changes of the Scottish Government's route map.

Labs and research facilities cannot return to 'business as usual' and will have to operate in a way that ensures staff safety and minimises the potential spread of coronavirus. It is, therefore, important that they are given guidance to help them navigate these new requirements.

Consultation

Due to the unusual and unprecedented circumstances of the current health crisis, and the need to provide guidance to the sector at pace, it has not been possible to conduct the usual level of consultation that would normally take place.

However, it should be noted that the development of the guidance has been informed by constructive input from the internal SG working group and a wide range of stakeholders involved in laboratories and research facilities, in order to agree a route forward to prepare for re-opening and safe working. Those involved include universities, industry bodies, research institutes and trade unions. The guidance has also been reviewed by Health Protection Scotland and SGLD and reflects their recommendations, as well as relevant policy leads.

Within Government

- Policy leads across Directorate for Advanced Learning and Science
- Exit Team
- Equalities Team
- Safer Workplaces Team
- SG policy leads from Marine Science Scotland and RESAS

- SG policy leads from Innovation and Life Sciences
- Analytical colleagues
- Health Protection Scotland
- SGLD

Public Consultation

- None

Due to the necessity of the pace of which this guidance has had to be released during this emergency, no public consultation has been carried out.

Guidance has been published online with a facility for members of the public to issue comments to a Scottish Government mailbox.

An Equality Impact Assessment consultation is being conducted with those involved with the development of the guidance. The findings may impact this BRIA.

Other Partners

- This guidance has been developed in collaboration with industry and trade unions on the basis that both have essential roles to play in planning for restart.
- Universities Scotland (representative body of Scotland's 19 higher education institutions) also played a key role in developing the guidance.
- We have worked with employers and trade unions from universities and the life sciences and other science-related sectors to ensure that this guidance is evidence-based, fair and ethical, clear and realistic.
- SFC also reviewed the guidance and provided input.

There is a legal requirement to conduct a review of restrictions, every 21 days, in accordance with section 2(2) of the Health Protection (Coronavirus (Restrictions)(Scotland) Regulations 2020.

Options

Option 1: Do nothing.

Do nothing is not a realistic or viable option. Without guidance to support a cautious restart of non-essential work in labs and research facilities, there is a risk it could potentially lead to bad practice, risk public health, be chaotic and result in anxiety for a sector that will already face a number of challenges in adjusting to a new working reality.

Option 2: Provide guidance for the sector to successfully and safely plan and restart business.

Guidance is required in this unprecedented situation to ensure an orderly restart of business, help increase employer and employee confidence in the safe return to work, protect public health and reduce anxiety.

Sectors and likely groups affected

The scope of this guidance covers all indoor research environments including:

- research and testing laboratories
- engineering centres
- clean rooms
- prototyping centres
- wet laboratories
- wind tunnels
- computer laboratories
- simulators
- material development laboratories
- specialist testing rooms
- field research centres
- all similar workplaces

These environments are in a variety of organisations, such as life sciences and other science-related businesses, universities, colleges, innovation centres and research institutes.

Benefits

Option 1

There are no realistic benefits to option 1. Doing nothing could exacerbate an already difficult situation facing labs and research facilities across Scotland.

Option 2

Universities, research institutes and regulators have been, and will continue to be, involved in the development of the guidance. Provision of the guidance will support safe restart for labs and research facilities, benefiting from sector specific guidance that has been developed with input from trade unions and industry. It will help deliver a situation where employees can have confidence in their safe return to the workplace.

Costs

Option 1

The cost of doing nothing could be significant. A chaotic restart to labs and research facilities could result in greater risk of spreading the coronavirus, thus risking even more economic harm to the sector. This could put Scottish universities at a greater economic disadvantage to their UK counterparts and those abroad.

Labs and research facilities unable to restart safely, resulting in:

- decrease in the volume of research
- loss to Scottish economy in terms of the decrease in outputs which would translate into practical innovation and economic growth (as well as environmental and societal benefits)
- decreased market opportunities, competition, sales and exports
- unemployment
- cost to taxpayer (unemployment benefits; furlough etc.)

- risk to public health and mental health
- loss of talent and expertise.

Option 2

There will be a saving to the public purse as furlough is reduced.

However, there will be a significant financial cost to labs and research facilities in making the workplace safe. A limit on staff numbers in the workplace and significant movement restrictions and hygiene and cleaning regimes will impact negatively on productivity.

