

## **Scottish COVID-19 Inquiry**

### **Organisational Statement**

Organisational Statement of the Educational Institute of Scotland (EIS)  
provided by Andrea Bradley

Witness Number: EDU0103

Statement provided on 2<sup>nd</sup> September 2024

#### **INTRODUCTION**

1. My name is Andrea Bradley. I am 53 years of age. I am based in the EIS office at 46 Moray Place, Edinburgh. My contact details are known to the Inquiry.
2. I am currently employed as General Secretary of the EIS. I have held this role since May 2022. I obtained B.A. (Hons) in English and History at the University of Strathclyde in 1992. I started my career as an English teacher in schools in Inverclyde and South Lanarkshire and was promoted to Principal Teacher of English in 2010. I joined the EIS staff in May 2014 as a National Officer, before becoming Assistant Secretary with departmental responsibility for both Education and Equality in August 2015. I was in the role of Assistant Secretary during the pandemic.
3. I am giving this statement in my capacity as General Secretary of the EIS.

#### **OVERVIEW OF THE HISTORY, LEGAL STATUS AND AIMS OF THE EIS**

4. The EIS is a trade union which was formed by teachers in 1847. The EIS was incorporated by Royal Charter in 1851. The EIS was formed to pursue the interests of teachers and the promotion of sound education. These two aims have led to the EIS being an unusual trade union in that its trade union, education and equality functions all have

equal status. The EIS plays a key role in the development of education policy in Scotland and is a pro-education and a pro-teacher trade union.

5. The EIS is the country's largest teaching trade union and currently has around 65,000 members; mainly teachers, lecturers (college and university) and associated professionals<sup>1</sup> (chartered librarians, educational psychologists, academic related staff, etc) that correspond to around 80% of teachers and lecturers in Scotland's schools and colleges. EIS membership includes non-teaching staff in some roles, as specified in the EIS Constitution but does not extend to pupil support staff.
6. The EIS Council (Council) is the principal executive committee of the Institute with decision-making powers on matters of policy consistent with the strategy determined by decisions taken at the Annual General Meeting of the Institute, and subject also to the ultimate approval by the subsequent Annual General Meeting of its decisions. The Council determines policy through approval of the decisions of its committees and through its own decision-making function, i.e. Council resolutions. The Council is made up of 139 members from all 32 local authorities, and the college and university sectors. It scrutinises, changes (if it chooses to do so) and approves, the work done by each of its committees.
7. The EIS has five member-led committees that report back to Council, all of which have equal status. The Executive Committee oversees the internal workings of the EIS, campaigning, industrial action and engagement with external stakeholders (excluding education stakeholders). The Education Committee oversees education policy (including curriculum, assessment, professional standards) and liaises

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<sup>1</sup> The details of who can gain membership of the EIS is set out in Part II of the EIS Constitution.



with education stakeholders. The Equality Committee oversees the equality work in both education and wider society. The Salaries Committee deals with salaries and pensions, and the Employment Relations Committee deals with casework and health and safety matters.

8. The college and university sectors each have an EIS self-governing association to support the college lecturers (EIS Further Education Lecturers' Association) and university lecturers (EIS University Lecturers Association), respectively. The EIS is the sole recognised trade union in the college sector with around 5,000 members. The EIS is also recognised in a number of modern universities and Higher Education Institutes (HEIs) for lecturing and academic-related staff.

#### **EIS MEMBERSHIP BETWEEN 1 JANUARY 2020 AND 31 DECEMBER 2022**

9. Between 1 January 2020 and 31 December 2022, the membership of the EIS grew significantly, from 58,076 to 62,268 members. This includes members in primary, secondary, nursery, special schools, further and higher education, supply and peripatetic staff and Instrumental Music Teachers (IMTs).

#### **KEY ISSUES AND IMPACTS OF COVID-19**

10. The EIS welcomes the opportunity to contribute to the Scottish COVID-19 Inquiry and to provide evidence about the significant impact which the pandemic and the decisions taken by Scottish Government and key national bodies had, and continue to have, on our members, as well as on the children and young people in schools and on their families.
11. Before looking at the impact on specific groups, we have sought to describe the key challenges which the EIS and its members faced at key stages of the pandemic, from March 2020.

## **CLOSURE OF SCHOOLS AND EARLY LEARNING AND CHILDCARE ('ELC') SETTINGS**

12. The weeks prior to the decision to close schools and then the closure of schools presented significant challenges for EIS members in schools, and in ELC and other education settings. Members had to respond almost overnight to the decision taken at government level to move to remote teaching and learning. They had to do this whilst trying to navigate their way through local arrangements which often lacked clarity and appeared to be at odds with key messages emanating from government for society more generally; and this, whilst dealing with the mental and physical challenges which the reality of a global pandemic brought to them personally.
13. The impact of this was felt by classroom teachers, IMTs and wider school staff, but also by headteachers and depute headteachers, who carried the burden of facilitating the moving of education provision online, seeking to ensure continuity of learning whilst being acutely cognisant of the health and wellbeing risks to pupils, their families and to staff posed by COVID-19 and the Scottish Government's response thereto. In the absence of national guidance and direction, they were initially faced with having to respond at speed to safety concerns and make snap decisions regarding the capacity of schools to continue to function.
14. Prevarication and delays, particularly on the part of the local authority employers' organisation, COSLA, in failing to agree Circulars<sup>2</sup> and advice timeously, also contributed to variation in practice across local

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<sup>2</sup> The Scottish Negotiating Committee for Teachers (SNCT), the tripartite collective bargaining body comprising teaching professional associations, local authorities and the Scottish Government, has the authority to vary the pay and terms and conditions of service of teachers and associated professionals. Such variations are incorporated into contracts of employment. Where agreement has been reached by the SNCT that agreement is issued as a Circular. SNCT Circulars are numbered and are sent to Chief Executives and Directors of Education of all Scottish local authorities. Circulars are also sent to Local Negotiating Committee for Teachers (LNCT) Joint Chairs.

authorities, meaning that safety and the implementation of key risk mitigation measures was not uniform as it ought to have been. This was despite the fact that at an early stage in the pandemic, COSLA had established a Workforce Issues Group (WIG), involving human resources advisers (HR) and the trade unions, to provide a platform to discuss and agree appropriate and consistent approaches across councils on workforce issues arising as a consequence of the spread of COVID – 19. However, COSLA insisted from the outset that the work of the WIG would be advisory and that it would be for each council to make decisions based on local circumstances and national advice as matters developed. That insistence from COSLA was the beginning of things breaking down. Since there was a pandemic and a national emergency, the EIS and the other teacher unions understood the need for the employers to respond on a national basis to ensure consistency across Scotland. However, COSLA was wedded to the idea of local determination and local solutions in each council with decisions based on local circumstances. This led to a 'patchwork of provision' and inconsistency in approaches in the very early days of the pandemic, and often confusion for parents and school staff.

15. In the following paragraphs, we have sought to capture a range of issues which impacted on our members at the time of the first school closures in March 2020.

*Anxieties prior to school and ELC closures on 20<sup>th</sup> March 2020*

16. Prior to the decision being taken to close all schools and ELC settings from 20<sup>th</sup> March 2020, there was considerable anxiety amongst EIS members across the country about the level of risk which attending work, in school and other education buildings, presented. Discussion

about the potential impact of COVID-19 was also taking place amongst Officials as the senior management team of the EIS<sup>3</sup>.

17. The advice being issued by the UK Government prior to its COBR meeting on Thursday, 12 March 2020, was to self-isolate for colds and coughs and any suspected COVID-19 symptoms. Beyond that, much of daily life was to continue as normal. However, media reports, mainly from overseas, were leading many of our members to believe that they were already at seriously heightened risk.
18. Over this period, the EIS received a number of anxious inquiries, particularly from members who were pregnant or who were concerned about attending work because of underlying health conditions or because they were living with people with health vulnerabilities. The concerns focused on the fact that if they had no symptoms, government advice did not permit precautionary self-isolation. Members from the nursery, school, and college sector reported that whilst extremely anxious about the risks to their health or that of their loved ones, they also feared that they may not be paid if they did not attend work or may even be found to be in breach of contract.
19. Cognisant of the anxieties of its members, the EIS had been pressing for an agreement, covering emergency arrangements, at the Scottish Negotiating Committee for Teachers (SNCT). However, it was only on Monday, 16 March 2020, that the EIS was able to advise members that an agreement had been reached at SNCT, providing emergency advice in relation to COVID-19 (Circular ref: SNCT 20/74)<sup>4</sup>. The EIS had hoped that the agreement would have been published on Friday, 13

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<sup>3</sup> EIS Officials are the General Secretary, Assistant Secretary (Organisation), Assistant Secretary (Employment Relations), Assistant Secretary (Education and Equality) and the Accountant.

<sup>4</sup> SNCT Emergency Provision CORONAVIRUS (COVID – 19): MAINTAINING CONTINUITY OF EDUCATION, 16 March 2020, SNCT 20/74

March 2020 to allay members' concerns on a number of issues. However, sign-off from COSLA was not received in time.

20. Whilst the agreement was designed to clarify responsibilities and duties of teachers and associated professionals whilst schools remained open, it failed to fully answer whether members who were pregnant or had underlying health conditions or dependent family members with vulnerabilities, could elect to self-isolate when asymptomatic in order to mitigate the risks of contracting the virus and placing themselves and/or vulnerable others at serious health risk.
21. In the absence of a national agreement being reached at SNCT, the EIS sought to address the void by issuing advice of its own. The EIS advised members in these categories to ask for a risk assessment to be carried out at school level and for appropriate adjustments to be put in place, which could involve remote working. However, it was acknowledged that if members chose to self-isolate as a precaution rather than as a result of displaying symptoms, there was no guarantee that employers would treat that as valid self-certification. There was, therefore, no certainty for staff falling within this category who had to balance concerns about their health and wellbeing and that of their vulnerable dependents against concerns about the future of their employment or financial considerations.
22. There were a number of other employment issues which the EIS sought to resolve through agreement at SNCT in an effort to mitigate variation from one local authority to another and to provide the certainty needed to address the anxieties which members understandably had. These included the definition of 'key workers', maternity leave arrangements, and supply chain issues in relation to essential hygiene equipment. However, the intransigence of COSLA at this time was a source of concern and frustration, with little progress being made in advancing agreements on these important issues.

23. Over the course of the week commencing 16 March 2020, the EIS received emails from members asking about the decision to keep schools open<sup>5</sup>. They were clearly and understandably anxious about the spread of the COVID-19 in Europe and were questioning the dissonance between the official position and relative inaction of the Scottish and UK governments, and reports from countries where the pandemic was spreading fast.
24. In responding to members' enquiries, the EIS sought to prioritise the health and wellbeing of members, children and young people, and their families, and was clear that where pupils, students or staff had been identified as carrying the COVID-19 virus, the ELC setting, school, college or university should be closed and a deep clean enacted. The closure was not simply to accommodate the deep clean but to factor in the necessary period for self-isolation, with particular pupils, students or staff self-isolating for longer if they had been in close contact with someone who was infected.
25. On the broader issue of school closures, the EIS referenced the advice from the Scottish Government at that time, that *based on their scientific evidence*, closing schools would have little impact as it was considered to be the early stages of the pandemic. Whilst acknowledging that the Institute did not have the scientific expertise to contradict this view, it highlighted that we had written to the Deputy First Minister to ask that the Scottish Government make public the nature of the scientific advice they had received to ensure full transparency<sup>6</sup>.
26. This was a period of considerable anxiety for teachers and school staff and ultimately for children, young people and their families, with a lack of clear direction or transparency in terms of national decision making

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<sup>5</sup> Between 16 and 22 March 2020, we received 231 COVID-19 related emails from members.

<sup>6</sup> Letter from EIS General Secretary to the Deputy First Minister dated 16 March 2020

and a reluctance on the part of employers to commit to formal agreements over areas of concern.

### *School and ELC Closures*

27. It was not until 19 March 2020 that the Scottish Government issued a Circular, making it clear that in order to help slow the spread of the virus, schools and local authority ELC settings should close to children and young people on Friday 20<sup>th</sup> March, with the exception of any critical provision for key groups, arrangements for which were to be in place by Friday 27<sup>th</sup> March.
28. Following this advice and the closure of schools and ELC settings on Friday, 20 March 2020, the Scottish Government and the EIS, along with the rest of the SNCT Teachers' Panel, were keen to issue an SNCT Circular, or for the Scottish Government to issue supplementary advice, around a number of important issues. It had been hoped that an SNCT Circular would mirror the provisions of an agreement reached between COSLA and the Scottish Joint Council trade unions (agreement reference: SJC 61)<sup>7</sup> which had been issued on 18 March 2020. The need for a national SNCT Circular arose primarily because of the huge variation in practice across the 32 councils in Scotland. However, COSLA leaders refused to confirm the agreement it had been party to drawing up. The apparent reason for COSLA refusing to confirm its agreement was that the COSLA leaders' group thought it was too restrictive and that they wanted its workforce to be more 'nimble'.
29. In the absence of this agreement being made available on the day of school closures, the EIS issued further advice to members on Sunday,

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<sup>7</sup> Agreement reached between COSLA and the Scottish Joint Council trade unions (SJC 61), 18 March 2020, SJC-60 Coronavirus Quarantine Advice (cosla.gov.uk)

22 March 2020<sup>8</sup> to provide some certainty for staff and to establish guiding principles which we believed should be adhered to by the employers.

30. The EIS deemed this advice essential because our members, who are overwhelmingly women, and a significant number of whom are primary carers for children who could not attend school or ELC settings, were uncertain whether they had to attend school buildings to work on Monday, 23 March to assist in making preparations for the transition to remote teaching and learning and, if so, how they could balance this with caring responsibilities.
31. As there was no national agreement around the attendance of staff at workplaces, there was no consistency of approach across the country. The City of Edinburgh Council gave clear advice that given the sudden closure, no teaching staff should attend school during the week of 23 March 2020 to allow planning to take place. Other local authorities, however, adopted a different approach and insisted that members attend school.
32. This resulted in teachers, understandably anxious about the impact on their health and wider family circumstances, having to attend schools on the Monday following school closures, with little certainty about the mitigation measures in place and the roles they would be asked to fulfil.
33. To fill this void, the EIS guidance advised those members who were self-isolating as a result of pregnancy, underlying health conditions or caring responsibilities for others with such conditions; or who were following NHS advice in relation to displaying possible symptoms of

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<sup>8</sup> EIS advice to members, 22 March 2020, <https://www.eis.org.uk/messages-from-the-general-secretary/cov19update>



COVID-19 or who had been in close contact with those doing so, to work remotely and not attend their workplace.

34. In the event of general uncertainty, we advised members to err on the side of caution and advise their line manager that they would not be attending unless they could demonstrate that an appropriate risk assessment had been conducted to address the issues they had raised.
35. We also advised that if as a result of school closures, members had inescapable childcare duties, then they should indicate that they were unable to attend in person and work remotely.
36. EIS advice focused on the importance of following NHS advice around physical distancing and associated risk assessments being conducted. Where members had concerns, we advised them to contact the school to have these addressed *before* attending work.
37. Where necessary planning arrangements had to be put in place on school premises, we argued that this should take place as quickly as possible with operations reverting to remote working and school closures. It was necessary to reiterate that attendance at school premises, when there was no essential purpose, was pointless and also carried risk to health.
38. The provision of a national agreement at SNCT could have prevented teachers and school staff from unnecessarily attending school buildings at that time. It would have been an appropriate response to the risk presented and reduced the associated anxiety and stress.
39. An SNCT Circular was agreed (SNCT 20/75)<sup>9</sup> and issued on 26 March 2020 – a full week after the Scottish Government’s direction to close schools had been issued. The Teachers’ Side of the SNCT continued to raise a number of concerns regarding how COSLA was responding to

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<sup>9</sup> SNCT School Closures, 26 March 2020, Dear Colleague (snct.org.uk)

the COVID-19 crisis, including its apparent adoption of a 'one workforce' approach, which was to the detriment of the SNCT. This culminated in the then General Secretary of the EIS, Larry Flanagan, writing on behalf of all the teacher trade unions to Sally Loudon, the Chief Executive of COSLA. His letter of 5 May 2020<sup>10</sup> captures the range of issues in relation to which delays were experienced and which frustrated progress being made to address the concerns and anxieties of the teaching profession at this unprecedented time. The response from COSLA is contained in their letter of 6 May 2020.<sup>11</sup>

### *Hub Schools*

40. With local authorities being required to provide a level of access to appropriate in-person learning and childcare to children of key workers as well as to vulnerable children, teachers were asked to volunteer to help deliver that provision. The response from teachers was overwhelming, with teachers across the country volunteering and ensuring that there were sufficient numbers of teachers working within hubs to meet demand.
41. However, despite the Scottish Government guidance at that time making it clear that Local Negotiating Committees for Teachers (LNCTs) should be involved in all discussions around the arrangements necessary to open hub schools, this did not happen consistently across Scotland. Where collegiate engagement between employers and EIS Local Associations was evident, it provided comfort, reassurance and confidence for staff, whereas its absence in several other local authorities led to fear and confusion. The EIS had to insist that basic operational issues within the framework of the national guidance had to be agreed locally to ensure the safety of staff, as well as children and young people: for example, cleaning regimes in hub schools; the

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<sup>10</sup> Letter to S Loudon dated 5 May 2020

<sup>11</sup> Letter from S Loudon dated 6 May 2020

testing of staff who were keeping such hubs open; and operational guidelines, such as 1 adult to 10 children ratios in a typical classroom.

42. The results of our '*Teaching during the COVID-19 Shutdown*' survey report (May 2020)<sup>12</sup> demonstrate the inconsistency in the safety measures which were implemented across local hub schools. The EIS received 26,128 responses to this survey, equating to a response rate of almost 60%. Only 67% of respondents indicated that risk assessments had been carried out, mitigations put in place and all relevant information shared with staff, meaning that one in three hubs had not completed these fundamental health and safety requirements to ensure the safety of staff and pupils.
43. Furthermore, responses indicated that basic mitigation measures, such as daily deep cleaning; physical distancing of 2 metres; provision of basic Personal Protective Equipment (PPE) such as gloves, aprons and face masks; and clear contingency arrangements, were not routinely in place in these settings. Further information on the breakdown of these statistics can be accessed in Figure 2 (page 5) of that report, with qualitative comments also available on page 6.
44. There was considerable anxiety from staff working in hubs about their safety. Those supporting young children or children with Additional Support Needs (ASN) were required to provide intimate care without sufficient access to PPE whilst, more generally, risk of transmission was increased as primary aged children found it very difficult to adhere to physical distancing, even where markings were in place to indicate safe distances. Further information in relation to the issues around accessing PPE in hubs and ASN bases can be found in the following section entitled '*PPE and HPS Guidance on Non-Health Settings*'.

