

## Industrial action – FOI

From: Redacted under s.38(1)(b)  
Sent: 18 November 2020 21:20  
To: Andy Drought  
Cc: Redacted under s.38(1)(b)  
Subject: Industrial Action options

Redacted under s.38(1)(b)

I hope this is what you are looking for options for Industrial action – you may only need the second page list of options.

Redacted under s.38(1)(b)

## Industrial Action options

EIS has issued a survey to its teacher members across Scotland, seeking their views on the effectiveness of COVID safety measures in schools. The survey will inform the next steps to be taken by the EIS to protect teachers and pupils from the potential risk of COVID-19 infection. It seeks members' views on taking industrial action should an area go into level 4.

CMO letter states everyone who is on the shielding list should follow the general advice for everyone in Level 4 areas and **work from home if they can**. Employers should make sure their staff can **work from home if possible**. For those who cannot work from home, we are highlighting that most workplaces can be made safe, even for those at the highest clinical risk from COVID-19.

Redacted under (section 30(b)(i))

From: Redacted under s.38(1)(b)  
Sent: 23 November 2020 12:26  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: OFF SEN - Industrial Action options - v1forcomment

Hi all,

With huge thanks to Redacted under s.38(1)(b) for her work on this, attached is an initial cut of a paper on options around industrial action/mitigating actions. Not 100% sure about next steps on this (note that Redacted under s.38(1)(b) are discussing the clinically vulnerable staff issue with Redacted under s.38(1)(b) at Cosla today) – perhaps worth a discussion at LDB this week? Or we could include some of this advice in the note to DFM re: the Green Party debate, given the importance of this context?

Redacted under s.38(1)(b)

From: Redacted under s.38(1)(b)  
Sent: 23 November 2020 14:09  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
: RE: OFF SEN - Industrial Action options - v1forcomment

Thanks Redacted under s.38(1)(b) – I think this is very helpful material and it is good to see this thinking about the options around various scenarios.

Given the EIS press release this afternoon, I think this should go as part of a sub today if possible, outlining our suggested initial response/ comms lines and the next steps which we recommend (eg meeting with EIS to discuss their concerns, encouraging any local issues to be taken up with LAs etc). Redacted under s.38(1)(b)

From Redacted under s.38(1)(b)  
Sent: 23 November 2020 15:31  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: RE: OFF SEN - Industrial Action options - v1forcomment

Redacted under s.38(1)(b) are kindly going to pull this together into some draft advice for DFM tonight, setting out:

1. What EIS survey said (inc. response rate, etc.)
2. What their options are in respect of industrial action, etc. (slimmed down version of info in this paper)
3. Next steps, which are:
  - Media lines being developed separately, advice from comms.
  - Separate advice on testing Redacted under s.38(1)(b) and wider advice tomorrow (from redacted under s.38(1)(b)) on options for responding to SP debate, which will include proposed measures that may substantively address some of the union concerns as we understand them
  - Potential for meeting with DFM, Redacted under s.38(1)(b) and unions on Thursday at 5 pm.

Grateful if you could circulate draft to this copy

Redacted under s.38(1)(b)

From: Redacted under s.38(1)(b)  
Sent: 23 November 2020 19:32  
To: Deputy First Minister and Cabinet Secretary for Education and Skills  
<DFMCSE@gov.scot>  
Cc: Redacted under s.38(1)(b)  
Subject: EIS Survey - Industrial Action

DFM

Please find attached submission regarding the EIS survey on School Safety and the threat of industrial action. I also attach the link to the EIS survey for your information. <https://www.eis.org.uk/Content/images/corona/Nov20Report.pdf>

Redacted under s.38(1)(b)

Deputy First Minister and Cabinet Secretary for Education and Skills

## **Industrial/Health and Safety Action by Teaching Unions – mitigating actions**

### **Purpose**

1. To provide an update on the results of the EIS survey, potential options that EIS may pursue in respect of industrial action, and outline proposed next steps.