Scottish Firms Impact Test

The lab and research guidance was informed by a broad range of representatives, including policy officials across SG, universities, industry bodies, research institutes, trade unions and Health Protection Scotland, ensuring that differing views and issues have been addressed.

The guidance provides a consistent approach in taking steps for a safe workplace, regardless of type of indoor research facility, whilst allowing employers to assess their own risk and put in place the safety measures appropriate for their specific needs.

Competition Assessment

We do not foresee significant competition issues within the sector, as all non-essential indoor (non-office) workplaces, including labs and research facilities, will restart at the same time. Essential work in labs and research facilities that have continued to operate throughout lockdown will have been able to continue since the start of lockdown.

However, there was some concern from Scottish institutions that they would be at a competitive disadvantage to their English counterparts as their guidance was published earlier (11 May 2020).

Digital Impact Test

All documents created will be word based documents created by the University Research team (co-ordinated across SG policy teams by Safer Workplace team) and uploaded to the SG website by the SG's web editors. A PDF version of the documents will be available on the website for consumers who prefer to use that format. In the unlikely event that a consumer cannot access the website, or print off a PDF, a printed copy can be provided on request.

Currently, the guidance is not available in any language other than English. If a request is received requiring guidance in another language or braille, the request will be dealt with appropriately.

Legal Aid Impact Test

This guidance does not in itself create any new legal rights. There will be no impact on legal aid as businesses are not eligible.

There is the potential that it may be used by employees as supporting evidence to uphold employment rights, human rights, equality or health and safety laws in the workplace. Should an employee decide to exercise any of these legal rights in the workplace, legal aid in the form of Advice and Assistance may be available to those who qualify.

However, the introduction of the guidance may actually reduce the potential for any legal challenges, as it encourages a collaborative approach by employers, employees and trade unions to ensure a safe working environment, and a fair work policy inclusive of all equality groups.

Enforcement, sanctions and monitoring

The guidance for labs and research facilities is a mixture of regulation and guidance. The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 came into force on 26 March 2020. They impose the two metre rule on all businesses and service providers that remain open, so they must have measures to ensure, where reasonably practicable, that employees are able to maintain that distance from each other. Businesses and service providers must also take measures to ensure that they admit people into their premises in sufficiently small numbers to maintain a two metre distance.

The regulator for health and safety at work, the Health and Safety Executive (HSE) is constantly applying their expertise to ensure people at work are protected. HSE is treating COVID-19 as a workplace health issue. Where HSE identifies employers who are not taking action to comply with the relevant public health guidance to control COVID-19 health risks to workers, HSE will consider a range of actions under existing health and safety law.

Implementation and delivery plan - how will the proposal be implemented and in what timescale?

The cross-sectoral guidance for labs and research facilities in Scotland was created by policy teams across SG with the support of the Safer Workplaces team, and included consultation with universities, industry bodies, trade unions and Health Protection Scotland. Updates to the guidance will be carried out by the University Research and Knowledge Exchange team. The guidance was published on 29 June 2020 and will be updated as we move through the different stages of the Route map to reflect changes in policy.

The internal SG Working Group, in consultation with partners, will continually review the guidance on a 3 weekly basis.

Each revision of the guidance will reflect the most up to date information and best practice at the various stages of the route map phased release of restrictions.

When revising the guidance, we will refer to the publications of the UK Government and those of the other devolved administrations, to reduce divergence in the guidance.

Reviews will continue until instruction is received that they are no longer required.

Post-implementation review

We intend to undertake regular engagement with the sector regarding changes and what, if any, impact these have had. This may possibly be incorporated into wider policy work on the restarting of the University Research Sector.

Summary and recommendation

It is essential that the SG provides full consideration to this measure to re-open labs and research facilities with the provisions noted. The SG COVID-19 guidance for labs and research facilities has been created by a working group of experts from industry, government, trade unions and agencies, who will continue to provide feedback on their practical experience of the guidance. The guidance which contains clarifications of the route map will evolve as we progress through the route map out of lockdown and ensure a consistent, informed and safe approach is taken by all those working in labs and research facilities across Scotland.

We therefore recommend that the guidance is reviewed at regular 3 weekly intervals.

Declaration and publication

Sign-off for BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the measures set out in the regulations and guidance. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date: 03/09/2020

Roddy Macdonald
Head of Higher Education and Science Division



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