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<sup>12</sup> Teaching during the COVID-19 Shutdown' survey report May 2020

45. Furthermore, the vast diversity in the age groups of pupils attending hubs, who were often from different schools, brought additional challenges for teachers and staff in trying to support their health and wellbeing and learning needs. The teachers may not have previously known the pupils and seeking to build relationships with children and young people in the context of their heightened state of anxiety arising from the pandemic was incredibly difficult for all.
46. Despite these concerns and challenges, teachers and education staff continued to support this provision nationally, whilst the EIS continued to raise concerns about the inconsistency of mitigation measures adopted and the real risks for staff, for pupils, and for their families, many of whom were key workers.

*Personal Protective Equipment ('PPE') and Health Protection Scotland ('HPS') Guidance on Non-Health Settings*

47. At this stage in the pandemic, there was a lot of discussion about the use of PPE and HPS guidance on its use in non-health settings. This was of particular importance to the EIS and its members as non-health settings included education hubs and ASN bases. Among the Scottish Government officials involved in the discussions at the WIG was Professor Jason Leitch, Scotland's National Clinical Director.
48. The Scottish Government was resistant to the concept of universal provision of face masks and coverings in non-healthcare settings, such as education hubs and ASN bases. In a response contained in an email<sup>13</sup>, with Scottish Government draft guidance attached, the Scottish Government and Public Health Scotland (PHS) commented:

*'There is no evidence of benefit to support the use of facemasks outside healthcare and social care*

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<sup>13</sup> Email from the Scottish Government to working group members with Guidance for non - healthcare settings attached, 16 April 2020

*environments. WHO Advice on the use of masks in the context of COVID-19 published on 6 April 2020 concluded that there is currently no evidence that wearing a mask (whether medical or other types) by healthy persons in the wider community setting, including universal community masking, can prevent them from infection with respiratory viruses, including COVID-19.'*

49. The comments went on:

*'This virus is not airborne. It is spread by droplets which are transferred directly, through coughing or sneezing, or by ingestion through the mouth, nose or eyes. That is why the clinical guidance focuses on the importance of handwashing, not touching your face, cleaning of surfaces and distance between individuals as preventative measures. It is therefore highly unlikely that you would contract the virus from an asymptomatic person (no symptoms) who is carrying the virus and why the guidance therefore focuses on the use of PPE for symptomatic people (showing symptoms) in high-risk settings within healthcare.'*

50. The EIS recommended in April and May 2020 that reference **had** to be made in any HPS guidance to the Personal Protective Equipment Regulations 1992 and the Management of Health and Safety Regulations 1999, which outline the process of, and legal requirement for, risk assessment. In addition, there should have been a much clearer statement that where a risk assessment included the need for PPE (including an appropriate mask), this should have been readily available and provided.

51. The original statement from the Scottish Government said: 'PPE **could** be routinely provided to education and childcare settings if it were felt that this was necessary to prevent the risk of spreading COVID-19 in line with current HPS guidance.' The EIS considered that this was not nearly strong enough and was in conflict with the PPE Regulations 1992, which state that where there are risks to health and safety that cannot be adequately controlled in other ways, there is a **requirement** for PPE to be supplied. The EIS also highlighted that the phrase '...the need for additional PPE such as an apron and gloves should be **considered**' in the guidance was also a dilution of the provisions contained within the PPE Regulations 1992 and the Management of Health and Safety Regulations 1992.
52. The EIS argued that there should be a small supply of PPE made available in education hubs in case children presented with symptoms. There was an additional issue in ASN settings where the children and young people in attendance may not have been able to understand and/or comply with social distancing rules, which presented an even greater risk. The EIS believed that this point needed to be addressed somewhere because it was barely covered in the non-healthcare settings guidance. In addition, the EIS argued that PPE (including masks) must be available for emergency situations and for when it was suspected that a pupil might be experiencing symptoms of COVID-19. Further, if PPE was to be provided, all staff should have been trained in how to don/doff PPE, as required by the 1992 Regulations.
53. The issue of teachers deciding to wear masks on the basis of providing their own PPE was perhaps more contentious. However, the EIS argued that the guidance should allow for that if, following a risk assessment, in the teacher's professional judgement, the risk to health was diminished because of the use of a face mask.

54. Finally, the EIS argued that the guidance needed to refer to situations (such as spitting) where children and young people may not be accommodated in hubs due to behaviours which increased both risk of infection and psychological harm.
55. The EIS argued that risk assessments should already exist for those pupils with more complex needs, including those with behavioural challenges. These risk assessments required to be updated as a matter of priority in light of changes to provision, such as environment and staffing, whilst also remaining mindful of the additional distress young people may have been experiencing due to the COVID-19 crisis. The EIS emphasised the importance of all risk assessments and relevant information such as multi-agency plans, individual education/care plans etc. being shared accordingly with staff supporting young people, whilst remaining mindful of legal requirements in connection with GDPR.
56. The final guidance<sup>14</sup> reinforced the Scottish Government's previous advice and guidance on the difference between face masks and face coverings. The guidance (at para. 2.6) also reinforced the view that the risk of COVID-19 should be managed by good hygiene measures and physical distancing. This was challenging in education hubs and ASN bases because many of the children and young people in attendance were not able to understand and/ or comply with the social distancing rules. Accordingly, this presented a greater risk in these settings and impacted on the anxieties felt by staff. More information can found on the specific impact on staff and pupils in ASN settings in the following paragraphs.

### *Remote Learning and Teaching*

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<sup>14</sup> COVID-19 Information and Guidance for Non-health and Care Settings Version 4.8 – updated on 31 December 2020

57. In the move to remote learning and teaching, for the school aged children to whom it was available, EIS members reported there were a number of barriers and challenges. The full range of factors identified by members at that time can be accessed in the '*Teaching during the COVID-19 Shutdown*' survey report referred to above (section 3, page 7).

58. A summary of these is set out as follows:

*Low Pupil Participation*

59. The biggest barrier to the delivery of remote learning during lockdown was low pupil participation, with members reporting the challenges of keeping students effectively engaged in their learning, when working remotely; and of being able to effectively assess learning and identify next steps. Over 60% of respondents reported this as a concern.

*Access to Technology*

60. Access to essential IT equipment was variable across the country. In some areas, it was evident that teachers had neither the equipment, training nor access to the underpinning IT infrastructure to support the move to online delivery, or indeed, appropriate workspaces to facilitate delivery. Some teachers had no or limited access to the internet, and many were expected to use their own equipment, phones, and broadband services, usually at their own expense.

61. The same was true for children and young people, with the divide between those living in poverty and those in the least deprived areas being increasingly evident. Even where families had access to a device, reports soon emerged of children having to share and wait their turn to access online learning, with learning for some children not taking place until late in the day. For many children and young people, even access to an appropriate learning space was problematic, with some



not having a desk to work on or a quiet space in the house to engage in learning.

62. In our 'Teaching during the COVID-19 Shutdown' survey report (May 2020), over half of the 26,128 respondents stated that access to the internet was a barrier to their pupils participating in home learning. Over 60% said that having no access to technology was also a key challenge. 70.3% of primary, 64.4% of secondary and 67.2% of special school teachers noted that challenging family circumstances at home (e.g. illness, financial problems, limited access to food, limited space for learning, addiction, relationship tensions, domestic abuse, etc.) were a barrier to home learning for their pupils, whilst 25.7%, 38.5% and 44.5% respectively cited poor mental or physical health of pupils and/or their parents/families as a barrier. Meeting the needs of the vast majority of children with ASN, particularly in relation to emotional and social needs, was a particular concern for teachers at this time.
63. Further statistical data and qualitative evidence on this can also be accessed in the '*Teaching during the COVID-19 Shutdown*' survey report (May 2020) (section 3).
64. Further information on the impact of digital and fuel poverty in accessing remote learning can be found in the EIS briefing on Digital Poverty.<sup>15</sup>

*Human, rights, mental health and wellbeing and challenges arising from equality issues*

65. The pandemic undoubtedly affected everyone's wellbeing, but for those whose wellbeing was at higher risk and those facing inequality, this impact was even more adverse. The pandemic widened existing

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<sup>15</sup> EIS briefing on Digital Poverty, October 2021,  
<https://www.eis.org.uk/Content/images/Equality/Child%20Poverty/DigitalPoverty.pdf>

inequalities and had a disproportionately negative impact on people who faced existing risks related to their protected characteristics.

66. The EIS's '*One Thousand Women's Voices*' project<sup>16</sup> found that 93.5% of respondents had experienced increased stress, anxiety, low mood or depression during the pandemic (around 30% higher than other surveys of women during this time), and 71.5% had not accessed any health or emotional support. This was higher for Black, Asian and Minority Ethnic (BAME) respondents. Additionally, almost 20% of respondents said that they had experienced bereavement since the beginning of the pandemic.
67. For those at higher risk, including BAME people, pregnant people, and disabled people, the mental health impact was disproportionate. Many children also experienced bereavement (potentially disproportionately so for BAME children, and children from poorer families where health inequalities were stark and where there was greater incidence of underlying health conditions). In all these cases, the EIS highlighted the need for additional support.
68. The '*Teaching during the COVID-19 Shutdown*' survey report (May 2020) had a high response rate, with nearly 60% of members participating. They made it very clear that the management of this crisis exacerbated existing physical and mental health conditions, and that the mitigations in place were either not strong enough, or were impossible to enforce:

*Factors impacting wellbeing when working from home*

69. When asked about the critical elements that negatively impacted wellbeing whilst working from home, members cited the following as the main factors:

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<sup>16</sup> EIS's '*One Thousand Women's Voices*' project

- Inability to separate the working day from their personal life (60.8%)
- Reduced opportunities to move around whilst working or spending extended periods of time sitting down at a laptop (56.2%)
- Limited contact with colleagues during the working day (38.9%) and
- A lack of routine in the school day (38.5%).

70. Other factors included:

- Feeling unprepared to deliver online learning (27.7%)
- Limited conversations outwith online delivery of education (26.1%)
- Poor communication from senior managers and local authority heads (17.3%),
- Challenging home situations, such as relationship tension or abusive behaviours; demands of household chores; caring responsibilities, etc. (16.6%) and
- Other issues such as unrealistic expectations; inadequate access to resources; inappropriate parental contact; and lack of support.

71. Members also reported poor mental and/or physical health as a barrier to delivering remote learning, with some disabled members not being supported by the provision of reasonable adjustments which would ordinarily have been in place in the workplace.

*Anxieties around workplace safety*

72. 20% of respondents said that they had an underlying physical or mental health condition that put them more at risk of COVID-19. Many members were anxious and concerned about returning to classroom teaching before it was safe. Some teachers had taken early retirement, or not sought supply work, because they did not feel safe returning to schools.

*Public pressure*

73. Some teachers felt impacted by the negative media attention at the time. This is captured in the comment made by one member:

*'The perception the media puts out of lazy teachers wanting to avoid work stresses me out lots. We are working as hard as usual in an unfamiliar way in stressful circumstances while worried for our own family while being criticised publicly by politicians (though thankfully not our local ones).'*

*Workload*

74. The move to remote teaching and learning impacted significantly on the workload of teachers, who were already overburdened. Shortly before the pandemic, an agreement had been reached at SNCT to address the significant problem of excessive teacher workload.
75. The national measures, which were being put in place to monitor this, were halted with the closure of schools on 20 March 2020. Reports from members quickly highlighted the demands placed on teachers to provide educational continuity, with unrealistic expectations arising from some parents and employers who thought that remote provision should more closely resemble the traditional school day.
76. Teachers reported being exhausted, teaching online for lengthy periods during the day and then preparing lessons for the next day late into

the evening. The blurring of working hours, with expectations that teachers would respond to messages about teaching and learning on social media, took its toll on members who described the heightened state of anxiety on top of the increased workload as 'unmanageable' and 'unsustainable'. Qualitative comments, expressing the impact of this on teachers' health and wellbeing, can be accessed in the '*Teaching during the COVID-19 Shutdown*' survey report (page 24).

77. To ease workload issues, and in the absence of any significant practical support or guidance emerging from Education Scotland in the early stages of lockdown, the EIS produced a range of thematic learning resources, for early, first and second levels of Curriculum for Excellence and for secondary, as well as a range of links to health and wellbeing and related resources. These materials can be accessed through the EIS website.
78. The EIS also drafted guidance for members in early April 2020, providing advice on how to manage remote learning whilst acknowledging the importance of members' health and wellbeing<sup>17</sup>.
79. A range of health and wellbeing supports were produced as follows:

*Health and Wellbeing Advice*

80. In the absence of physical boundaries between home and school in the context of remote teaching from home, the EIS guidance focused on the importance of members achieving a healthy work-life balance during the period of homeworking. This document provided practical advice and support on the importance of taking breaks and daily exercise, and of incorporating different types of learning experiences into the school day, to ensure that neither teachers nor children and young people were spending lengthy periods online.

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<sup>17</sup> EIS Guidance to Members Working at Home During School Closure

### *Health and Wellbeing Resources*

81. By way of further support, the EIS built resources specifically around teacher wellbeing. Responding to an AGM resolution, the EIS had published in January 2020 the Health and Wellbeing Resource for members. This section of the website brought together a range of resources on areas such as health and wellbeing in the workplace and working with children and young people. With the onset of the pandemic, the EIS utilised this resource to collate up-to-date information in relation to COVID-19 and published relevant materials on topics such as health and safety; bereavement; and on using an equalities' focus to advocate for those more likely to be affected by the virus.

### *Professional Learning*

82. Responding to members' need, EIS professional learning provision quickly moved online for the first time, after school closures. Health and wellbeing was a key focus of learning, both as a substantive topic but also as a means of members coming together, keeping in touch, and providing collegiate support. This engagement soon grew into the '*Our Wellbeing Matters Programme*', which in 2021 delivered 16 weekly workshops that considered wellbeing through a different lens each week, e.g. digital wellbeing, and eating healthily. Resources from each week were published to create an 'open educational resource' which the EIS has used as a foundation for health and wellbeing professional learning ever since.
83. ***Collegiate Practice:*** On a positive note, reports of collegiate practice abounded, with teachers supporting each other and sharing ideas and resources, and scaffolding learning<sup>18</sup> in relation to the delivery of

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<sup>18</sup> Scaffolding is where teachers break down learning into digestible stages to support learners in building their own understanding.

online learning. In the '*Teaching during the COVID-19 Shutdown*' survey, 74% of respondents indicated that they had worked in this collegiate manner, with almost 68% saying that teacher agency had been encouraged, allowing teachers the freedom to tailor learning and resources to the needs of their learners.

*Anxiety about educational continuity*

84. Given the time in the academic year when schools closed, there was a great deal of anxiety about providing education continuity, particularly for those pupils in the senior phase who were completing course work for national qualifications.
85. The ambiguous phrasing of the Scottish Government guidance only served to increase this anxiety in the week after school closures, its provisions apparently allowing pupils to enter school buildings to complete course work. The EIS received reports of pupils who had been self-isolating being asked to attend school to complete assessment and portfolio work and had to intervene, raising this with the Scottish Government and asking for the guidance to be clarified to ensure that such practices did not continue, given the risks involved. The EIS was clear that no one's health should have been put at risk for the sake of assessment evidence and that teacher judgement linked to existing school-based evidence should be the key yardstick for accreditation.
86. This intervention was followed by a letter from the Deputy First Minister to local authority Directors of Education<sup>19</sup>, which confirmed that no young person with course work to complete for SQA examinations should attend school to do so.

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<sup>19</sup> Letter from the Deputy First Minister to local authority Directors of Education, 22 March 2020, dfm.pdf (eis.org.uk)

### *Concerns about vulnerable children*

87. At the time of school closures, staff were also extremely anxious about the support available for vulnerable children, particularly for children whose families were living in poverty, who were also at greater risk of poor health and malnutrition and for whom support at home could be more challenging. Whilst children and families could access food at local hub schools, this presented its challenges in the initial stages of lockdown, with some families not being able to, or not having the means to, travel to the local hub to collect free school meals. Further information about the particular issues relating to food insecurity and the provision of free school meals can be found in the section below.
88. The immediacy of the school closures also highlighted the criticality of pastoral care staff; the gaps in capacity to deliver the Scottish Government's 'Getting it Right for Every Child' (GIRFEC) policy; and the gaps in multi-agency engagement.
89. Although hubs, in ensuring continuity of provision for vulnerable children, sought to ensure consistency of safeguarding and child protection approaches, the teachers volunteering may not have known or built the necessary relationship with those children to provide the level of support required. The importance of resourcing and multi-agency provision was evident.

### *Free School Meals*

90. At the start of lockdown, the Scottish Government provided welcome funding and guidance around food insecurity and the provision of school meals. The announcement of a £70m 'food fund', which included funding to support the delivery of free school meals, allayed the concerns of many of our members about the impact of food insecurity for the most vulnerable children. However, whilst the guidance emphasised that local authorities should take a holistic view



of the needs of families and advocated a cash-first approach, it was not mandatory and again, local authorities had discretion as to how this would be implemented. Unsurprisingly, practice was not uniform and only a minority of councils adopted the cash-first approach, with some instead providing vouchers, weekly deliveries of food boxes or even requiring families to collect the food themselves.

91. The alternatives to cash arrangements were problematic. Vouchers that could only be redeemed in one supermarket were considered particularly inappropriate, especially if these supermarkets were not nearby and families had no independent means of transport. In these circumstances, vouchers went unused, and families went hungry. In addition, some local authorities provided vouchers which could not be used online and so, if a member of the family was shielding or self-isolating, there was no support to access essential food. These difficulties were also encountered by families who had to travel to collect food parcels, which only added to the stigma felt.
92. The EIS, whilst welcoming the support from the Scottish Government, argued for a national approach, with all local authorities adopting a cash-based approach to ensure that support was provided in a dignified and effective manner. The EIS highlighted that this support was an essential lifeline to families trapped in poverty during the pandemic and for the many families who were finding themselves in need of additional support as family members lost their jobs as a result of COVID-19 and the response thereto. Despite these concerns, the local variation meant that children, young people and their families were receiving different levels of support across the country, a factor that weighed heavily on our members.

*Supply Staff*

93. The closure of schools raised particular concerns for supply teachers. In the absence of a national agreement, the EIS sought to allay our members' concerns through the provision of advice. Our advice and Frequently Asked Questions ('FAQs') made it clear that we believed that everyone doing supply at the time of school closure should be treated as being in post and should continue to be paid accordingly.
94. For those who were seeking supply work but were not employed at that time, we argued that the income protections which the UK Government had put in place for private sector workers, particularly those in precarious employment, should be applied.
95. Again, a national agreement clearly setting out the rights of these teachers would have gone some way to reducing some of the stress which they felt at that time. Reluctance to do so was emblematic of the general hesitancy of the Scottish Government and of COSLA to commit to supporting this section of the teaching profession, even when it was apparent that in the medium to long- term, every teacher in the education system, including supply teachers, would be needed to deliver continuity of provision during the crisis and the recovery period beyond.