### **Timing**

2. Urgent.

### **Background**

3. Teaching and wider workforce unions have, in various fora, indicated their dissatisfaction with school safety measures, and have been raising the prospect of industrial action or invocation of health and safety legislation if their requests for additional protections and/or stronger implementation of guidance are not met. There has been a particular focus on enabling clinically vulnerable and pregnant teachers to work from home, as well as calls for moves to blended learning when a local authority enters Level 4 protective measures.

4. The EIS issued a survey to its teacher members across Scotland, seeking their views on the effectiveness of COVID safety measures in schools including the appetite for potential industrial action. The survey will inform the next steps to be taken by the EIS to protect teachers and pupils from the potential risk of COVID-19 infection. The survey ran from 10-22 November. 18,733 responses were collected from school-based members working in the Primary, Secondary, Special and Nursery education sectors. This response rate represents just over 1/3 of the relevant EIS teacher membership. Key findings of the survey include:

- Almost two-thirds (64%) of teachers either ‘supported’ (48%) or ‘fully supported’ (16%) the Scottish Government decision to prioritise keeping schools open, where possible (with a further 8.1% adopting a neutral position).
- When members were asked how effectively the guidance on school safety had been implemented, the majority (70.8%) stated it has been fully, or mainly, implemented within their school. 25.8% said it had been partially implemented, and only 3.5% said measures were “generally not in place”.

- Despite this support, fewer than one-third of teachers (31%) indicate that they feel 'safe' or 'very safe' at work, while 26.3% said they felt "neither safe nor unsafe" (total 57.3% in these 3 categories). Around 43% said they felt "unsafe" or "very unsafe" at work.
- At level 3, there is clear support (86%) for schools remaining open, although just under half of respondents (48%) agreed with the statement that this should be on a blended learning model to enable physical distancing.
- At level 4, the majority of respondents (51%) believe that remote learning should be introduced on safety grounds – although 45% support either a blended learning approach (34%) or maintaining current arrangements but with additional safety mitigations in place (11%).
- Members were also asked whether, if the majority staff view were that blended or remote learning is the preferred option at Level 4, "but this is rejected by the Local Authority/Public Health Scotland, would you be willing to support industrial action, including strike action, to protest any such decision?" Two-thirds of those responding (66%) indicated a willingness to support industrial action in these circumstances.
- 33% of respondents indicated that they were either in a 'vulnerable' category themselves (9%) or lived with, or provided care for, someone who was in a vulnerable group (24%). EIS defined these vulnerable groups as including those in the former shielding category, people identifying as BAME, and those who are pregnant.
- Just over 3,000 members indicated that they were working without a permanent contract. Of those, only 8.1% said they were "seeking supply work". Of those seeking work, only around 6% said there was little or no work available.

## Potential options that EIS may pursue

Redacted under (section 30(b)(i))

Redacted under s.38(1)(b)

Workforce, Infrastructure and Reform Division  
23 November 2020

## ANNEX A – Draft press lines

Deputy First Minister John Swinney said:

"It is welcome that the majority of teachers support keeping schools open. Teachers understand the harm that closing schools in the spring had on children's learning and wellbeing, particularly on vulnerable pupils, and the evidence to date is clearly in favour of children attending schools in person where safe to do so.

"I am concerned that some of those teachers responding to the survey say they do not feel safe in school - we need to do more to ensure everybody feels safe. The evidence shows no difference between the positivity rates of pre-school, primary and secondary school teachers and staff relative to other worker groups of a similar age.

On testing, we have already put in place arrangements to allow members of school staff who are concerned to get a test whether or not they have symptoms. We are making plans, informed by clinical advice, to build on that which will potentially include piloting and rolling out in-school rapid testing of staff.

“Extensive guidance is in place to reduce the risk of COVID-19 in schools, drawing on the latest public health and scientific advice, with enhanced risk mitigations in Level 3 and Level 4 areas to protect clinically vulnerable staff and pupils. Guidance makes clear that remote learning remains an important contingency at all levels of the strategic framework where required for public health or safety reasons in specific schools – and local authorities and schools have already implemented those contingencies in some areas for public health reasons.

