

Coronavirus Update

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Updated Advice for members previously shielding or in a vulnerable category Individual Risk Assessments

Following the Scottish Government's "pausing" of shielding many members have found themselves facing a return to work from a previously protected environment.

Anyone in such a situation, or who is at risk because of any other perceived vulnerability, is entitled to seek an individual risk assessment from their employer. Even although shielding has been paused, employers still have a duty of care to all employees.

Such bespoke risk assessments should be clinically based wherever possible, utilising either a Doctor's letter or an Occupational Health assessment.

Members in 'at risk' groups, therefore, should contact their GP for specific advice in relation to a potential return to work within a school, college or university building given their clinical vulnerabilities, with a view to this being factored into an individual risk assessment that you should request from your establishment.

The EIS would advise that in your discussion with your GP, you seek their advice on, firstly, whether it is safe for you to return to work at all, given your medical condition and potentially heightened stress levels in the current context; and secondly what mitigations may need to be put in place (above the precautions and protections that have to be put in place for all staff) to enable you to return.

Your GP may not be able to specify potential mitigations, but these may feature in your discussion with your GP in terms of which mitigators of risk might lower your stress and anxiety, and would be subject to further discussion with the employer, in any case. They may include deployment to non-teaching duties, the compulsory wearing of face coverings for everyone in your classroom, the use of Perspex shields, reduced class size to support physical distancing, etc.

If you do not agree with the outcome of the risk assessment process, you should seek further support from the EIS – either a branch rep or the Area Officer in the first instance - and we will seek to escalate the concerns.

Ultimately you have a right under section 44 of the Employment Rights Act to absent yourself from work if you believe that there is a serious and imminent danger to your health that you could not reasonably avert but we would not advise doing so without further consultation with the EIS, as a contested absence could lead to wage deductions and end up in an Employment Tribunal hearing, with no certainty of outcome. Section 44 is considered as a back-stop and for use by individuals if all other actions have failed or cannot be implemented timeously to address a serious and imminent danger.

Individual risk assessments must be kept under review. An outbreak in your school or college for example, may trigger an escalation of mitigations required, as would any spike in infection rates locally or nationally.