### **Reopening of Schools and ELC settings in August 2020**

96. Unfortunately, the indecision, delays and prevarication experienced around the closure of schools was replicated in the planning for schools re-opening between April and August 2020 and again, teachers and senior management teams in schools suffered. The Scottish Government's reluctance to share key scientific advice, to respond meaningfully to the concerns raised by the teacher unions and professional associations about key mitigation measures, and to place the health and safety of school staff over what the EIS and its members perceived to be political drivers to re-open school buildings, resulted

in teachers feeling disempowered, unheard, and deeply concerned about their wellbeing, that of their families and of their pupils, all at a time when workload was spiralling out of control.

97. In this next section, we have sought to highlight the impact on members' workload and on their health and wellbeing, arising from the decisions taken by the Scottish Government and the changes to their planning assumptions in the period prior to schools re-opening in August 2020.

#### *Planning for Blended Learning*

98. Following the 2020 spring break, the Scottish Government formed the COVID Education Recovery Group (CERG) to assist with the planned re-opening of schools. In contrast with what was happening in England, the Scottish Government, in setting the remit and membership of CERG, was clear that it wanted to bring together 'decision makers and key influencers' to inform planning for educational continuity in the context of COVID-19. It envisaged this forum as being one 'for frank and open discussion about what [was] working and what and where more improvement [was] required'. It viewed trade unions as playing a key role in these discussions and extended an invitation to the EIS, the Association of Headteachers and Deputies in Scotland (AHDS), School Leaders Scotland (SLS) and UNISON. The EIS welcomed the opportunity to participate in CERG, to discuss issues affecting its members with the Scottish Government and to advocate for key safety mitigations to protect teachers, education staff, and the children and young people in our schools. Whilst the Scottish Government did not always follow the EIS's advice or adopt mitigations as quickly as the organisation would have liked, the EIS was, nevertheless, involved in the process as a key education stakeholder and able to challenge the government directly.

99. CERG met for the first time on Friday, 24 April 2020, when it was agreed to create ten workstreams which would report to CERG (Term 4 learning; preparing for the next academic year; curriculum and assessment; supporting vulnerable learners; pastoral care for children and young people; workforce support; workforce planning; school improvement in a new context; critical childcare; and Early Learning and Childcare). The focus of this work was to develop a strategic framework for *when* and *how* schools would re-open, and the EIS welcomed the opportunity to be involved in this process and represent the voice its members.

100. The position of the EIS and teacher unions across Britain and Ireland was clear in urging significant caution in any consideration of the re-opening of schools. On 4 May 2020, the British and Irish Group of Teacher Unions ('BIGTU') sent a letter to each of the five governments in the UK and Ireland.<sup>20</sup>

101. This letter set out key contingencies impacting the decision to re-open:

*Test, trace and isolate*

102. At this early stage in discussions around re-opening, the teacher unions highlighted that a critical tool in preventing a surge in infection would be an established capacity to 'test, trace and isolate'. In the letter they described that failure to implement such measures would be 'catastrophic to the rate of infection'.

*Significant operational changes, underpinned by key mitigation measures*

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<sup>20</sup> Letter from the British and Irish Group of Teacher Unions ('BIGTU') to the five governments of UK and Ireland 4 May 2020

103. The teacher unions were clear that schools could not re-open or operate safely without significant operational changes to allow physical distancing and the implementation of essential mitigation measures, such as thorough cleaning practices, appropriate PPE available when required, and ongoing risk assessments. A phased return was advocated to facilitate this.

*Equity*

104. Acknowledging the additional support which would be required to help vulnerable children and those living in poverty re-integrate to school life, as well as the traumatic impact which the pandemic would have had on all children and young people, the teacher unions urged that the initial focus when schools re-opened, should be on the health, wellbeing and emotional resilience of pupils.

*Meaningful engagement with the professional associations and a commitment to health and safety*

105. Finally, the letter asserted the importance of governments taking the teaching profession with them in decisions around school re-opening, sharing all available data and demonstrating a commitment to the health and safety of teachers and school staff as well as pupils. Key to this would be effective engagement and partnership working with the professional associations **before** key decisions were taken.

106. These key principles underpinned the contributions made by EIS representatives on CERG and the associated workstream groups, and their requests for the Scottish Government to share the scientific evidence upon which the reproduction number ('R' figure)<sup>21</sup> was being calculated.

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<sup>21</sup> Where the 'R' figure is the average number of secondary infections produced by a single infected person.

107. When the UK Government announced its hopes to re-open schools in England from 1 June 2020, the EIS immediately highlighted its concerns about this approach, indicating that schools in Scotland should not reopen before August 2020. In response, whilst not ruling out a pre-summer return, the Scottish Government acknowledged that it was unlikely and suggested that a phased return was the more probable course of action. In addressing the Scottish Parliament on this subject, the Deputy First Minister (DFM) said that ***there was a need to build confidence among schools, teachers and parents before a return to the classroom could take place.***
108. On 14 May 2020, the SNCT Teachers' Panel wrote a joint letter to the DFM, stating that schools should not resume teaching until at least August 2020 and called for clarity in the Scottish Government's plans.<sup>22</sup> The letter highlighted the importance of there being some degree of certainty for parents, pupils and teachers (subject to all necessary caveats), whilst allowing a significant period to plan and prepare for the challenge of delivering a blended learning experience for pupils in session 2020/21.
109. It was not until 26 May 2020 that the Scottish Government responded to this request for clarity, a delay which only added to the speculation over the possible return and to the associated anxiety which teachers and school staff were experiencing. In a statement to the Scottish Parliament on the phased reopening of schools and ELC settings, the DFM referenced the framework for decision-making – Scotland's route map through and out of the pandemic, which had been published the previous week.
110. The framework, which had been developed by CERG, was intended to provide consistency and equity in a national approach, underpinned

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<sup>22</sup> SNCT Teachers' Panel letter dated 14<sup>th</sup> May 2020

by local planning and delivery. Local authorities had been contacted and asked to plan for local phasing delivery plans, with a blended approach to learning from 11 August 2020. At the same time, the scientific advice which had been received, was published, with the Scottish Government referencing this as the basis for its cautious approach.

111. However, despite this 'cautious' approach, the First Minister announced on 28 May 2020 that *'from 1 June, teachers and other staff will be able to enter schools for the purpose of preparing for a re-opening of all schools on 11 August, for a blended in school / at home model of learning'*. This statement in the absence of any clear guidance around the mitigation measures to be adopted, the demands or expectations of teachers and school staff, added to the anxieties of many EIS members, necessitating further guidance from the EIS. In this guidance, the EIS was clear that the *only* reason teachers should have been in school in June 2020 was for the purpose of planning for return in August 2020, and then only if health and safety guidance had been followed and risk assessments conducted to enable this, with essential risk mitigation measures in place. To support local engagement on these important issues, the EIS had developed health and safety guidance<sup>23</sup> and a specific COVID-19 health and safety training package for EIS reps, which was delivered to them to build their confidence and support them to deal with member enquiries.<sup>24</sup> A letter of advice on teacher priorities in accessing school buildings from 1 June 2020 was not issued by the Scottish Government and COSLA until 5 June 2020.<sup>25</sup>

112. In addition to the uncertainty over this preparation period, the announcement about the re-opening of schools in the absence of clear

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<sup>23</sup> EIS Advice to School Reps and Members re revised Risk Assessments

<sup>24</sup> Covid Secure Workplace Additional Revised Checklist August 2020

<sup>25</sup> Joint Scottish Government and COSLA letter dated 5<sup>th</sup> June 2020

guidance sparked a range of concerns: concerns in relation to how 'test and protect' – the system of test, trace and isolate introduced on 28 May 2020 - would operate; concerns about what local phasing delivery plans would look like, to inform the delivery of teaching in the first week of school; concerns about timetabling arrangements more generally; and concerns about what mitigation measures would be in place to give staff confidence in their safety and in the safety of pupils.

113. Whilst reports from EIS representatives on CERG indicated that consideration was being given to the drafting of guidance, it was also evident that there was some way to go to reach consensus on a range of issues. Discussions were underway around the provision of PPE in ASN settings and its use in schools more generally. The Scottish Government position in May 2020 was that PPE was less critical in schools, with proper cleaning and hygiene regimes deemed more critical. Guidance in relation to face masks was also being debated and consideration given to the advice on how to respond to situations when pupils disregarded physical distancing rules.
114. There was also a lot of confusion around the return date of 11 August 2020 as this had been designated as an inset day in some local authorities, whilst others had not planned for schools to return from the summer break until later in August 2020. The EIS was clear that the inset day would be crucial in assisting the preparation for reopening. Whilst this argument was ultimately accepted, discussions had to take place to ensure that holidays were reallocated and that there was no detriment for those who already had holidays booked. SNCT advice on this (SNCT 20/76)<sup>26</sup> was not forthcoming until 4 June

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<sup>26</sup> SNCT 20/76 Arrangements for Re-opening Schools August 2020, 4 June 2020



2020, resulting in a further period of uncertainty and anxiety for EIS members.

115. With the announcement in May 2020 that schools would partially re-open in August 2020, schools began their preparations for this in earnest, with a significant amount of work being undertaken. Senior management teams in schools across the country worked tirelessly around the clock to ensure that local models of delivery were in place to accommodate blended learning, based on assessments of school and room capacity to allow for physical distancing. Timetabling arrangements, which can often be challenging, were particularly complex, given the need to plan not only for pupils who would be present in school, but also for those who would be accessing learning at home. In making these arrangements, it was evident that to allow for physical distancing measures to be observed, there would require to be significantly smaller teaching groups. Consideration was also being given to the potential for virtual transition meetings for vulnerable pupils. An outline of the range of planning priorities expected of teachers, school staff and senior management teams at this time is listed in the Scottish Government and COSLA letter of advice to teachers, referenced above.
116. It was clear that there were a whole host of issues which required to be resolved before schools could re-open on a blended model in August 2020, and with no clear answers coming from the Scottish Government and employers, anxiety levels within the teaching profession were understandably high.
117. At the online EIS Annual General Meeting (AGM) on 19 June 2020, the General Secretary used his annual report<sup>27</sup> to reference these concerns and call for the recruitment of more teaching staff to ensure

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<sup>27</sup> Summary of General Secretary's Annual Report 19 June 2020

equity in education. Highlighting the importance of supporting pupils' emotional wellbeing in the return to school and providing nurturing support to help children and young people overcome trauma, he urged the Scottish Government and local authorities to work together to secure additional staff to achieve this. He referenced the lack of employment for newly qualified teachers (NQTs) as a 'national scandal' and called out the irony of national bodies seeking to recruit retired teachers to aid with recovery when NQTs were being told there were no jobs. Acknowledging the issues around capacity in the school estate arising from the implementation of physical distancing, he urged that consideration be given to the use of other public buildings to support the delivery of face-to-face learning. In concluding, he referenced the fact that one week before the end of the academic year, teachers had no clarity about how blended learning would operate in practice; about the provision of additional resources or additional staff; in terms of the delivery of SQA qualification arrangements for the 2020/21 session; or about essential childcare support which would be available for those teachers who would be expected to return to school buildings full-time after the summer whilst their own children were on blended timetables.

*Full-time Return - a Change of Planning Assumption*

118. However, the frustrations and concerns expressed at the AGM paled in comparison to the anxiety, confusion and anger which emerged following the political U-turn announced by the DFM on 23 June 2020. ***With only two days left in the school year for most local authorities***, the Scottish Government elected to change their central planning assumption, stating that instead of focusing on blended learning, they would work towards the *full-time return* to schools in August 2020, provided infection rates remained sufficiently low.

119. Of significant concern was the fact that this decision had not been an agreed outcome of CERG – or indeed, even discussed in that forum. When CERG had met the previous week, the focus had been on blended learning and the plight of NQTs. This announcement, therefore, represented a radical departure from the ‘cautious approach’ which the First Minister had advocated only weeks previously, based on scientific opinion which presumably had projected the level of COVID-19 infection in Scotland in August 2020 to require schools to reopen on a blended learning model. Notwithstanding this, in the apparent absence of any new scientific evidence, the government seemed satisfied that the virus would be suppressed sufficiently to allow schools to reopen with all pupils attending, albeit with certain public health mitigations in place.
120. This was also at variance with the approach outlined by the DFM only a few weeks earlier when he spoke of the *need to build confidence among schools, teachers and parents before a return to the classroom could take place*.
121. So, the question is what brought about this change of approach at such a critical time. In England, after a failed attempt to fully re-open primary schools in June 2020, the UK Government was forced to do a U-turn on its plans, acknowledging that the advice from trade unions and headteachers that the plan was unworkable in the context of high levels of infection and mitigations needed for school safety, was correct. Instead, Education Secretary, Gavin Williamson, announced that they were ‘working to bring all children back to school in September’. At the same time, a newly formed parent group, ‘Us for Them Scotland’ was lobbying the Scottish Government to rethink its plans, pressing for the full re-opening of schools. These demands, from a vocal minority of parents, appeared to be validated by the significant publicity afforded to them by the media at this stage in the

pandemic. In the apparent absence of any new scientific evidence to suggest that the level of risk had decreased, the perception of the profession was that the government's change of plan appeared to be based on political expediency, rather than grounded in evidence-based public health considerations.

122. The impact of the Scottish Government's announcement, compounded by its timing, on our members, particularly those in senior management positions, cannot be understated. The blended approaches, altered classroom layouts, timetabling considerations and risk assessments, which had dominated planning arrangements in June 2020 appeared to be for naught, other than potentially as 'contingency arrangements' in the event of an up-surge in the virus over the summer. Parents, teachers and school staff were advised that the new planning assumption would mean that work would continue at CERG over the summer, with a final decision being announced at the end of July 2020 and being reflective of COVID-19 infection levels at that time.

123. Expressing extreme concern about this decision, the manner in which it had been taken, and its timing, the EIS was clear that COVID-19 would not have disappeared in August 2020 and that any return to school should not be predicated on a 'business as usual' approach.<sup>28</sup> In doing so, we reiterated three critical red-lines:

- a. A return to school, under any model, could only happen when there was demonstrable evidence that the virus was under control. The EIS continued to demand from the Scottish Government and its scientific advisors, a clear articulation of the indices and levels deemed critical to allow schools to reopen (e.g. the relevant R figure range; the required figure

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<sup>28</sup> General Secretary Update 24 June 2020 General Secretary Update 24 June 2020 (eis.org.uk)

for new daily infections; the level of recorded deaths; and the number of patients in Intensive Care Units). The EIS called into question the lack of transparency in their new approach, which undermined the confidence which teachers, school staff and the public had in the safety of schools.

- b. Mitigations had to be in place to enable the implementation of public health guidance in schools. The EIS made it clear that the political expediency which appeared to underpin the announcement on 23 June 2020 would not be allowed to jeopardise the safety of children, young people, teachers, and school staff. The EIS highlighted that if mitigations, such as physical distancing and the use of PPE, were considered necessary in wider society, then they should equally apply in classrooms.
- c. 'Test, Trace and Isolate' – the EIS advocated proactive testing for teachers, on a voluntary basis, as a further mitigation, similar to the arrangements which had been put in place for frontline NHS staff and care home workers. Whilst we acknowledged that this would not prevent infection, it would at least highlight where it had occurred, leading to quicker control measures to prevent spread.

124. It was against this uncertain background that teachers started their summer break in 2020, with one eye on infection rates, assessing the potential of a full-time return to school and trying to envisage how this could happen safely. For senior management teams, there was little break at all, as they worked over the summer break to plan for re-opening on a wholly different model.

*Summer 2020 – Work Continued*

125. The meetings of CERG continued over the summer period. Following requests made by the EIS for full transparency in the form of publication of the scientific advice on which the Scottish Government relied, reports from the Advisory Sub-Group on Education and Children’s Issues<sup>29</sup> (the Advisory Sub-Group) were shared with CERG.
126. The Advisory Sub-Group produced two documents, one relating to physical distancing in schools and the other to school transport. Although cautious in tone and based on the imperative of the continued suppression of the virus, it became evident on reviewing these reports that wider considerations than solely the transmission of the virus were in train. The report referenced the ‘balance of harms’ approach; meaning the weighing of known risks, the effectiveness of mitigations, and the benefits of young people being able to attend school.
127. Accepting the advice of PHS, the Scottish Government adopted the ‘balance of harms’ or ‘four harms’ approach. These encapsulate the multi-faceted harms of the crisis, namely the direct harm of the virus itself; the wider health harm; and the broader societal and economic impacts of both COVID-19 and the necessary responses to it. The EIS considered at various times throughout the pandemic that the balance of harms approach prioritised the wellbeing of pupils and the economic benefits of having schools open thus enabling parents to go to work, over the health of teachers. PHS and the Scottish Government seemed to downplay the risks to teachers.
128. The Advisory Sub-Group’s report on physical distancing concluded that ‘the balance of evidence suggested that no distancing should be required between children in primary schools’ and *whilst indicating*

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<sup>29</sup> An advisory group established on 23 June 2020 in recognition of the need for additional scientific analysis of the impact of COVID-19 in Scotland, <https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues/>

*that the evidence was less clear for older pupils,* it nonetheless supported the same approach being taken for pupils in secondary schools. The report also suggested that face coverings would not require to be worn by children or indeed, by adults who were adhering to two metre physical distancing. This advice was formed despite the fact that it was acknowledged that the role of older, secondary students, in the transmission of the virus, was unclear. The risk of illness or even death from contracting the virus was not the sole concern of the assessment being made. Instead, wider aspects of children and young people's welfare were factored into the risk matrix.

129. Given the paucity of definitive evidence around the role of senior pupils – whose physiology was essentially that of young adults rather than children – in transmitting the virus, the EIS argued that more ought to be done to protect the health and safety not only of staff, but also of pupils. The EIS argued for additional funding to employ teachers to support physical distancing and education recovery, with smaller class sizes being a key pillar in this strategy.
130. Although the Advisory Sub-Group's report referenced strict compliance with 'Test and Protect' procedures, it did not advocate proactive testing of school communities – something which the EIS considered would be essential to closely monitor the trajectory of the virus on schools re-opening.
131. On 30 July 2020, despite the concerns raised by the EIS at CERG, the Scottish Government announced the decision to proceed with the full re-opening of schools from 11 August 2020.
132. To support schools re-opening, CERG produced guidelines. Although these guidelines reflected, at least in part, the concerns which the EIS had raised about the risk of increased transmissibility from older

pupils, by stating that where possible, smaller and consistent groupings were to be adopted and efforts made to minimise contacts, they provided no advice about how this could be achieved in practice *if capacity was not to be reduced*.