“I am keen that we continue dialogue to ensure that we address as far as possible the anxiety that I know many school staff are feeling as we move into the winter period. I will continue to work with key stakeholders, including members of the COVID Education Recovery Group, to keep under close review the way in which guidance is being implemented in schools.”

Workforce, Infrastructure and Reform Division

**Media enquire - Media enquiry - immediate - BBC Scotland - EIS survey on industrial action**

From: Redacted under s.38(1)(b)  
Sent: 16 November 2020 13:07  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: RE: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action

Ok, I'll point the journalist to FM's comments.

From: Redacted under s.38(1)(b)  
Sent: 16 November 2020 12:13  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: RE: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action

Thanks, Redacted under s.38(1)(b)  
you happy for these lines to go forward to Mr Swinney for clearance?

Redacted under s.38(1)(b)

From: Redacted under s.38(1)(b)  
Sent: 16 November 2020 12:11

To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: RE: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action

That line is published so, yes, we can use that.

Some edits in red accordingly.

Redacted under s.38(1)(b)

From: Redacted under s.38(1)(b)  
Sent: 16 November 2020 11:54  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)  
Subject: RE: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action

Thanks Redacted under s.38(1)(b)

Redacted under s.38(1)(b) – are we able to add a line on teachers not being at any greater risk than other workers? Line from the evidence paper:

ONS data show no difference between the positivity rates of pre-school, primary and secondary school teachers and staff, relative to other worker groups of a similar age

Redacted under s.38(1)(b)

From: Redacted under s.38(1)(b)  
Sent: 16 November 2020 11:47  
To: Redacted under s.38(1)(b)  
Cc: Redacted under s.38(1)(b)

Subject: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action

Hi Redacted under s.38(1)(b)

BBC Scotland has been in touch about a story for its website based on Larry Flanagan's GMS interview this morning.

The BBC is going on the line about industrial action. This is what Mr Flanagan said in response to a question about a survey which has been sent to EIS members:

"We've asked them whether the current mitigations are working effectively in their school, how safe they feel at the different levels with the different mitigations and we've also asked about level4, should schools or local authorities go into level 4, how they would evaluate the safety of their school, whether it should stay open, whether it should go to remote, whether it should go to blended. And finally we've asked if we don't get agreement on mitigations, would you be prepared to consider industrial action in terms of a safety strike protest."

He also wants to see consideration given to closing individual schools in level 4 Covid hotspots as part of community mitigation to drive down the infection level.

I have drafted the below SG line, are you content?

An SG spokesperson said:

“Being in school is in the best interests of children and our priority remains to ensure schools are safe, open and welcoming.

“That is why we have put in place robust measures - developed with input from our Education Recovery Group, which includes union representatives - to help us to protect our school community.

“Only 1.2% of total absences are due to pupils who had a Covid-19 related sickness. This represents about 0.1% of all pupils. The rise in overall COVID-related absences has been very substantially driven by pupils who are isolating, which highlights that our test and protect system is working.

“There is no current direct evidence that transmission within schools plays a significant contributory role in driving increased rates of infection among children or poor health outcomes for children and young people. **Recent ONS data show no difference between the positivity rates of teachers and other school staff, relative to other worker groups of a similar age.**

“We are keeping the way guidance is being implemented in schools under close review, along with emerging scientific evidence, **and the Health and Safety Executive have already stated that schools are doing “a great job” in implementation.** Where there is a need to take **further** action, either by updating our guidance or ensuring it is being given practical effect, we will work with teachers, parents, trades unions, local authorities and young people’s representatives to do so.”

**Redacted under s.38(1)(b)**

**From: Redacted under s.38(1)(b)**

**Sent: 16 November 2020 13:00**

**To: Redacted under s.38(1)(b)**

**Cc: Redacted under s.38(1)(b)**

**Subject: RE: Media enquiry - immediate - BBC Scotland - EIS survey on industrial action**

Basically happy but might they be better to just take the FM's response from the briefing?