133. Following a special meeting of the EIS Executive on 31 July 2020, the EIS General Secretary wrote to the DFM<sup>30</sup> on 3 August 2020, to express the EIS's significant concerns about the published guidelines and their implementation. The letter questioned the basis of the scientific advice which had stated that there was no requirement for children and young people to physically distance, even though many senior pupils were in fact young adults. It urged a reconsideration of the physical distancing rules; publication of an updated scientific report, reflecting the most current scientific research in this regard; and access to regular asymptomatic testing for teachers and school staff, to give them confidence that they were working in Covid-secure schools. It called for smaller class sizes; for greater consideration to be given to the plight of teachers who had been shielding; and highlighted the apparent contradictions in how schools were expected to operate under the guidelines in comparison with the health directives applicable to broader society. Specific reference was made to the mandatory use of face coverings in shops and on public transport, and the deployment of plastic screens to create barriers between cashiers, receptionists and members of the public in contrast with the absence of similar mitigations in schools. The EIS provided comments on the drafting of the guidelines and raised the concerns expressed in meetings of the group. However, the decision about the content of the guidelines ultimately rested with the Scottish Government. The guidelines that were published did not address the

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<sup>30</sup> Letter from EIS General Secretary to DFM, 3 August 2020



significant concerns of the EIS highlighted in the letter of 3 August 2020.

134. Given the significant concerns which the EIS Executive had around the health and safety implications of schools fully reopening, and the lack of reassurance provided by the Scottish Government's advice, the decision was taken to survey members on their attitude to the guidelines.<sup>31</sup> The survey was conducted between 3 and 9 August 2020. This was an unprecedented move as the EIS would not normally have surveyed members over a holiday period. However, given the importance of the issue, the Executive wanted to give members the opportunity to express their own views – and that they did.
135. The fact that over 24,000 teachers completed the survey in a little over a day, and that 28,491 responses were gathered in total, illustrates the high levels of anxiety members had about the return to school and the impact of COVID-19. Whilst members were clear that they wanted to see schools re-opening (67% of respondents), this was on the condition that it was done safely.
136. The results were clear. Only 3% of respondents expressed confidence that schools were very safe, with a further 18% indicating that they felt somewhat safe returning to school. Only 27% of teachers were 'confident' or 'very confident' that an established capacity to 'test, trace and isolate' was in place to support safe return, with 53% expressing a lack of confidence. Only 31% of respondents were 'confident' or 'very confident' that sufficient operational changes, such as effective physical distancing and enhanced hygiene routines, were in place to support a safe return to school, with 55% lacking confidence. Almost 60% of teachers indicated that they were either 'uncomfortable' or 'very uncomfortable' teaching without physical

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<sup>31</sup> Reopening Schools in Scotland Member Survey, August 2020.

distancing between pupils.<sup>32</sup> From these statistics, it was clear that much more needed to be done to build the confidence in the safe return to schools, to which the DFM had referred in May 2020. Despite this, the Scottish Government was resolute in its decision to fully re-open schools from 11 August 2020.

*Phased Return between 11 and 18 August 2020*

137. The EIS had been clear in its representations at CERG that it was essential that sufficient time was given at the beginning of the new session for staff preparation and to allow for risk assessments to be conducted and agreed risk mitigation measures, with the appropriate training of staff, to be put in place.
138. In announcing the full re-opening of schools, the Scottish Government acknowledged these concerns and allowed schools to operate a phased return for pupils. The EIS welcomed this flexibility to allow the transition back to school to be managed more safely and for schools to secure additional preparation time given the sudden switch in planning contingencies at the end of the 2019/20 session. The Education Continuity (No.5) Direction<sup>33</sup> issued by the Scottish Government stipulated that all pupils should be back in schools by 18 August 2020, allowing time for updated risk assessments and enhanced mitigations to be in place before pupils returned.
139. Acknowledging the anxieties expressed by members in our survey, their lack of confidence that the safety mitigations referred to in the Scottish Government guidelines would be implemented in practice and that arrangements for return would be variable across the country, the EIS issued advice to school representatives on risk

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<sup>32</sup> Full details of the results and qualitative comments made by members can be accessed in the EIS 'Reopening Schools in Scotland Member Survey results August 2020'.

<sup>33</sup> Educational Continuity (No.5) Direction given under paragraph 11(1) of schedule 17 (Temporary Continuity Directions etc: Education, Training and Childcare: Scotland) of the Coronavirus Act 2020

assessments, with specific provisions around ventilation, to ensure consistency of approach in terms of health and safety. The EIS emphasised the importance of staff and teacher trade unions being fully consulted on the content of risk assessments and issued a comprehensive checklist, which could be used to identify shortcomings which would require to be rectified. Bespoke risk assessment guidance was also issued to recognise the particular challenges facing IMTs and teachers and staff in ELC settings.

140. As pupils gradually started to return to schools, the EIS collated evidence from members about the process. Concerns were quickly noted, highlighting poor preparation on the part of some local authorities, e.g. no enhanced cleaning; inadequate supplies of hand sanitizer; a lack of signage in schools; no guidance on the size of staff meetings; and so on.

141. Despite trying to encourage a collegiate approach locally to have these concerns addressed, the EIS had no alternative but to declare two collective grievances over this period; one with Scottish Borders Council and one with Moray Council, both relating to inadequate consultation with the EIS and a lack of phased pupil return. Whilst both disputes were resolved when the local authorities committed to meaningful engagement with the EIS, it was regrettable that recourse had to be taken to such action – at a time of heightened stress for members – simply to ensure that essential health and safety measures were being adhered to.

#### *The Impact of EIS Collective Action*

142. Following the letter from the EIS General Secretary to the DFM on 3 August 2020 and the publication of the EIS membership survey results, there was some indication that the Scottish Government was

willing to acknowledge the issues being raised by teachers across Scotland.

143. Referencing the concerns raised by the EIS on members' behalf – and the collective voice of nearly 30,000 members who responded to the survey – the DFM made a statement in the Scottish Parliament on 12 August 2020 and wrote to the EIS<sup>34</sup>, confirming that asymptomatic testing on request would be available for school staff. He acknowledged in the correspondence that it was not only important that school staff were safe, but that they also *felt* safe. The letter also confirmed ring-fenced funding to create around 1,400 extra teaching posts, in the expectation that they would be used to provide a range of additional support, affording more opportunity to alter class sizes and composition.
144. Whilst welcoming these concessions, the EIS was clear that they did not go nearly far enough to address the very real concerns members were highlighting. Following the daily briefing on Monday, 17 August 2020, the General Secretary wrote directly to the First Minister, making a plea for greater safety measures for schools, highlighting the inconsistency between mitigations in place in society and the arrangements in schools, and the double standards which the government was perpetuating. He referenced the fact that during the briefing, when standing alongside the First Minister, National Clinical Director, Jason Leitch had highlighted concerns around people meeting outside schools in large groups. Mr Leitch had said, '*This includes parents gathering at school gates; young people meeting friends without following guidance on physical distancing*'. He concluded by referencing the upper limits on group meetings at that time: eight people from three households indoors and fifteen people

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<sup>34</sup> Letter from Deputy First Minister to EIS General Secretary, 12 August 2020 <https://www.eis.org.uk/Content/images/corona/Letter%20to%20Larry%20Flanagan%2012%20August%202020.pdf>

from five households outdoors and advised, *'Crucially, everyone 12 and over must physically distance from everyone outside their own household. People are running the risk of spreading the virus to each other, their families and their loved ones'*.

145. Despite this clear advice and cautious approach, the Scottish Government advice at that time was that it was acceptable for these rules not to apply inside schools. Up to 33 pupils could be in a closed confined area, with as many different households as there were people. The letter of 3 August 2020 urged the First Minister to address this anomaly and to fund the hiring of 3,500 teachers to reduce class sizes and make physical distancing possible. It also emphasised the need for stronger advice on face coverings, where physical distancing was not possible – again referencing the clear inconsistency between the guidelines in schools and the requirements made of those in general society who had to wear face masks in public buildings. This anomaly was all the more stark when it came to senior pupils. The General Secretary reiterated the commitment of teachers to having schools open but only if that could be done safely. He referenced the very real concerns of teachers and the perception that these has been disregarded by the Scottish Government. He urged the government to do more.
146. One week later, on 25 August 2020, the DFM announced that secondary school pupils, aged 12 and over, would be required to wear face coverings in school communal areas from 31 August 2020. Acknowledging that the Scottish Government's decision reflected updated advice from the World Health Organisation, recommending face coverings for those aged 12 and over where one metre distancing could not be maintained, the EIS welcomed the decision as a sensible and appropriate step in helping to reduce the risk of COVID-19 spreading through school communities.

147. However, despite these concessions, the EIS was concerned that there was no change in the Scottish Government guidance in relation to physical distancing. The EIS continued to argue that effective physical distancing between pupils would be the best means of reducing the risk of the virus spreading. The EIS highlighted again that the guidelines lacked specificity and whilst indicating that measures could be taken to facilitate physical distancing between pupils, the fact that any approaches adopted could not impact on school capacity, restricted their effectiveness in practice. A much sharper focus on ensuring physical distancing in schools to protect pupils, staff and the wider community was needed. Smaller class sizes were essential, in our view, to ensure appropriate physical distancing and to enable healthier ventilation and could also deliver real educational benefits, particularly for those pupils who had been most disadvantaged by the impact of lockdown.

*Ongoing safety concerns after schools re-opened*

148. The first meeting of EIS Council for the 2020/21 session, held on 25 September 2020, was dominated by continuing concerns about COVID-19 and the need to keep pupils and staff safe from the risk of infection. The meeting heard concerns from teachers and lecturers across Scotland about the risks to their health and the need for better measures to protect staff and students.

149. Such was the concern that a series of actions were agreed. These included:

- Seeking clear articulation from the Scottish Government of the triggers which would require local or national school closures and/or a move to a blended or remote learning model of education;

- Demanding contingency planning for staff previously shielding in the context of rising levels of infection;
- Continuing and intensifying the EIS campaign for smaller class sizes, which are essential to enable physical distancing to help keep staff and pupils safe;
- Renewing the call for concrete physical distancing measures, facilitated through the expansion of the school estate and the employment of additional teachers;
- Calling for clear guidelines from the Scottish Government on ventilation and heating in classrooms;
- Demanding stronger guidance and support for ASN pupils and staff, including those in ASN settings;
- Renewing the campaign to tackle the impact of poverty on young people’s educational experience; and
- Expressing a lack of confidence in the SQA’s handling of the 2020 accreditation process and in the planning for 2021.

150. In addition to agreeing the list of action points, Council also approved a motion which highlighted grave concern over the rising number of COVID-19 cases across Scotland and, in particular, those in schools and educational settings and called on the EIS to campaign to secure a wider range of mitigations to protect pupils and staff in schools. Council noted that the decision to re-open schools was predicated on low incidence of the virus and with rising levels of the virus in the community, the mitigations measures in schools were not regarded as effective. Again, the disparity between the measures in place to stop transmission in wider society were contrasted with the lack of similar mitigations in schools.

151. With this clear direction, the EIS continued to highlight members' concerns at CERG; to advance the arguments and campaign for smaller class sizes to ensure appropriate physical distancing; and to argue for stronger mitigation measures, including consideration being given to the potential to move to blended or remote learning. Again, the Scottish Government was resistant to these pleas – despite evidence of increasing levels of infection.

*October 2020 to the second lockdown*

152. On 23 October 2020, the Scottish Government published its five-level strategic framework, reflecting the different levels of protection it considered might be needed, based on different levels of transmission of the virus in areas across Scotland. The levels came into force on 2 November 2020.

153. However, what was clear in schools, as evidenced by the debate at the September 2020 Council meeting, was that teachers and school staff were at that time dealing with increasing levels of transmission; rising staff and pupils absences; and anxiety about their health, as well as that of their families of vulnerable pupils and colleagues, all whilst trying to provide education continuity and support learners, many of whom were struggling to come to terms with bereavement, loss and isolation. The impact of this emotional pressure, health anxiety and excessive workload was taking its toll on teachers' mental and physical health. Understandably, it was hoped that the move to the strategic framework might ease some of the health anxieties and offer clarity around how schools should manage risk in the context of rising levels of infection. However, it soon became evident that the framework offered no such clarity.



154. Following a meeting of the EIS Strategy Sub-Committee on 21 October 2020, the EIS wrote to the DFM<sup>35</sup> and all the education spokespersons of the political parties to express members' ongoing concerns. Restating the shared ambition for schools to remain open, the EIS reiterated that this could only happen if it was done safely for both pupils and staff. This correspondence highlighted the following:

- The lack of transparency around the type of data which had been used to inform the tiered approach articulated in the framework and the basis upon which it was felt that this would manage the risk of Covid infection;
- The lack of critical detail about how risk would be managed in schools;
- Members' perception that the Scottish Government was making a political priority of keeping schools open, with teachers being regarded as 'expendable' in this process;
- The perception that the default position at Level 4 of the Scottish Government's Strategic Framework would be that schools would remain fully open, when clearly there was a need to consider blended or remote teaching as contingencies, appeared to be predicated on political messaging rather than controlling the spread of infection;
- The reluctance of the Scottish Government to consider blended and remote learning as contingency measures, despite the significant investment of time and resources that had gone into their development, contrasted with the approaches adopted in Wales and Northern Ireland, where

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<sup>35</sup> Letter from General Secretary to Deputy First Minister, 26 October 2020  
<https://www.eis.org.uk/Content/images/corona/DFM%20261020%20Framework.pdf>

school closures and partial closures were used as part of a coherent national strategy for infection control;

- The imperative of citing blended and remote learning contingencies, as a minimum, as interventions at Level 4 of the framework;
- The ongoing risks to teachers' physical and mental health resulting from working in confined spaces with individuals from up to 33 different households and limited physical distancing in place, particularly for those who were pregnant or had underlying health vulnerabilities;
- The lack of coherence and consistency of approach across the range of Scottish Government guidance, highlighting the anomalies between school, college, and university guidelines. With infection rates for pupils aged 16 and 17 matching or exceeding that of the general population, the default for students of this age in college or university was blended learning. No such provision was made in schools;
- That the £50m funding for extra teachers whilst welcome, was only employing approximately the same level of staffing currently missing from schools through Covid-related absence.

155. The proposed arrangements for schools deviated so far from what was in place in further and higher education that the EIS called into question the veracity of the Scottish Government's statement within the Framework document that it was equally prioritising 'ensuring the safety of children and young people and the staff who have worked hard to keep settings open' with maintaining full-time face to face delivery of education.

156. The EIS was clear that schools could not be kept open at any cost – particularly when that ‘cost’ might be the safety of teachers and other school staff. The EIS continued to make these arguments at CERG in commenting on drafts of updated guidelines to reflect the move to the new Strategic Framework.
157. On 30 October 2020, the updated Scottish Government COVID-19 Guidance on reducing the risks in Schools, was published. Whilst the EIS supported the stronger advice on the use of face coverings and the critical need for adequate ventilation, it was again dissatisfied with the lack of specification in relation to physical distancing between pupils, which although exhorted, was impossible to achieve in full classrooms. Although the proposed mitigations at Level 4 included face coverings for senior pupils, disappointingly it did not go far enough or trigger an automatic consideration of moves to blended or remote learning. Such was the level of concern about this omission, that we signalled an intention to consult members on this.
158. On 10 November 2020, with COVID-19 infections on the rise across the country, the EIS launched a further survey<sup>36</sup> to seek views on the effectiveness of Covid safety measures in schools and on members’ willingness or otherwise to support ‘safety strikes’, should they be considered necessary. Accompanying correspondence explained that the EIS Executive believed that Level 4 of the Scottish Government Strategic Framework should include a requirement to consider blended or remote learning contingencies. It also referenced the need for full transparency around the enhanced school surveillance data and further consideration of regular proactive testing of staff and pupils, where school remained open.

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<sup>36</sup> School-based Member Survey Report November 2020

159. The weekly figures published on Friday, 13 November 2020 by the Scottish Government on the rate of infection in pupils and teachers added to these concerns about the effectiveness of COVID-19 mitigations in schools, and the safety of pupils, staff and the wider community. The figures indicated that 29,486 pupils were absent from school on 10 November for COVID-19-related reasons – an increase of 28% on the previous week’s figures. For teachers, the figure of 1,559 absences for COVID-19-related reasons represented an 18% increase on the previous week’s figure of 1,326. It was evident from this data, coupled with the numbers who were self-isolating, that the prevalence of the virus continued to have a significant impact on education provision whilst heightening anxiety levels over the effectiveness of the safety mitigations in place in schools. The EIS continued to call on the Scottish Government to rethink its approach to restrictions and with some council areas potentially moving into Level 4, to give further consideration to the use of blended or remote learning.
160. On 17 November 2020, the DFM announced that such was the spread of the virus, that 11 local authorities would move to Level 4 of the Strategic Framework. Despite this, schools in these areas were expected to remain open on a full-time basis, with up to 33 pupils and at least one adult in each classroom and with limited physical distancing in place. The EIS again reiterated calls made at CERG to consider blended or remote provision and highlighted that it was not only about the safety of schools themselves but about the role of schools in terms of local community transmission. However, the Scottish Government appeared determined to rule this out.
161. On Monday, 23 November 2020, we published the results of the ‘All Member Safety Survey’, which found that:

- Whilst almost two-thirds (64%) of teachers either 'supported' (48%) or 'fully supported' (16%) the Scottish Government decision to prioritise keeping schools open, where possible, fewer than one-third of teachers (31%) indicated that they felt 'safe' (26%) or 'very safe' (5%) in schools under what were the current Covid safety measures.
- At Level 3, there was clear support (86%) for schools remaining open, although just under half of respondents (48%) believed this should have been on a blended learning model to enable physical distancing.
- At Level 4, the majority of respondents (51%) believed that remote learning should be introduced on safety grounds, with 34% supporting a blended learning approach.
- Despite the support for keeping schools open where safe to do so, two-thirds of respondents (66%) indicated a willingness to support industrial action, including strike action, in protest at a failure to move to blended or remoted learning in higher risk (Level 4) areas of the country, where staff deemed it necessary.

162. It was evident that the feeling of being at risk was particularly heightened for those members who were teachers in secondary schools; for teachers in higher risk areas under Level 3 or 4 restrictions; and for teachers in vulnerable groups or who lived with or provided care for vulnerable family members. The fears and anxiety of members is evident from the qualitative comments which can be accessed in the survey report. In addition to the safety concerns, members commented on a lack of transparency in relation to the data upon which decisions were being taken and referenced feeling undervalued and dispensable.

163. The EIS used these results to press for further consideration to be given to a move to remote learning and for the introduction of a 'firebreak' period before and after the festive break in 2020. We argued that this would have protected staff, students and their families during the festive period, have reduced the risk of pupils and teachers being required to self-isolate at Christmas – whilst also ensuring that education provision could continue through remote learning.

164. However, denying both this request and the assertion that the decision to keep schools open was political, the DFM referred to health advice which indicated that there was a lack of evidence as to whether social mixing would be increased or decreased during a period of closure of school buildings with online learning, referencing the mitigations in place to reduce transmission of the virus in schools and ELC settings as opposed to being at home or in community settings. He cited the Advisory Note on School Holidays over the Festive Season, which had been published by the Advisory Sub-Group on 3 December. He asserted, 'the judgement not to intervene to change the locally determined school holiday dates was based on public health advice to keep schools open as planned.'

165. However, on examining the Advisory Sub-Group's Advisory Note, it is clear that there were wider considerations in play. Paragraph 7 states:

"There were concerns about the message [which would be sent if schools were to move to remote learning in late December and early January], which would be inconsistent with Scottish Government's emphasis on school safety and on keeping schools open. Clarity and consistency of message were seen to be important factors. Closing schools for a three-week period to reduce transmission would undermine the consistent

message that schools are safe and *would serve to amplify the concerns that had already been expressed by teachers about the safety of working in schools.*"

(emphasis added)

166. The EIS was shocked to see advice from the independent advisers essentially giving primacy to the political messaging of the Scottish Government over the very real (and what proved to be valid) concerns of teachers. Efforts which were perceived as seeking to marginalise and downplay teachers' concerns could only be regarded as political.
167. It was apparent, therefore, that the blanket decision to keep schools open took no account of the health and safety concerns raised by our members, or of the fact that as a result of regional variations, some schools did not break until two days before Christmas. The Scottish Government decision left many teachers and headteachers devastated as, in addition to the health risks, they also faced the very real prospect that they would have to continue working over the holiday period, fulfilling the requirements of contact tracing. Teachers were demoralised. They were not asking for extra holidays. Education would have continued. However, the Scottish Government chose to risk the little goodwill that was left amongst the teaching profession – goodwill which had been worn down as a result of physical and mental exhaustion over the course of the year.
168. On 10 December 2020, responding to the mounting concerns of teachers and senior management teams, the EIS launched a social media campaign with the hashtag #NotAtAllCosts. To coincide with the launch of the social media campaign, the EIS also published the first of a series of briefing papers<sup>37</sup>, which in the qualitative comments

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<sup>37</sup> EIS briefing papers, 10 December 2020

captured the concerns expressed by teachers on COVID-19 security in schools.

169. The EIS also wrote to the First Minister<sup>38</sup> referencing the campaign and highlighting that mounting workload and the stress of working under conditions, with insufficient mitigation measures, was having a significant impact on the mental health and resilience of teaching and school staff. The then EIS General Secretary also wrote to all local authority Directors of Education<sup>39</sup> and to the DFM<sup>40</sup>, calling for an urgent rethink on their refusal to move to remote learning around the holiday period. He cited infection levels for 16 and 17 year olds, which were ahead of the figure for the general population and challenged the advice upon which the Scottish Government's decision had been taken. The paper published by the Advisory Sub-Group referred to a 'difficult and finely balanced decision' but failed to produce any evidence for its conclusion.
170. This could be contrasted with the advice issued at the same time by the European Commission on staying safe at Christmas. Issued on 12 December 2020, it advised EU member states that *'[i]n order to reduce transmission risks in the period following the festive session, consider extending school holidays or introducing a period of online learning as a way of introducing a buffer period and avoiding infections to be brought into schools.'*
171. The UK Government had also taken action to prioritise the wellbeing of school staff and had designated 18 December 2020 as an inset day. In referencing this, Nick Gibb, Minister of State for Schools, said, 'We

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<sup>38</sup> Letter from EIS General Secretary to FM, 10 December 2020

<sup>39</sup> [Letter from](#) EIS General Secretary to local authority Directors of Education, 9 December 2020 PD /  
PD (eis.org.uk)

<sup>40</sup> Letter from EIS General Secretary to DFM, 10 December 2020 Standard Letter to be Printed on Colour E.I.S Headed Paper (eis.org.uk)



*want there to be six clear days so that by the time we reach Christmas Eve, staff can have a proper break...'*

172. When it was clear that the Scottish Government would not alter its position, the EIS started to engage with local authorities on an individual basis. However, it soon became apparent that councils were reluctant to consider local circumstances and move, where appropriate, to remote learning, having received a letter from the Director of Learning. This letter referenced the Scottish Government's expectation that schools would remain open and appeared to suggest that local authorities had no locus in this matter, unless directed by PHS.
173. In response, the EIS was clear that a council's legal duty of care was paramount. The EIS argued that the Scottish Government's 'instruction' was *ultra vires* and had no legal or authoritative standing, going beyond the Scottish Government guidelines for schools, which were, in themselves, discretionary. The instruction appeared to be a clear attempt to frustrate any council intending to implement locally targeted remote learning and was, in our view, an interference in local government autonomy. We urged councils to reconsider the EIS request for targeted remote learning to protect the safety and wellbeing of staff and of pupils. The EIS also indicated that its local associations would, depending on the circumstances, consider whether to lodge a trade dispute on the basis of the local authority failing in its duty of care.
174. On 10 December 2020, the Glasgow EIS Local Association opened a consultative ballot, after Glasgow City Council refused to move teaching and learning to remote provision for the pre- and post-Christmas period in the interests of minimising infection risk. The ballot stated that the local association believed that the failure to consider moves to blended or remote learning as a consequence of

schools operating in a Level 4 area was indicative of the council failing to fully exercise its duty of care to staff. Members were consulted on whether to declare a formal trade dispute with the employer.

175. By 11 December 2020, six EIS local associations had also moved to ballot over school COVID-19 safety and at least four others were considering whether to take this step towards a formal dispute with employers. The results from the ballots emphasised the anxieties and strength of feeling of teachers in regard to school COVID-19-security. Glasgow, Fife and West Dunbartonshire Local Associations all backed the move to a dispute with employers over failure to provide a safe working environment for staff in light of the continuing threat from the pandemic. In Glasgow, 93% of those voting, voted in favour (turnout of 63%); in West Dunbartonshire, 91% (on a turnout of 75%) and in Fife 90% (on a turnout of 53%).
176. Despite this, the Scottish Government and local authorities seemed determined to keep schools physically open at all costs in the days before Christmas 2020, irrespective of the potential for teachers, school staff and young people to spread COVID-19 further through family festive gatherings. Scotland's teachers saw governments in other countries increasingly taking steps to close school buildings early and move to remote learning to protect families over Christmas. This raised the question of why the Scottish Government apparently valued its teachers less than governments in England, Wales, Sweden or Germany.
177. One member summed this up, *'Going to blended learning on 18<sup>th</sup> would not have a massive impact on the education of the children...but it would have a huge impact on the mental wellbeing of staff who would be able to isolate, and then confidently visit with their bubble at some point over the holiday period. It would also be considered a*

*gesture of goodwill in a season where it is supposed to be at its most prominent.'*

178. On 16 December 2020, PHS published another report, '*Surveillance of COVID-19 in Education*'. The report was quoted selectively by the First Minister, with a focus placed on findings which indicated that 'education staff and pupils have not been at an increased risk of severe coronavirus infection by being in school' (emphasis added). However, of concern, there was no reference made to the findings in the final chapter of the report which stated:

*'The results for the whole period show that the risk of becoming a COVID-19 case was higher among teachers than the general population'.*

179. This evidence supported what teachers across the country had been saying; that they were more at risk of catching COVID-19 and therefore more at risk of infecting others in the wider community, including their own families, and of potentially of suffering from Long COVID. This validated the legitimate concerns that teachers had been expressing about the safety of working in schools.
180. On Saturday, 19 December 2020, the First Minister announced the altered arrangements which would be in place over the festive period and confirmed that for the vast majority of pupils, the return after the Christmas break would be delayed until 11 January 2021, with only the children of key workers and vulnerable children being in school. Given that we had been calling for a 'firebreak' around the Christmas period, we welcomed this announcement as the correct one, commenting, however, that the lateness of the decision had once again created planning challenges for teachers, in those schools which had already closed.

181. We again urged the Scottish Government and local authorities to take a decision to move immediately to remote platforms for those schools which remained open. Yet, despite concerns about the increased transmissibility of the new Delta variant of the virus, the clear evidence of heightened risk in the PHS report and the decision taken that we would move to a second lock-down on Boxing Day, the Scottish Government remained adamant that it would not do this.
182. In her statement, Nicola Sturgeon referenced the 'five-day flexibility from 23<sup>rd</sup> to 27<sup>th</sup> December' which had been planned to recognise the impact of loneliness and the difficulty which everyone would feel leaving loved ones alone at Christmas. However, although this had been part of the Scottish Government's planning intentions, it is disappointing that the desire to respond to these emotional needs for the wider population had not apparently extended to teachers or school staff – despite the extensive representations made on their behalf.
183. The EIS responded to the announcement by seeking to ensure that there was sufficient support and resource available online to ease the planning burden for members. This involved EIS staff responding to the situation on Monday, 21 December 2020, to ensure that advice on blended and remote learning was available as well as related resources, webinars and blogs to support the delivery of remote provision in the new year.

*The Second Lockdown – December 2020*

184. Over the festive period, it became apparent that schools would remain closed for at least the month of January 2021 – an announcement which was welcomed by the EIS, given the heightened concerns around school safety from teachers in Level 4 areas prior to Christmas. The surge in infection levels, driven by the new variant,

only compounded those concerns, especially as, despite previous advice, it was apparent that children could be as easily infected by the new strain of the virus, with subsequent transmission also occurring. With physical distancing almost impossible amongst pupils in crowded classrooms, the EIS agreed that moving to remote learning was the correct decision to drive down community infection levels. It also highlighted the importance of vaccinating staff as a means to allow school buildings to reopen safely for all.

185. However, whilst the education system was better prepared to deliver education remotely than it had been during the first lockdown, challenges remained, particularly for those pupils from disadvantaged backgrounds. There was much to be done to ensure that learning could be accessed on an equitable basis.

186. Teachers responded with greater speed to the move to remote learning on this occasion, having learned from their experience in March 2020, and were quick to work together collegiately, sharing good practice and resources to support education continuity. In February 2020, not knowing how long remote learning would continue for and acknowledging that there would likely be interim moves to blended provision, the EIS hosted a webinar on blended and remote learning. This proved to be a valuable opportunity for members to come together, share their experiences and learn from each other. It was well received and provided a means by which the support, normally available in staffrooms, could be accessed in these extreme circumstances.

### **Schools Re-opening – February 2021**

#### *Political Expediency*

187. On 1 February 2021, ahead of the Cabinet review of lockdown, the EIS urged the Scottish Government to continue to adopt a cautious approach when planning school reopening. Whilst the EIS understood the drive to re-open schools, it was clear that this could not be at any cost. It could only happen when it was safe to do so, both in terms of suppressing community infection levels and also in allowing schools to operate safely. The EIS highlighted the decision of the UK Government, which confirmed that schools would not reopen until mid-March 2021 at the earliest.
188. However, in her statement to the Scottish Parliament on 2 February 2021, the First Minister again demonstrated the political determination of the Scottish Government to re-open schools at the earliest opportunity, referencing the *'pressure that school closures [were] putting on working parents and on family life more generally'*. A wide test was applied to assess risk in education. Instead of simply focusing on the harm from the transmission of the virus, school re-opening was again to be considered in the context of a 'balance of harms' approach, with specific regard given to 'evidence of wider health, developmental and social harms' being experienced by children and young people, and evidently by their families. So, although the decision was taken to extend lockdown for the remainder of society, the First Minister announced the phased return to school for certain pupils from 22 February 2021.
189. The phased return saw a full time return to ELC settings for all children below school age; a full time return to school for pupils in primaries 1-3; a part-time return, albeit on a limited basis, for senior phase pupils<sup>41</sup> to undertake essential in-school practical work, for the

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<sup>41</sup> It was intended that here should be no more than around 5-8% of a Secondary school roll physically present at any one time for these purposes.

completion of National Qualification courses; and small increases in existing provision for children with ASN where there was a clear and demonstrable necessity.

#### *Mitigation measures*

190. In making this announcement, the First Minister indicated that re-opening would be accompanied by a '*significant expansion of testing in educational settings*', something which the EIS had long advocated. The intention was to offer 'at home' testing twice a week for staff and, significantly, for secondary school students.
191. Whilst the EIS welcomed this move, it was concerned that the First Minister had not discussed the need for physical distancing amongst P1-P3 pupils, in light of the increased transmissibility of the Delta variant and the fact that reports suggested that it impacted all age groups. The EIS requested sight of the scientific evidence which underpinned this approach and made calls on the Scottish Government to facilitate a blended approach in primary to allow for physical distancing amongst pupils. Noting the restriction on the numbers of senior phase pupils who could return at any one time, the EIS also called for explicit reassurance that those pupils would be required to comply with physical distancing mitigations.
192. An extraordinary meeting of the EIS Executive was called on Wednesday, 10 February 2021 to discuss the Scottish Government's plans for phased reopening. Executive members were clear that even a limited reopening should be predicated on improved suppression of the virus and enhanced school mitigations being in place. The Executive noted with particular concern the Advisory Sub-Group's recommendation that physical distancing between staff and pupils would no longer be required in P1-3 and insisted that two metre physical distancing should be retained between staff and all pupils.

193. Executive also agreed to press for a range of enhanced mitigations including:

- Use and supply of clinical grade face masks (FFP2) to provide greater protection for staff, given the increased aerosol transmission of the new variant;
- Improved ventilation measures amidst increased risk of aerosol transmission;
- Greater use of pupil bubbles and staggered school day arrangements;
- Agreement in relation to the protection of vulnerable and shielding staff, i.e. continued working from home.

194. Ultimately, the Scottish Government conceded that senior phase pupils returning would be required to physically distance from each other and from staff, and preserved the physical distancing mitigations between staff and children in P1-3 for the re-opening period, providing some reassurance for EIS members.

*Vaccination for school staff*

195. Vaccination of school staff was a key campaigning objective. Whilst there had been some progress within the first phase of the vaccine roll out, on the vaccination of ASN staff who dealt with pupils with complex needs the EIS argued that school staff should be prioritised within phase 2 of the roll out. If opening schools was the political objective, vaccinating teachers should have been a priority.

196. In the absence of any movement on this front from the Scottish Government, the EIS launched a social media campaign, aimed at elected political representatives at all levels: Ministers; MSPs; MPs and Councillors. The aim was to generate support to make schools



safer places by prioritising school staff for COVID-19 vaccination; improving ventilation in school buildings as a key mitigation; and providing medical grade face coverings to guard against aerosol transmission.

197. The campaign was launched on 26 February 2021 with an email message to the First Minister. Despite the recommendation of the UK Joint Committee on Vaccinations and Immunisation to proceed with phase 2 on the basis of age profile rather than occupational groups, the EIS urged the Scottish Government to make its own decision on priorities, just as it had during phase 1 in relation to care homes. The negative wellbeing impact of prolonged stress and anxiety arising from being the only occupational group required to work indoors in relatively small rooms, many poorly ventilated, often with more than thirty people from different households, most of whom were not physically distancing from one another, could not be underestimated.
198. At that time, Scotland had the capacity to vaccinate 400,000 people per week. So, the task of vaccinating school staff would have taken a matter of days – not a great deal to ask to make schools safer and provide some relief for staff who were emotionally exhausted and had by that stage been working in challenging conditions for nearly a year.
199. On 1 March 2021, the EIS wrote to the First Minister and the DFM<sup>42</sup>, as well as the leaders of all the political parties, to impress upon them the importance of vaccinating education staff, setting this in the context of reports which suggested that the new variant was around 40% more transmissible for pupils. It referenced an ONS survey published at the end of February 2021 which had indicated that teaching was the fourth highest 'at risk' occupational group, and a PHS study which demonstrated that teachers were more likely to have

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<sup>42</sup> Letter from EIS General Secretary to the FM and DFM, 1 March 2021

tested positive for COVID-19 in Scotland than the general working population. The vaccination of teachers as a professional group would also have helped assuage the very real fears that teachers had about their safety and that of their families.

200. In addition to these health impacts and the potential of contracting Long COVID, the EIS also highlighted the impact of COVID-19-related absence on the education of young people. On average, staff absences in schools had been around 1,500 per week, peaking at 2,500 at one stage in September 2020. Clearly, this was disruptive to education, especially for senior phase pupils. Vaccination could ease these pressures, yet the Scottish Government refused, a position which seemed at odds with the political rhetoric about the importance of education to the lives of young people.

*A full-time return to school*

201. On 6 April 2021, the First Minister announced the full-time return to school for pupils, other than those who were shielding. In so doing, she removed the requirement for secondary pupils to comply with physical distancing and the EIS again found itself having to argue for this essential mitigation to be re-instated; for the provision of medical grade face masks for staff in light of the increased transmissibility; and for CO<sub>2</sub> monitors to ensure effective ventilation. With Professor Jason Leitch and PHS arguing that medical grade face masks were unnecessary, and a refusal from the Scottish Government to maintain physical distancing between pupils in secondary schools, teachers could only conclude that their health and wellbeing was a secondary consideration to the political imperative for a full opening of school buildings.

**August 2021**

*A more cautious approach?*

202. On 3 August 2021, the First Minister, ostensibly for the first time, seemed to appreciate the unique risks which schools presented. Reflecting on the *'unique environment of schools, where large numbers of unvaccinated children and young people mix with adult staff'*, she announced that most of the mitigations that had previously been in place would be retained in the new term. She indicated that physical distancing would remain for staff from each other and from children and young people on the school estate; that they would retain the requirement for face coverings in school for staff and children aged over 12; and that ventilation would continue to be of vital importance. The Scottish Government guidelines, published that day, made it clear that all schools must have access to CO<sub>2</sub> monitors, through either fixed or mobile devices and that they should be used to assess the quality of ventilation in the setting and where improvements were necessary. She gave a very clear direction that she expected these assessments to be completed in the initial stages of the term and any improvements identified by the October break. £10 million was allocated to support this work. The EIS welcomed this cautious approach, particularly as the majority of young people had not at that stage received a vaccination. This was considered to be an important mitigation measure, as heightened levels of CO<sub>2</sub> ought to have signalled the need to reduce the number of people in a classroom, leading to lower, safe levels of CO<sub>2</sub> and strengthening the argument for smaller class sizes. However, as local authorities were given autonomy to determine which monitors to buy and the processes of installing and conducting assessments, there was no uniformity of approach. The EIS engaged with local associations to provide support where required, to ensure the effective implementation of the guidelines.

*Or perhaps not...*

203. However, in the same address, the First Minister also referenced changes to the rules around self-isolation, which would take effect from 9 August 2021. This ended the requirement to self-isolate for a period of ten days in certain circumstances. Children and young people between 5 and 17, who were identified as a close contact, could end their self-isolation if they tested negative. In addition, there was revised guidance for under 18s in relation to Test and Protect, which meant that there would no longer be a blanket isolation of whole classes when someone tested positive but a more targeted approach to identify close contacts who were at the highest risk of infection. The Scottish Government hoped that this would result in fewer people being asked to self-isolate and then, only for a shorter period if the PCR test was negative.
204. By 27 August 2021, there had been a significant rise in COVID-19 cases linked to Scottish schools. PHS figures published that day indicated that 2 out of every 100 pupils nationally were absent from school for COVID-19-related reasons, with test positivity amongst the 2-17 age group increasing to 19.9% that week, compared to 18.5% for the previous week. A total of 14,914 pupils were absent on 24 August 2021 on account of COVID-19.
205. This prompted concerns about teachers and schools not being informed promptly enough about positive cases amongst pupils. The changes which had been made in contact tracing arrangements for schools were also creating confusion for parents, pupils, and staff. The Test and Protect approach, both within schools and outwith, was that routine contact between children and adults would not trigger a direct notification to adults unless there were circumstances which created a higher risk threshold e.g. family circumstance. As a result, teachers were not being identified by local health teams ('LHTs') as high-risk contacts, with that aspect reverting to schools. Schools,

however, were not routinely contacted by LHTs, whose default was to advise the parent of a child who had tested positive for COVID-19 to report the matter to the school. In our view, this created a delay in teachers becoming aware of any increased risks and heightened the potential for further transmission.