Regards

**Redacted under s.38(1)(b)**

**From: Redacted under s.38(1)(b)**

**Sent:** 23 November 2020 18:09

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills

<[DFMCSE@gov.scot](mailto:DFMCSE@gov.scot)>

**Cc:** Redacted under s.38(1)(b)

**Subject:** RE: Media interview bid - immediate - BBC Scotland - EIS survey + lines to take

Redacted under s.38(1)(b) – for info.

BBC Scotland story attached. Mr Swinney's lines are carried.

<https://www.bbc.co.uk/news/uk-scotland-55046886>

Redacted under s.38(1)(b)

**From** Redacted under s.38(1)(b)

**Sent:** 23 November 2020 15:34

**To:** Redacted under s.38(1)(b)

**Subject:** Media interview bid - immediate - BBC Scotland - EIS survey + lines to take

**PS/Deputy First Minister and Cabinet Secretary for Education and Skills**

Redacted under s.38(1)(b) from BBC Reporting Scotland wishes to interview the Education Secretary ASAP for a broadcast package on the EIS survey, which was published earlier this afternoon (EIS news release copied below).

Is Mr Swinney content with the below lines and to undertake the interview via Skype this afternoon?

Redacted under s.38(1)(b)

Deputy First Minister John Swinney said:

"It is welcome that the majority of teachers support keeping schools open. Teachers understand the harm that closing schools in the spring had on children's learning and wellbeing, particularly on vulnerable pupils, and the evidence to date is clearly in favour of children attending schools in person where safe to do so.

"I am concerned that some of those teachers responding to the survey say they do not feel safe in school - we need to do more to ensure everybody feels safe. The evidence shows no difference between the positivity rates of pre-school, primary and secondary school teachers and staff relative to other worker groups of a similar age.

On testing, we have already put in place arrangements to allow members of school staff who are concerned to get a test whether or not they have symptoms. We are making plans, informed by clinical advice, to build on that which will potentially include piloting and rolling out in-school rapid testing of staff.

“Extensive guidance is in place to reduce the risk of COVID-19 in schools, drawing on the latest public health and scientific advice, with enhanced risk mitigations in Level 3 and Level 4 areas to protect clinically vulnerable staff and pupils. Guidance makes clear that remote learning remains an important contingency at all levels of the strategic framework where required for public health or safety reasons in specific schools – and local authorities and schools have already implemented those contingencies in some areas for public health reasons.

“I am keen that we continue dialogue to ensure that we address as far as possible the anxiety that I know many school staff are feeling as we move into the winter period. I will continue to work with key stakeholders, including members of the COVID Education Recovery Group, to keep under close review the way in which guidance is being implemented in schools.”

## **EIS news release**

**Monday 23 November 2020**

### **COVID CONCERNS: FEWER THAN ONE-THIRD OF TEACHERS SURVEYED FEEL SAFE IN SCHOOLS**

Fewer than one-third of teachers currently feel safe from potential COVID infection in schools, [a major survey carried out by Scotland's largest teaching union has revealed](#). The Educational Institute of Scotland (EIS) surveyed teachers across Scotland on COVID safety in schools over the past week, and the results lay bare the depth of the concern held by teachers over potential risk to their and their pupils' health.

The EIS survey was designed to gauge teachers' views on issues such as the effectiveness of current COVID safety procedures in schools, whether schools should remain fully open or move to blended or remote learning in areas under Level 3 or 4 restrictions, and teachers' willingness or otherwise to take industrial action if necessary in areas where teachers believe that schools are unsafe.

The findings of the survey include:

- Almost two-thirds (64%) of teachers either 'supported' (48%) or 'fully supported' (16%) the Scottish Government decision to prioritise keeping schools open, where possible.
- However, despite this support, fewer than one-third of teachers (31%) indicate that they feel 'safe' (26%) or 'very safe' (5%) in schools under the current COVID safety measures.
- At level 3, there is clear support (86%) for schools remaining open, although just under half of respondents (48%) believe this should be on a blended learning model to enable physical distancing.
- At level 4, the majority of respondents (51%) believe that remote learning should be introduced on safety grounds – although 45% support either a

blended learning approach (34%) or maintaining current arrangements but with additional safety mitigations in place (11%).