206. The EIS expressed serious concern, therefore, at the potential lack of rigour in the communication process and pressed for LHTs to automatically inform schools of all positive cases. The EIS argued that once the school was aware of a case, it should have sent an 'information letter' to pupils and staff as required and they should be required to take a PCR test which should be negative prior to returning to class. This was not conceded by PHS or by the Scottish Government, but it was ultimately agreed that all pupil contacts, as identified by schools, would be contacted, and advised to take a lateral flow test before returning to class. We welcomed this improvement and hoped that it might help stop the further spread of the virus.

207. In light of the record levels of pupil and staff COVID-19-related absences in the initial weeks of the term, the decision by the UK's Chief Medical Officers (CMOs) that young people aged between 12 and 15 would be offered a COVID-19 vaccination, was particularly welcome.

#### *A Return to Inspections*

208. In what the First Minister had described as the 'hardest year of [teachers'] professional lives' and against this backdrop of rising case numbers, the announcement on 16 September 2021 that Education Scotland intended to resume school inspections can only be described as completely ill-judged, causing considerable upset for teachers and senior management teams, who were already exhausted and

emotionally drained. At a meeting of the EIS Headteacher/Depute Headteacher (HT/DHT) Network on 1 October 2021, members clearly expressed their sense of outrage about these plans and the message it sent to the profession.

209. School inspections had been paused from March 2020 to enable greater focus in schools on supporting education continuity and then, recovery. Yet at the start of a year in which recovery should have been the key focus, this decision was taken, without consultation with the profession or the teacher professional associations. It demonstrated how deeply out of touch Education Scotland and the Scottish Government were with the challenges which teachers were facing and the reality of life in schools at that time.
210. Inspections, in our view, add very little to supporting teaching and learning at the best of times, but to re-introduce them during a global pandemic, was completely misguided, particularly as the Scottish Government had by that stage already given a commitment to act on the OECD recommendation to remove the inspection function from Education Scotland in the interests of providing better support to schools.
211. Teachers were left feeling demoralised, undervalued and unheard.
212. Following the meeting of the HT/DHT Network, the EIS President wrote to Gayle Gorman<sup>43</sup>, the Chief Executive of Education Scotland and HM Chief Inspector, outlining EIS's concerns. The EIS also raised this issue at CERG, issued advice to its members and met with senior officials of Education Scotland on 22 October 2021 to raise these concerns in person. Notwithstanding this, there was no quick resolution to teachers' concerns.

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<sup>43</sup> Letter from EIS President Heather Hughes to Gayle Gorman dated 4 October 2021

213. It was not until 3 December 2021, that Education Scotland announced that it would not resume 'scrutiny' inspections in the new year and published updated plans, stating that they would instead focus on 'recovery' visits as a means of supporting schools to move forward. The EIS welcomed this announcement, especially as participation in these visits was to be on a voluntary basis for schools but highlighted the needless anxiety that the original decision, and the delay in departing from it, had caused for teachers and senior management teams across Scotland.

### **The Rise of Omicron**

214. With COVID-19 infection remaining high in the autumn of 2021, and rising in approach of winter, the EIS continued to press for more effective mitigation measures in schools.

215. A survey of members<sup>44</sup> conducted between 11 and 29 November 2021, confirmed that teachers remained concerned about the potential spread of COVID-19 in schools and wanted to see effective protections in place to protect staff and pupils over the winter months. Over 16,000 teachers responded to the survey, with the results focusing on the importance of adequate ventilation and the continued use of face coverings. The majority of teachers (55%) wanted to see face coverings retained throughout the winter months, with only 6% advocating their removal. A third of teachers worryingly said that they did not believe that their working space was well ventilated and only 32% thought their schools had a procedure in place to raise concerns about inadequate ventilation. Fewer than half of teachers (47%) – some 18 months into the pandemic – felt 'very safe' (12%) or 'somewhat safe' (35%) in schools with the mitigation measures in place at that time.

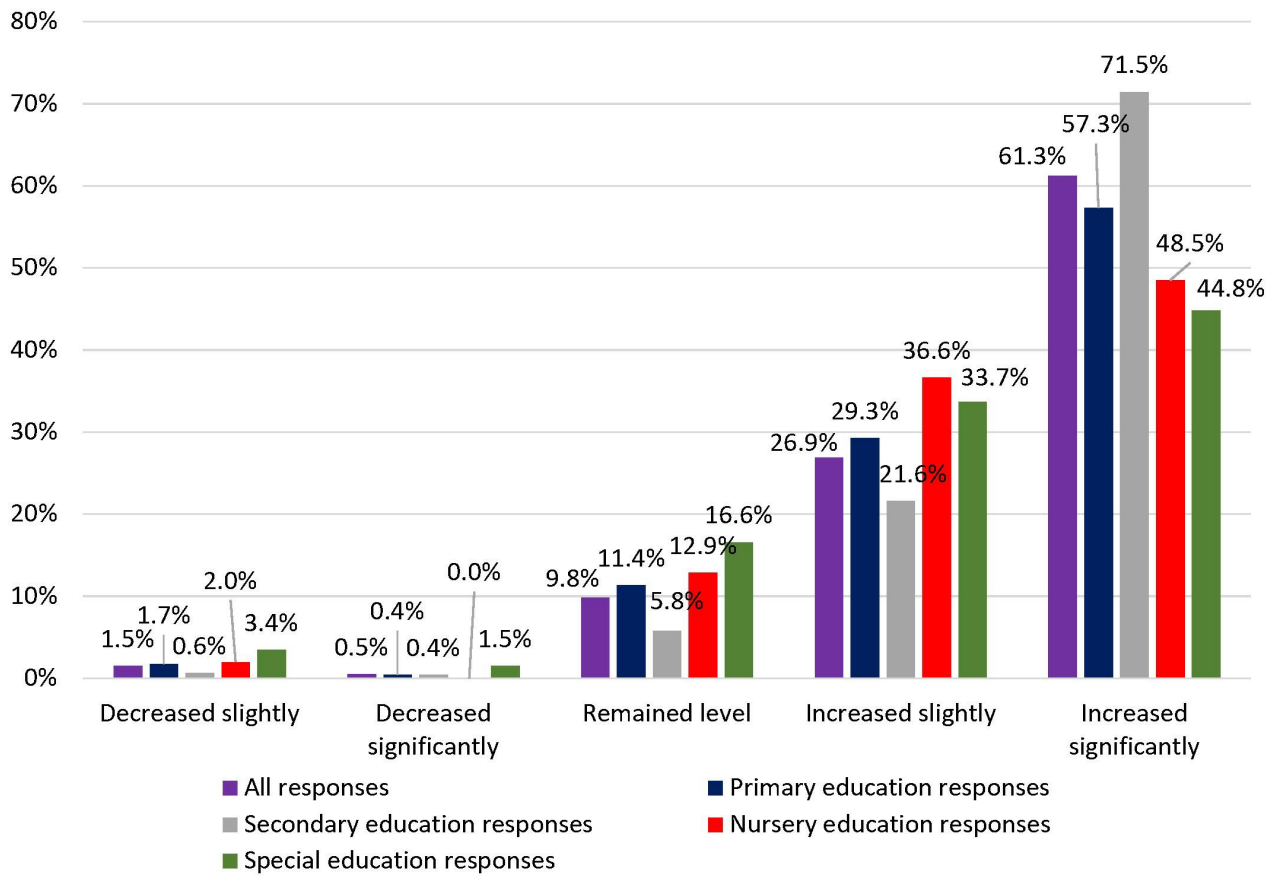
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<sup>44</sup> EIS membership survey, November 2021

216. It was also clear from the survey results that teachers' workload remained excessive, in the face of the ongoing challenges of the pandemic; the efforts teachers were making to meet the wide variety and complexity of pupils' ASN with insufficient resources; and the relentless focus of the Scottish Government and local authorities on attainment, rather than on education recovery. Almost half of respondents to the survey indicated that they were working more than 8 extra hours per week, equating to more than an extra day of work, every week. The graph below (Fig 10), taken from the survey report, clearly depicts the significant increase in workload across all sectors of school education. Members' qualitative responses in relation to workload (pages 14 and 15 of the survey report) outline the pressures members were under and the way in which work had merged with homelife, skewing any hope of work/life balance.
217. When asked about the three main drivers of workload, the results were telling. Across all sectors, inadequate staffing levels; meeting the additional support needs of pupils; and managing behaviour in the context of the pandemic, were cited as key drivers of workload. The adoption of a 'business as usual' approach by school management and local authorities at the same time as continuing to respond to the pandemic was also referenced, with 53% of respondents highlighting this as a factor.



**Figure 10: Over the period of the pandemic, has workload...**



Total responses: 14,257

218. Many members left comments within this section, highlighting the toll that this increased workload was having on their stress levels, mental health and wellbeing, with some even considering leaving the profession.

219. At the time of reporting these results, it became clear that the Omicron variant was emerging. Acknowledging the increased transmissibility of the new variant, an operational change from PHS was enacted to treat identified Omicron cases more rigorously under Test and Trace. This meant that any identified close contacts, including pupils and staff, would be required to self-isolate for 10 days

irrespective of vaccine status. Delta cases were still, however, dealt with under the process which required vaccinated individuals to self-isolate only until a clear PCR test had been obtained.

*Increased Transmissibility of Omicron in Children and Young People*

220. With case numbers growing towards the end of 2021 and reports of one school having to close and move to online learning, there were growing concerns about the transmissibility of the new variant of virus in children.
221. The minutes of the meeting of the Advisory Sub-Group on 11 December 2021 reference the increase in positive cases '*in all age groups under 60, including increases in children and young people age groups*', albeit with '*less of an increase recorded in under 5s*'. It goes on to reference relatively high rates of child cases across a wide range of local authorities in Scotland<sup>45</sup>. The group also expressed concern about early data around secondary attack rates and airborne transmission. This evidence was considered in conjunction with school absence data which indicated an increase in the number of pupils who were absent due to self-isolation and 'precautionary decision-making by parents/carers', as parents elected to keep their children off school to avoid the potential of children transmitting the virus to more vulnerable family members over the holiday period. This demonstrated the lack of confidence parents had in the safety mitigations in place in schools.
222. With this acknowledgement of the role of children and young people in transmitting the virus, it might be thought that a more cautious approach would have been advocated by the Advisory Sub-Group and ultimately by the Scottish Government in relation to safety

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<sup>45</sup> Reference is made specifically to Falkirk, East Ayrshire, East Lothian, West Lothian, Midlothian, East Dunbartonshire, East Renfrewshire, Dumfries and Galloway, Perth and Kinross, North Ayrshire and South Ayrshire.

mitigations for schools to combat the spread of the Omicron variant. However, it is evident from Advisory Sub-Group's minutes that the political driver of keeping schools open was the overarching consideration when assessing risk and framing the advice for schools. The minutes clearly state, *'It was emphasised that mass temporary closures of schools and ELC settings continues to be a measure of last resort – everything possible will be done to keep schools open'*.

223. Within this policy context, the Advisory Sub-Group considered the risk arising from Omicron, again focusing on the 'balance of harms' for young people, their rights and the proportionality of the restrictions being placed on them in comparison to those in wider society. Of particular concern, however, was the apparent prominence given to attainment over health and safety, with reference being made to Achievement of Curriculum for Excellence Levels (ACEL) data<sup>46</sup> which had been published that day and to the impact which some mitigations could have on learning and teaching and on National Qualifications. Worryingly, the decision not to reintroduce groupings on school transport was taken, *inter alia*, on the basis that it would cause *'significant resulting operational difficulties'*.

224. Whilst the EIS understood the wider 'harms' associated with school closures and was supportive of schools remaining open, it was clear that this could not be at any cost and should only be when it was safe for children, young people, teachers and school staff. The absence of any reference in the minutes to the potential of an increased health risk posed by Omicron for staff, arising from the increased transmissibility, including from children, was of particular concern,

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<sup>46</sup> ACEL data is published annually by the Scottish Government. The official statistics, based on teacher professional judgement, report on the percentage of school pupils in Primary 1, 4, 7 and S3 who have achieved the expected CfE level relevant to their stage in reading, writing, listening and talking and numeracy.

especially in the context of secondary infection rates and the emerging evidence around Long-COVID.

225. On 17 December 2021, the Scottish Government issued updated guidance for implementation at the start of the January 2022 term. This was largely a restatement of the measures in place at that time, with advice reinforcing the importance of complying with the mitigations.
226. However, even in framing the advice, the Advisory Sub-Group continued to balance essential health and safety mitigations with learning outcomes. The minute states, *'sub-group members agreed that ensuring maximum compliance with current measures, such as one-way systems, staggered start and stop times, asymptomatic testing and the correct use of face-coverings, would help to reduce transmission, while also having a low impact on learners' outcomes. The sub-group agreed that: i) minimising contacts, and ii) making any contacts safer, were the main ways to avoid the transmission of Covid between children and young people in schools, and that these needed to be combined with a pragmatic approach in order to ensure that learning and teaching could continue unhindered.'*
227. Despite highlighting the importance of minimising contact, physical distancing between pupils was still not introduced. The guidelines in relation to secondary schools acknowledged the fact that in the absence of such distancing, there should be a greater emphasis placed on the importance of effective ventilation. This approach must be contrasted with the position adopted for businesses and services, where measures were re-introduced to control the flow of people and minimise contact, all with the intention of minimising the risk of transmission.

228. Furthermore, the distinct position for education was evident when the initial changes to Test and Protect procedures for Omicron, which had required self-isolation, were altered for children. As children were deemed to be a lower risk, close contacts were only required to self-isolate if directed by PHS so to do. The one exception was where there was a household infection, when all members were required to self-isolate for ten days.
229. The whole narrative around the priorities in schools left teachers and school staff with the perception that their health and wellbeing was not a key consideration in the assessment of risk, even in light of a more transmissible strain of the virus.

### **Critical National Infrastructure**

230. The perception by teachers and school staff that their health and wellbeing was not a key consideration in the assessment of risk was reinforced by the inclusion of Education in the Critical National Infrastructure Exemption Scheme (the Exemption Scheme).
231. On Tuesday, 14 December 2021, the Scottish Government and COSLA wrote to the local authority Directors of Education, advising that as a result of the Exemption Scheme, teachers could, in some circumstances, be exempted from self-isolation rules, despite having been identified as a close contact. The letter set out the conditions in which local authorities could use such an exemption. Whilst teachers could not be forced or required to do this, they could in certain circumstances 'volunteer' to do so, essentially to keep schools open.
232. This letter was neither shared nor discussed with the EIS and in responding to the Scottish Government, we highlighted that the unilateral issuing of this advice was a communication failure which only served to heighten concern and stress amongst teachers,

particularly as this was **not** an area where the EIS was in agreement with the Scottish Government.

233. The EIS was clear that Health and Safety protocols should not be based on a principle of voluntarism but should rather outline the safest reasonable course of action. In our view, self-isolating when identified as a close contact, was clearly a safer option, and a reasonable one, than continuing to attend school, even if daily Lateral Flow Tests (LFTs) were taken. The EIS noted that self-isolation was not for the protection of the individual but to prevent further spread. ‘Volunteers’, in these circumstances, irrespective of their motivation, would be putting colleagues and even pupils at risk by attending school when they had been directed to self-isolate. Unlike some critical workers, whose absence from work was irreplaceable, teachers and schools could provide temporary continuity of education through remote learning. The EIS advice, therefore, was that members should self-isolate when identified as a close contact. It also issued guidance to EIS Local Association Secretaries to facilitate discussion with local authorities to ensure that teachers were not unduly pressurised under this new arrangement.

### **The Return to School in January 2022**

234. The EIS’s concerns around the unilateral approach adopted in the drafting of the Critical National Infrastructure Exemption Scheme were amplified early in January 2022 as the Scottish Government adopted the same approach in relation to changes to self-isolation rules.

#### *Self-isolation*

235. As schools returned on 11 January 2022, they did so in the light of significant changes to COVID-19 guidelines in relation to self-isolation, which had been announced by the Scottish Government

over the festive period. These were unilateral decisions by government, made without discussion within CERG, or directly with the EIS, in regard to the potential impact which they may have had on educational establishments.

236. Under the altered rules, anyone testing positive for COVID-19 would be given the option to end isolation after seven days, provided that they had no fever and had recorded two negative LFTs, one no earlier than day six after testing positive and another at least 24 hours after that. For those identified as close contacts under the age of 18 years and 4 months or who were older and fully vaccinated, the requirement to self-isolate would end, being replaced by a requirement to take a lateral flow test every day for seven days. Anyone who was not fully vaccinated would continue to be required to self-isolate for ten days and take a PCR test.
237. In response to the EIS's request for access to the scientific data on the risk associated with reducing the self-isolation period, we were advised by the FM that this was a '*judgement*' call and there was the possibility that it could have led to increasing infection levels in a school and therefore, being counterproductive to increasing staffing availability.
238. Members were also concerned about the efficacy of a pupil/parent controlled close contact regime of seven LFTs to avoid self-isolation, with no guidance on how this would operate, be reported and monitored. There was also a lack of clarity about who would supply the LFTs and how this would be managed practically. The EIS raised these issues with the Scottish Government but in the absence of any forward planning or engagement on this, members were left to work through this at a local level whilst waiting to see, with some trepidation, the outcome of this '*judgement*' call.

### *Mitigation Measures*

239. To ensure that the mitigation measures that were available in schools after the festive break were effective, the EIS reminded members of the importance of strict compliance with those available and of the importance of revisiting risk assessments to identify if any further measures were needed.
240. The EIS emphasised the key role which ventilation played in managing risk but also the need for councils to ensure that classrooms were warm enough. In seeking to ventilate classrooms, members had reported significant issues with the cold over the winter period. The additional £5 million, announced by the Scottish Government on 11 January 2022, for air cleaners was welcomed but the EIS expressed its disappointment that it had had to raise this issue for over a year to secure sufficient funding to implement improved ventilation effectively in schools. Even with a funding announcement in January 2022, it would take weeks for action to be impactful; for air cleaners to be procured; and then supplied to schools. In the interim, teachers and pupils had to continue to face the challenge of Omicron in busy, crowded schools.

### *Relaxation of COVID-19 Mitigations in Schools*

241. On 10 February 2022, the First Minister announced the Scottish Government's intention to introduce the phased reduction of school COVID-19 mitigations, with effect from 28 February 2022. This announcement came with the long-awaited advice from the JCVI that all five to eleven year-olds would also be eligible for the vaccine.
242. The most significant change announced related to the removal of the mandated wearing of face coverings in classrooms, although this would remain in place in communal areas. The EIS had argued at CERG for their retention until the end of the winter period, preferring



to see any changes being implemented at the end of March. Despite the Scottish Government's decision for earlier removal, there was some reassurance for teachers, particularly those with heightened vulnerability, that both staff and pupils could continue to wear face coverings if they wished to do so.

243. The other changes related to a relaxation of the rules around assemblies and transition visits. In discussing these proposals at CERG, the EIS had continued to urge caution and to ensure that any removal of mitigations would not signal a return to 'business as usual'. It was clear from the statistics that COVID-19 related disruption continued in schools, placing a huge strain on teaching staff. In the week prior to the announcement being made, 4,000 staff and more than 20,000 pupils were absent from school for COVID-19-related reasons. Infection levels remained high and accordingly, from our perspective, adherence to the remaining mitigations, such as ventilation, hygiene, wearing face coverings in communal areas and access to LFTs, became even more critical to school safety.

#### *The Removal of LFTs*

244. The Advisory Sub-Group met on 8 March 2022 to discuss the further relaxation of mitigation measures in schools and ELC settings. Despite observing that infection rates had increased across most age groups with a particular uptick in the 5 to 11 age group, it concluded that it would be appropriate to move to 'routine measures' in schools, aligning the requirements for face coverings and physical distancing with the general guidance for safety in the workplace despite the physical environments of schools being significantly different from most workplaces. Rather than providing for regular testing and asymptomatic testing, staff (and pupils) who had symptoms or were required to self-isolate, were advised to 'stay at home'.

245. The Advisory Sub-Group was clearly aware of the impact of transitioning away from the mitigations which had been in place, as the point was made that *'schools should be prepared to support staff to help ease anxieties around the move to routine measures'*. However, again the decision seems to have been taken, at least in part, on the basis that the relaxing of the mitigations would allow for smoother transitions for children whose educational experience had been impacted by COVID-19.
246. Following the Scottish Government's announcement that this advice would be implemented from 18 April 2022, the EIS requested a meeting with the Scottish Government and PHS to discuss the scientific advice underpinning this decision.
247. On 22 March 2022, members of the EIS Executive met with PHS experts and clinicians to discuss members' concerns about access to LFTs; protections for highly vulnerable staff; the consequences of withdrawing testing and increased risk of COVID-19 transmission and Long COVID; the timing of the removal of mitigations when COVID-19 infection rates were so high; and the interface between absence policies and advice to stay at home.<sup>47</sup>
248. Despite the answers given, the rising levels of COVID-19 continued to cause concern about the timing of the removal of key mitigation measures and on 30 March 2022, the EIS issued a statement, calling for continued access to LFTs in schools as an essential measure to protect staff and students, and to reduce the impact of COVID-19 outbreaks on education provision. It highlighted that the early identification of COVID-19 cases was vital to limiting the spread of the virus within schools. Replacing tests with advice to "stay home if you have any symptoms" was likely to lead to increased absence as

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<sup>47</sup> Minute of meeting between EIS Executive and PHS experts, 22 March 2022 Used for Minutes of Various Meetings (eis.org.uk)

staff and pupils would err on the side of caution, putting schools under even greater pressure. It also seemed nonsensical to end LFT availability in the build up to the exam season in secondary schools, where significant COVID-19 outbreaks within a school could be devastating for young people. We, therefore, continued to press the Scottish Government for the retention of free LFTs in schools. Although the clinical need may have been less, the operational challenge of keeping schools open remained a live issue.

249. On 18 April 2022, schools moved to routine mitigation measures.

*The demise of CERG*

250. Concerns about unilateral decisions taken by the Scottish Government continued when at the meeting on Thursday, 10 March 2022, the Cabinet Secretary advised members that it would be the last meeting of CERG. Whilst there had been some discussion about a reduction in the frequency of meetings, there had been no discussion with the trade union representatives about completely winding up CERG.

251. On 14 March 2022, the EIS General Secretary wrote to the Cabinet Secretary to outline the EIS's concern and anger about this unilateral approach.<sup>48</sup> At previous meetings, the Scottish Government had been clear that COVID-19 was far from over and indeed, the language used by the First Minister in her briefings adopted a similar tone. Given the high levels of infection amongst pupils and teachers; the challenges for the SQA diet; and the need for a singular focus on education recovery, the EIS was clear in expressing its disapproval at the ending of CERG which, whilst not perfect, had at least provided a clear forum for raising ongoing COVID-19 related concerns.

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<sup>48</sup> Letter from EIS General Secretary to Cabinet Secretary, 14 March 2022  
<https://www.eis.org.uk/Content/images/corona/CERGCabSecLetter.pdf>.

252. Amongst the concerns raised, the EIS referenced the growing evidence of the adoption of a 'business-as-usual' approach in the expectations of government<sup>49</sup> and in a number of council areas, rather than a focus on education recovery based on pupil well-being. It argued that these were all areas where an Education Recovery Group should and would have a locus. CERG was not, however, reinstated.

### **SQA Exams and the Alternative Certification Models**

253. It is not possible to consider the impact on teachers and young people of prevarication and politicised decision-making by the Scottish Government and national bodies without considering the arrangements around qualifications and certification in 2020 and 2021.

254. The EIS would preface its remarks on the cancellation of the 2020 exam diet by noting that a system based on repeated year-end high-stakes exams is intrinsically susceptible to large-scale disruption. Whilst disruption on the scale of the COVID-19 pandemic was extraordinary, it was far from inconceivable. The lack of a clearly developed contingency plan, therefore, suggests an astonishing degree of complacency on the part of the Scottish Government and national agencies.

255. Whilst the announcement of the cancellation of exams on 19 March 2020, and the planned implementation of an alternative awarding model on 20 March 2020 followed promptly from the announcement of school closures, unclear communication from the Scottish Government fed an assumption that coursework would continue to be collected and would form part of whatever assessment and certification methodology emerged. It was not immediately clear that

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<sup>49</sup> Expectations of completion of the SNSAs and ACEL data collection conflict with guidance on education recovery.

coursework could not be collected and therefore would play no role in assessment and certification. The lack of contingency plans allowed this confusion to develop, which resulted in a great deal of workload and anxiety for learners and teachers, who, in the absence of clear information, rushed to ensure that coursework was completed. The EIS received reports of some schools inviting learners to attend school premises to collect or submit coursework materials, contrary to public health restrictions. Indeed, as understanding of the alternative SQA assessment procedures began to emerge, misapprehensions were afoot that candidates could submit additional and 'improved' evidence to enhance their eventual grades. Clear contingency planning, and unambiguous communication could have prevented this confused situation arising.

256. The EIS would reiterate its broad support for the reliance in the awarding of 2020 SQA qualifications, on estimates based on teacher professional judgement, though teachers faced practical difficulties in accessing material evidence when schools were closed and when digital inequity was so pronounced. However, it was clear to the EIS that the SQA's approach was deeply problematic: extant bandings were subdivided, and teachers, who had already rigorously moderated based on available evidence, were instructed to rank order candidates. This was a complex and frustrating process for teachers, who found they were having to artificially downrate candidates because the system demanded it. Moreover, it was clear that the SQA, in a determination to uphold 'standards' would apply an algorithm which would result in a significant number of estimates being overturned – a prospect which the EIS warned would be disastrous, and so it turned out. The EIS is clear that the lack of transparency around the SQA's rationale for its approach and processes contributed to the confusion and mistrust. (Indeed, the SQA's methodology report was not published until 4 August 2020.)

257. Further, the EIS proposed that where the estimates process threw up anomalous outcomes, the SQA should engage in dialogue with centres and/or local directorates to explore any issues and resolutions. Unfortunately, such an approach was deemed impractical at the time by the SQA. The experience of 2020, in our view, highlights the hazards involved in the application of algorithms, which are overly focussed on maintaining grade stability, and establishes teacher professional judgement as a fairer system going forward.
258. Given the disruption to learning and exams in the first half of 2020, and the likelihood of further disruption, the EIS was clear that proceeding with exams in 2021 was a high-risk strategy. Instead, moving forward with a continuous assessment model in 2021, with the S4 National Qualification ('NQ') framework being planned over two sessions (in line with the design intent) would have created a senior phase much more resilient to potential disruption: it would have provided certainty for learners, teachers and other stakeholders; it would have opened up more time, space and flexibility for delivery of teaching, learning and assessment; and it would have increased scope for focussing support on those who needed it most. However, the Scottish Government refused to countenance such an approach and remained fixated on the assumption of a normal exam diet, until 7 October 2020 when it was announced that National 5 exams would not take place, and then on 8 December 2020 when Highers and Advanced Higher exams were cancelled.
259. The EIS believes that the assumption of a full exam diet was not a sound educational decision, but rather one motivated partly by political calculation and partly by a cultural disposition towards high-stakes exams, an approach which has subsequently been discredited by the Education Reform process. Even following the cancellation of Higher and Advanced Higher exams on 8 December 2020, the EIS

suggestion that only Higher and Advanced Higher be certificated, or that N5 certification be delayed till the autumn, was rejected, despite the fact it would have alleviated much of the pressure in the system. It can only be concluded that the political optics of full certification, in the context of a forthcoming Scottish Parliamentary election, prevailed over practical considerations of pupil and teacher workload and wellbeing.

260. This notwithstanding, the EIS's contributions to the 2021 NQ Working and Strategic Groups were focussed on key priorities: to maximise scope for teaching and learning; to base assessment on teacher professional judgement of demonstrated attainment; and for assessment to be appropriately timed and proportionate, rather than a reprise of high-stakes exams. This would allow teachers to make reliable assessments of attainment based on sound evidence, whilst mitigating the pressures felt by learners. Whilst such an approach was agreed in principle, it did not translate sufficiently into practice, with many schools holding multiple assessment events – in effect, 'exams in all but name' – for fear that the evidence upon which teacher judgement was based would be deemed unsuitable by the SQA. Whilst this can be attributed in part to the unhealthy high-stakes assessment culture which prevails in the senior phase, it is also the case that some subject-specific advice issued by the SQA cited 'exam-style' evidence as the most reliable, thus confusing the message and adding to a momentum for schools to create additional evidence-generating exercises. Whilst what became titled the Alternative Certification Model (ACM) did produce a robust set of results based on sound evidence, it was not without cost to learners and teachers. Ironically, many learners faced more high-stakes assessment than ever before, which impacted on the quality of learning and on their wellbeing.

261. Not unpredictably, the cluster of poor and/or late decisions made by the Scottish Government, in spite of EIS submissions, coalesced into a crisis with the January 2021 lockdown. The ACM now had to be delivered in the context of the inaccessibility of school-based assessment evidence and a rapid pivot to remote teaching, learning, and evidence gathering, with completely unrealistic timelines for the submission of provisional results, which were only extended after EIS representations.
262. It was entirely obvious that delivery of the ACM would be an enormous labour-intensive undertaking, which would require other secondary school priorities to be displaced if we were to ensure successful delivery whilst protecting teachers - and indeed the quality of learning at every stage of secondary school - from the adverse impacts of excessive workload. Sadly, this was disregarded: the Scottish Government, incredibly, attempted to push ahead with S3 standardised national assessments until the EIS made forceful representations; many local authorities authorised schools to proceed with early timetable changes in May 2021, at the critical point of the ACM; and the Government's acquiescing to the EIS demand for additional INSET days to support ACM delivery was, for many teachers, too little and too late.
263. In recognition of the additional workload impacts of the ACM, the Scottish Government announced that teachers involved in the ACM would receive a one-off exceptional payment of £400. In a subsequent statement, the First Minister at the time stated that this would be distributed to teachers on a pro-rata basis. This approach, however, failed to recognise the reality of how qualifications-related workload is shared amongst teachers in schools. The EIS heard from members how many part-time teachers – overwhelmingly women workers, many of whom are primary carers – had timetables



consisting entirely or predominantly of certificate classes, and thus had a greater ACM-related workload than some full-time colleagues. Further, we heard from teachers – such as support for learning staff or specialist teachers - who had been deemed not to be involved directly in ACM, yet had actually worked hard to support pupils throughout the process, and to assist colleagues who were directly involved in the ACM. The EIS highlighted these issues to the Scottish Government and to local authorities (which had a role in administering the payment) and argued for an inclusive approach to be taken to the payment; that the ACM was a huge collective effort on the part of secondary teachers, therefore an eligibility for the full payment should be as inclusive as possible. By simply consulting the profession, the Scottish Government would have been alerted to the rather obvious problems inherent in its approach. By failing to consult, not only did the government sow division in schools at a time when maximum unity of purpose was required, it also showed scant regard for equality in respect of overwhelmingly women part-time teachers, and also those teachers who filled in for their colleagues who were doing front-line ACM work.

264. The EIS had to push hard to ensure that the SQA took steps to mitigate inequality amongst young people which the pandemic had exacerbated, with learners from disadvantaged backgrounds having more challenges in accessing remote learning and teaching, and suffering disproportionately from COVID-19-related illness, isolation and bereavement. Fortunately, the 'Incomplete Evidence Contingency' was eventually designed, extending the deadline for provisional results to September. Such equitable provision should have been a primary consideration, rather than an afterthought, for national bodies in response to teachers' pleadings.

### **Education Recovery or Business as Usual?**

265. The EIS AGM, which was held virtually in June 2021 had a clear focus on Education Recovery. The then General Secretary, Larry Flanagan, used this opportunity to urge all politicians of all political parties to stop using education as 'a political football' and to unite behind delivering the resources that teachers and lecturers needed to address the needs of all pupils and students. He said that education recovery needed to be a national effort, focused on the health and wellbeing of children, backed by the investment of resources and the employment of many more teachers on permanent contracts to meet the ambition.
266. On 5 October 2021, the Scottish Government announced its Education Recovery Plan. Despite the pleas at the EIS AGM for meaningful action to support recovery, the EIS could only characterise the Plan as an opportunity missed and called on the Scottish Government to be bolder in its ambitions for children and young people.
267. The plan was, in our view, woefully inadequate in terms of ideas and additionality of resources provided. Vast swathes of the funding listed within it had already been committed through other workstreams and so, had already been allocated to address issues highlighted previously and not specifically for Recovery. It failed to get to the nub of what would impact positively and decisively on children and young people's educational experience: smaller class sizes to enable a strong focus on wellbeing and recovery with individual children and young people in our classrooms; immediate implementation of reduced class contact time for teachers to address the chronic workload and wellbeing issues that teachers were facing and continue to face; dedicated funding to bridge the gap between promise and practice in ASL; and the immediate expansion of free school meals provision to all children and young people. Although the Scottish Government had pledged to provide a digital device to every school

aged child by 2026, the EIS highlighted that this failed to address the issues in terms of digital poverty, fuel poverty, and the digital skills gap.

268. This Education Recovery Plan cited existing policy commitments which the Scottish Government believed would help to contribute to recovery and referenced specifically the abolition of fees for instrumental music tuition and the full rollout of 1,140 hours of high-quality ELC.

269. *Abolition of fees for Instrumental Music Tuition* – whilst the EIS welcomed this policy, it highlighted that it would only have the intended impact on recovery if sufficiently funded. To ensure that access was universally available for all pupils who wished to play a musical instrument, there would require to be substantial investment in Instrumental Music Services, resulting in service expansion. Otherwise, waiting lists would continue to grow or group sizes increase, with the consequential detrimental impact on quality provision. Three years after this announcement and its inclusion in the SNP manifesto, we have yet to see the expansion of Services needed to facilitate free access for all and indeed, the most recent Improvement Service Instrumental Music Services Survey<sup>50</sup> highlights the clear evidence of unmet demand, with significant increases in pupil participation but with IMT numbers lower than they were in 2017/18 and the number of full-time IMTs at their lowest on record. The EIS continues to press the government for implementation of its manifesto commitments in this regard, particularly around mainstreaming and to deliver the investment needed if the positive contribution of Music education which it advocated as part of its Education Recovery Plan is to have the

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<sup>50</sup> Improvement Service Instrumental Music Services Survey, 2023, Instrumental Music Services: Results from the IMS Survey 2023 ([improvementservice.org.uk](https://improvementservice.org.uk))

intended impact on pupils' health and wellbeing, achievements and attainment. Unfortunately, we continue to see prevarication and delay.

270. *Expansion of 1,140 hours of high-quality Early Learning and Childcare* - whilst the expansion of high-quality ELC was cited as another key policy to support recovery, the EIS questioned how this policy objective could be fully realised given the paucity of GTCS registered teachers in ELC settings. The EIS highlighted the need for significant additional investment in the employment of GTCS registered teachers to work alongside colleagues in other roles within ELC. The Improvement Service Report, 'Early Learning and Childcare Expansion Delivery Progress report', published in September 2022, evidences the significant reduction in the number of GTCS registered teachers in ELC settings, with teachers forming only 1% of the local authority ELC workforce as of September 2022. Since 2007, there has been a 58% reduction in the number of nursery teachers employed in ELC settings. Teachers working in ELC settings:

- are the specialists with knowledge of the curriculum and its application, not only in ELC settings but in the primary context;
- have a strong understanding of play pedagogy, its place in learning and development, and model effective practice;
- play a key role in identifying and supporting children who require additional support for learning, in co-ordinating this support and in implementing early intervention strategies;
- act as bridging professionals, supporting transitions at all stages and importantly from nursery into primary 1;

- promote good relationships with parents to foster richer home learning environments as a critical element in interrupting the cycle of poverty; and
- crucially are well equipped to address the social and emotional impact of the pandemic on child development, and to lead trauma informed practice within settings.

271. Against this background and in the context of Recovery, we might have expected to have seen an increase in investment in GTCS registered teachers in ELC but with current Scottish Government policy only pledging 'access to a teacher', what has increasingly emerged across Scotland is an extremely diverse and largely inadequate model of provision. The average nursery teacher to child ratio is 1:109. This can hardly be regarded as meaningful access, particularly in the context of Recovery.

272. The EIS recommended that if the government was committed to this aspect of the Recovery Plan, then it would require a review of the model of provision and the allocation of sufficient resources to ensure that appropriate support from GTCS registered teachers was being provided to address the negative impacts which COVID-19 has had on children in ELC and to support effective transitions to primary school. This would have allowed for more dedicated support to have been provided to our youngest learners who were already at that time displaying distressed behaviour. This has not happened and instead we have continued to see more cuts to the provision of GTCS registered teachers in ELC settings.

273. Despite the efforts of the EIS to influence a more holistic focus on health and wellbeing in the clear evidence of need within the school community, the Scottish Government continued to focus on attainment and existing policy drivers. The gathering of Achievement

of Curriculum for Excellence Levels (ACEL) data and other data gathered for the National Improvement Framework (NIF) signalled the priority afforded to key performativity indicators and the resumption of a 'business as usual' approach. The EIS was disappointed with the focus being placed on narrow attainment data in literacy and numeracy and suggested that instead, the focus ought to have been on the achievement of all children and young people, including those with ASN, to include attainment as appropriate, rather than solely on attainment. In the context of Recovery, regard should have been given to wellbeing principles and a more inclusive ethos adopted, to ensure that the achievements of all children and young people were celebrated.