- Despite the support for keeping schools open where safe to do so, two-thirds of respondents (66%) also indicated a willingness to support industrial action, including strike action, in protest at failure to move to blended or remoted learning in higher risk (Level 4) areas of the country where staff deemed it necessary.
- 33% of respondents indicated that they were either in a 'vulnerable' category themselves (9%) or lived with, or provided care for, someone who was in a vulnerable group (24%). Vulnerable groups include those in the former shielding category, people identifying as BAME, and those who are pregnant.

Commenting, EIS General Secretary Larry Flanagan said, "These survey findings confirm that the majority of Scotland's teachers want to be in school working with pupils, and support the aim of keeping schools open where possible. Despite this, however, it is clear that a significant number of teachers (43%) do not feel safe working in schools under the existing arrangements. This feeling of being at risk is particularly heightened for teachers in secondary schools, for teachers in higher risk areas under Level 3 or Level 4 restrictions, and for teachers in vulnerable groups or who live with or provide care for vulnerable family members."

Mr Flanagan continued, "Although members hold a range of opinions on the best means of keeping pupils and teachers safe, there is clear support for moving to industrial action in higher risk areas to protest where teachers feel that the measures required to keep schools safe have not been delivered."

Mr Flanagan added, "The EIS has repeatedly said that schools remaining operational cannot come at the expense of teacher and pupil wellbeing. Just as importantly blended and remote learning models are increasingly being adopted to stem increases in COVID community infection levels. For Level 4 restrictions to be as effective as we would wish them to be, short term closure or part closure of schools need to be considered."

### **Sample Comment from teachers in response to the survey**

- "My fear is that I am bringing in hundreds of potential contacts into my home. My children attend a different secondary school, and they are also bringing hundreds of contacts into the home every day. Despite the mitigations, pupils are not wearing face coverings as recommended in the guidance and this has the potential to infect others as social distancing between pupils is impossible in schools. The added stress that this is causing is not sustainable to deal with."
- "It seems that the council is not keen to let the staff, pupils and parents know what the prevalence is in the school. At one point I felt it was statistically 10 times more prevalent in school than in the local authority. If this information

was shared it would help staff to assess their own risk to themselves and their dependents and also to help increase measures in school when prevalence is high. The absence of information leads to rumour and a less trusting environment, and less goodwill.”

- “While staff and pupils are all trying their best to comply with wearing face coverings and regular hand washing and sanitising, the idea that staff and pupils can always remain at a 2m distance is unrealistic and at times practically impossible.”
- “I would like to see us campaigning to be held on a equal footing to NHS staff as regards priority for flu vaccines. If we are expected to be working on the frontline, the least the government can do is to ensure that there are supplies of flu vaccine available for teachers. Equally, if a Covid vaccine becomes available, teachers must be prioritised.”
- “I am extremely concerned about the lack of communication and openness in regard to the many Covid cases amongst staff and pupils. It all seems very secretive and staff are expected to carry on at all cost.”
- “I am feeling increasing anxiety with the amount of pressure on us to both 'continue as normal' and at the same time implement all the restrictions. We cannot do everything, and at times are being asked to teach online and teach in class as well as keep track of kids who are isolating on top of massive pressure from the SQA. In these uncertain times I feel that teachers are being asked to step outside of our jobs, put our health (mental and physical) on the line with little to no consideration. We have no say in the risks we are being forced to take and yet the workload continues to pile up - even more than usual.”
- “It appears like we don't matter and are totally replaceable within our school roles. However, the stress COVID has caused and the extreme preparation I do for my class before arriving, whilst there and once home is getting ridiculous! My young family is suffering because of it as I'm so tired! The government forget that we are not replaceable to our own kids and families.”

**(ENDS)**

### **Extract of safe school briefing members debate – 18 November**

Safety of staff in schools is paramount. Whilst we recognise the position of the EIS, industrial action is in no-one's interest least so during a pandemic.