274. The EIS pointed out the disconnect between this approach and that advocated in the Coronavirus (COVID-19): Curriculum for Excellence in the Recovery Phase guidance, issued only a few months before the Plan's introduction and to which the EIS had contributed as a member of CERG. That guidance had clearly advised that schools should:

- *'prioritise the physical, mental and emotional wellbeing of children and young people, practitioners and families;*
- *recognise that 'children and young people from disadvantaged backgrounds may have faced multiple barriers to learning over the period of the school closures';*
- *'applying the principle of equity, consider how to provide additional and appropriate support where it is most needed in order to maximise engagement with learning and continue the work to close the poverty related attainment gap'.*

275. This approach was echoed in Education Scotland advice also published that year which highlighted that health and wellbeing remained a key

element of the recovery curriculum for young people. The importance of this was clearly stated:

*'We need to be mindful of the impact of COVID-19 on our children and young people, many of whom may have suffered loss and trauma as a result. For all learners a key focus ...needs to be health and wellbeing.'*

276. It went on to state:

*'From the outset of the pandemic, schools and settings adapted their learning and teaching to ensure a strong focus on children's mental health and well-being, and engagement. This continues to apply.'*

277. However, the level of support referenced in these documents and the significant cultural change needed to focus on the holistic wellbeing of children and young people required resourcing which was absent in the government's Education Recovery Plan. Again, we saw the policy ambitions agreed nationally, fall down in implementation through a lack of government ambition and a lack of funding commitment.

278. In our responses to Education Reform consultations over the last four years, the EIS has continued to advocate for a greater focus on the holistic needs of learners as a priority for Education recovery. Despite the government's rhetoric about the importance of parity of esteem across the four capacities of Curriculum for Excellence, the EIS has seen little evidence to demonstrate this commitment in practice. Instead, it continues to witness a system which appears fixated on academic attainment and wedded to high-stakes exams.

279. As recently as 7 March 2024, the EIS called on the Scottish Government to take action, following a debate in the Scottish

Parliament about reform of senior phase qualifications and assessment. We reiterated the need for change to reduce the emphasis on high-stakes exams, to place greater emphasis on continuous assessment, trust in teacher professional judgement and to create sufficient time and space for greater breadth, depth and enjoyment of learning across all areas of the curriculum, and parity of esteem across all learner pathways, together with more equitable outcomes for learners. The Scottish Diploma of Achievement has the potential to deliver this and to make a bold statement that Scotland values much more in education than attainment measured by exam passes. There is a need for the Scottish Government to act and take the bold steps the EIS advocated in 2021.

### **Impact of COVID-19 on key personnel**

#### *General Comments*

280. Before considering the impact of COVID-19 on specific groups of teachers, the EIS would highlight the impact which the last four years have had on the health and wellbeing of *all* teachers. The mental health and wellbeing impacts of the pandemic for teachers, who themselves and whose families, friends and communities have been impacted by COVID-19; and who as professionals, working in our schools to support children and families who have been impacted by the pandemic, inside cramped and insufficiently ventilated buildings with limited mitigations in place, cannot and should not be underestimated.
281. Such was the concern about the wellbeing of staff in school education at the beginning of the pandemic that one of the workstreams of CERG was dedicated to this issue. After CERG was wound up in March 2022, the Cabinet Secretary indicated that the work ongoing to develop a support package for education staff around 'workforce



wellbeing' would continue. This is perhaps unsurprising as the Education Scotland report, *'Workforce Package Evaluation'* (2021-22) painted a grim picture of staff wellbeing at that time, highlighting that teachers and other staff were exhausted and experiencing high levels of burnout through, *inter alia*, excessive workload.

282. Some alarming statements in the report are:

- *'Overall, there seems to be a real desire for cultural change from the participants in the sessions, with a recognition that the system needs to be more attuned to the wellbeing of its members.'*
- *'Additional pressures also began to infiltrate into working life, such as attainment reporting, school inspections, and a general lack of recognition that COVID continues to impact on the day-to-day operation of schools and educational establishments. All of these factors have resulted in a feeling of under-appreciation amongst education staff.'*
- *'Staff health and wellbeing appear to be at an all-time low and this could be critical for the profession.'*

283. The general themes emerging from this document underline the need for additional core investment in education to address the challenges of large class sizes, high levels of class contact and the rising level and complexity of ASN with diminishing resources, all in the context of Recovery.

284. However, whilst the Supporting Workforce Wellbeing Stakeholder Reference Group, which had been tasked with taking this work forward, met over session 2022/23, disappointingly its work was discontinued in August 2023 on the basis of budgetary constraints.

285. This is deeply concerning since the 2023 EIS Member Survey<sup>51</sup> (with over 16,000 respondents) demonstrates that little has changed:

- 72.5% of teachers feel stressed in their job frequently (52.8%) or all of the time (19.7%); and
- 44% of teachers describe their wellbeing at work as poor (34%) or very poor (10%)

286. The wellbeing of teachers and staff in education must be a priority for the Scottish Government as we emerge from the pandemic. OECD and other research highlight the clear correlation between levels of teacher wellbeing and the strength of student outcomes. If schools and teachers are to be supported to lead Education Recovery, to engage meaningfully in Education Reform and to continue the endeavour to reduce the poverty-related achievement and attainment gap, then there needs to be investment in the health and wellbeing of the profession and steps taken to reduce the drivers of ill-health.

287. In addition to these general concerns, the EIS wishes to highlight the impact of the pandemic on specific groups of teachers.

*GTCS-registered teachers in ELC Settings*

288. The EIS had particular concerns about the safety of members working in ELC settings, throughout the pandemic. These settings were often the last to close and the first to reopen and it was apparent from early discussions within the Critical Childcare and Early Learning Childcare Support Group (CCELC), that a different approach was being taken in relation to the mitigation measures to be adopted for staff in these

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<sup>51</sup> EIS membership survey 2023, <https://www.gov.scot/publications/summary-statistics-for-schools-in-scotland-2023/pages/early-learning-and-childcare-elc/>

settings from those available to staff in schools, and indeed, from the advice given to the public in relation to community transmission.

289. We have highlighted some of the key differences between the mitigation measures available to ELC staff and the impact on the risks which we believe they faced.

#### *Physical Distancing*

290. Whilst clear guidance was given that school staff should adhere to two metre physical distancing from pupils and colleagues at all times, the same was not true in the Scottish Government advice for ELC staff. Instead that guidance stated that:

*'it is not appropriate for young children to maintain the models of physical distancing that are suitable for older children, either practically or in terms of child development'.*

291. In numerous submissions to the Scottish Government both orally and in writing, the EIS was clear that if this approach was to be adopted, then alternative public health measures should be put in place to ensure that this staff group had the same level of protection as others working in education. Examples of alternative measures suggested were: the use of face masks; limiting the size of groups; and comprehensive risk assessments to minimise the risk of transmission.

#### *Close Contact*

292. The Scottish Government guidelines gave the EIS further cause for concern as they not only dismissed physical distancing for ELC staff but emphasised that close contact between keyworkers and children was a key aspect of supporting children at this stage:

*'It is important for children to feel secure and receive warmth and physical contact that is appropriate to their needs, in particular when they are receiving personal care, need comforting or reassurance. Keyworkers will need to be close to the children, particularly young children and should feel confident to do so. This includes staff feeling confident to continue to cuddle children in line with their needs.'*

293. The EIS raised its serious concerns about what it regarded as an irresponsible approach, highlighting the disparity between this advice which said that staff could 'cuddle' children and feel confident to do so, in comparison to societal and school guidance. We argued that if the risk of transmission was minimal, then this should be stated with reference being made to the relevant evidence. If the risk were more than minimal, we stated that the mitigations and protections available to other school staff and in society should be available and in place for ELC staff. To address our concerns in this respect, we issued specific Risk Assessment Guidance for Early Years staff<sup>52</sup>, highlighting that risk assessments should consider appropriate risk mitigation measures to minimise the risk of transmission, when such contact was deemed necessary.

#### *Face Masks*

294. The EIS advocated for the use of face masks if staff were coming into close contact with children, but this met with opposition on the basis that this could frighten the children and that it would impede face-to-face communication. In response to these concerns, the EIS highlighted that there was no evidence that children would find face masks frightening, particularly given their prevalence in society more

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<sup>52</sup> The EIS Guidance on Managing Risks of COVID-19 for Early Years Teachers, 7 April 2022

widely at that time. Furthermore, the EIS highlighted the importance, as part of ELC practice, of addressing fears, helping children to understand them and educating them about the importance of certain actions being taken at that time. The EIS also suggested that in teaching children about the importance of safety measures such as face masks, creative approaches could be adopted and fun face masks designed with the children or alternatively, clear visors worn. These arguments were repeatedly met with resistance by colleagues in Education Scotland, Early Years Scotland and the Scottish Government.

295. Ultimately, after the EIS highlighted the importance of staff not only *being* safe but also, of *feeling* safe so that they could engage confidently with the children in their settings, we gained the concession that if staff in ELC settings wished to wear face coverings, then they should be able to do so. Aware that the evident reluctance of adopting this practice would be felt by members, and cognisant of their anxieties, we sought to strengthen the guidance and continued to argue that staff should be *supported* to wear face masks, if they so chose. This principle was ultimately accepted, and the Scottish Government guidance applicable to ELC settings referenced them being 'enabled' to do so. This must be contrasted with the position in schools.

### **Ongoing inconsistencies between Scottish Government Guidance for Schools, Wider Society and for ELC settings**

296. The inconsistencies between the guidance for schools and ELC settings continued over the course of the pandemic and were particularly evident in the revised guidance issued in June 2021. The changes introduced through this guidance must be considered in the context of the approach being adopted to the removal of restrictions in wider society. In the week prior to the draft guidance being issued

for consultation, the First Minister had advocated a cautious approach in the roadmap to recovery and had delayed the move to Level 0, which would have seen a reduction in the number of mandatory mitigation measures in place. Rather than adopt the same cautious approach, the decision was to remove key mitigation measures for ELC settings. The advice from the Scottish Government was that the guidance could be implemented from 5 July 2021 and had to be in place from 19 July 2021. The EIS questioned why this decision had been taken when a more cautious approach would have been to await the review of the scientific and medical evidence on the next review date (19 July 2021) and move to implementation on 9 August 2021, if the data supported this. This would also have been in line with the approach being adopted for schools. However, despite these arguments, the guidance was issued, and mitigations removed in July 2021.

297. The following section highlights some areas where the EIS voiced concerns about the differing approach and the associated increased risk for ELC teachers and staff.

#### *Cohort Sizes*

298. From an early stage, the EIS had argued that the cohort sizes for ELC were too high, with some settings being able to accommodate 33 children in the early stages of the pandemic in comparison to the maximum of 25 pupils for primary 1 (Early level) classes. Concerns were based on the fact that the higher number of children accessing the setting, the more staff required and the greater risk to all; staff, children and families.
299. When the guidance was reviewed in June 2021, Scotland operated a level system. Local authority areas, assessed as Levels 3 and 4, were areas where the infection levels were highest and in those areas, the

guidance retained the cohort size at 33, which the EIS argued was still too high. However, in Levels 1 and 2 areas, the guidance sought to increase capacity to 56 and 48 respectively, despite the fact that in these areas there could still be a high positivity rate and therefore, increased potential for the transmission of the virus.

300. There was also some confusion as some local authorities in the same health board area were applying different mitigations and this contributed to the perception that some were ignoring clinical advice whilst others were adhering to it.
301. Concerns also arose around the arrangements adopted to minimise mixing within ELC settings. Within the overall cohort size, additional arrangements were made to create consistent groupings or 'bubbles' of children. The intention was that staff would be allocated to a 'bubble' and remain with those children and adults throughout the session. However, this proved to be problematic as there were occasions when staffing levels were such that this consistency could not be retained and staff from different groupings had to step in to cover breaks or periods where a staff member had to attend to the needs of a child within the 'bubble'. This opened a potential avenue for transmission of the virus.
302. Given that the staff in these settings did not have the same range of mitigation measures available to them as school staff (or indeed, members of the public), and had not been prioritised for the vaccination programme, the removal of this further mitigation appeared to place staff at increased risk. The EIS highlighted the need for staff to feel safe in their workplace and the potential for increased anxiety as a result of this decision, which could adversely impact staff health and wellbeing.

303. From an educational perspective, the EIS also highlighted that smaller groups would ensure that more dedicated support could be given to young people as part of the route to education recovery.
304. Whilst the EIS's concerns were noted, they ultimately did not effect change in the guidance.

*Specialist and Peripatetic Staff*

305. The same guidance made changes to the cautious approach which had been adopted previously and which sought to consolidate support from specialist and peripatetic staff to one setting, thereby reducing the potential for transmission.
306. The revised guidance in June 2021 allowed visiting specialists to access one setting per day if in a Level 3 and 4 area, whilst there was no upper limit specified for the number of settings which could be accessed in Levels 1 and 2.
307. This marked a significant departure from the prior guidance which recommended that movement between settings be kept to a minimum. The EIS was extremely concerned that in the areas where COVID-19 was at its highest levels, and with the increased transmissibility of new variants of the virus, that specialist and peripatetic staff could move between five settings in one week. The EIS signalled the greater risk which this posed for this group of staff and with the potential for bridges of transmission emerging, also for the staff working in these ELC settings. This appeared to be a significant health risk.
308. The EIS was further concerned that by failing to limit the number of settings which specialist and peripatetic staff could access in one day in Level 1 and 2 areas, staff could visit multiple settings, thereby



opening themselves up to increased risk as well as carrying the virus between settings.

309. The EIS highlighted that the relaxation in these measures did nothing to assuage the concerns and anxiety of ELC staff, particularly in the context of the wider re-opening of society and the increased transmissibility of new variants of concern. However, the guidance remained unchanged.

*Blended Placements<sup>53</sup>*

310. The same guidance also sought to allow blended placements, permitting children to move between settings even in areas designated as Level 3 and 4. The EIS challenged the apparent priority, which appeared to be being given to the resumption of childcare arrangements over what we believed to be essential health and safety considerations. With the potential for bridges of transmission to arise from these placements, we argued that ELC staff were placed at increased risk.

*Last to close and first to re-open*

311. The ELC sector was also treated differently in June 2020 when the decision was taken to re-open schools and settings. On Tuesday, 23 June 2020, the DFM announced that schools would reopen to all pupils, with no social distancing in place, from 11 August 2020. On Wednesday, 24 June 2020, the First Minister announced that all ELC provision would be able to reopen fully from 15 July 2020.

312. As highlighted above, with this announcement being made in the last week of term, there was little time for schools to respond and a

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<sup>53</sup> Blended placements are where children attend more than one ELC setting.

considerable amount of uncertainty and anxiety for schoolteachers, headteachers and depute headteachers.

313. Whilst this position was stressful for school staff, the prospect of opening ELC settings within three weeks of the announcement, heightened the pressures on staff in the sector – against a backdrop of anxiety about the reduced level of mitigation measures which would be available for them.
314. In recognition of members’ concerns and the fact that the virus had not disappeared, the EIS wrote to the CCELC outlining its concerns and highlighting essential mitigation measures which we believed should be in place to protect staff and children. The EIS argued for sufficient time for preparation on the basis of a phased return of children to settings, for the conduct of risk assessments which ought to be completed in conjunction with Trade Unions<sup>54</sup>; for additional inset days for local authority ELC provision to facilitate the transition; for the introduction of all appropriate risk mitigation measures, including revised and upgrading cleaning and hygiene regimes; and for the proactive testing of teachers and other members of the ELC workforce on a voluntary basis. In addition, we highlighted the need for additionality of funding and staffing to be provided to ELC settings to support children living in poverty and who had been further disadvantaged by the impact of COVID-19.
315. The EIS argued that additional resources should have been made available and channelled towards enhanced nurture approaches for these children during the recovery period. To this end, an equity audit should have been conducted and the results acted upon using additional resource as provided by government, as necessary. The EIS also referenced the need for the recruitment of more ELC teachers

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<sup>54</sup> EIS Response to Scottish Government Announcement on the Full Re-opening of ELC Settings – CCELC Sub-Group 26 June 2020 (A Bradley)

and other staff to support the recovery effort, noting that in the case of teachers, NQTs, and supply teachers should be prioritised for this recruitment. As has been highlighted above, the EIS has not seen this critical investment in ELC and continues to see the number of teachers in these settings fall.

316. In light of the significant representations made to the Scottish Government about its decision to re-open schools and ELC settings without physical distancing in place, it sought additional scientific advice and indicated that it would respond with a decision at the end of July 2020. **This meant that schools and settings were planning** in the interim **for both models of re-opening**, resulting in significant workload demand for those involved and huge uncertainty for all.
317. Although the decision was to adhere to two metre physical distancing in schools and ELC settings between adults and between cohorts/'bubbles' of children, the Scottish Government's guidelines clearly continued to dismiss this as a requirement between ELC staff and children.
318. Accordingly, the EIS's Risk Assessment Guidance for Early Years focused on the importance of additional risk mitigation measures being put in place to ensure the safe return to ELC settings for staff and children.

### *Inspections*

319. Unlike the school sector, ELC settings continued to be subject to inspections for a large part of the pandemic. Although there was a temporary hiatus in inspections between March and August 2020, the Care Inspectorate continued to liaise with local authorities and discharge their child protection and complaints functions. In the summer of 2020, however, they announced that, unlike Education

Scotland, they would continue with inspections in the new school year, with much of the process being conducted online. They stated that to enable settings to gather information and support self-reflection, they had developed additional Quality Indicators (QIs), with providers being urged to complete associated documentation, although not required to send it to the Care Inspectorate, as information would be requested on a risk and sampling basis.

320. The Care Inspectorate introduced three new QIs:

- a) the first relating to children’s health and wellbeing, identifying key areas of nurture and support for children and highlighting the importance of effective communication with families;
- b) the second related to training for staff on infection prevention and control in line with COVID-19 guidance; and
- c) the third referenced the ‘need to be responsive to staff wellbeing, promoting resilience while recognising the needs of individual staff members in relation to shielding or family situations’.<sup>55</sup>

321. The EIS questioned the need for these additional QIs with both the Care Inspectorate and the Scottish Government at the CCELC, as the focus of each was already covered by existing Scottish Government guidance or existing practice. The Care Inspectorate sought to justify the resumption of the inspection function on the basis of their responsibility for monitoring the provision of care in Scotland. The Care Inspectorate document,<sup>56</sup> states that the purpose of the

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<sup>55</sup> Operating an early learning and childcare setting (including out of school care and childminders) during Covid-19 (careinspectorate.com)

<sup>56</sup> Operating an early learning and childcare setting (including out of school care and childminders) during Covid-19 (careinspectorate.com)

additional QIs is 'to enable settings to gather information and continually evaluate their progress in supporting staff, children and families to have confidence in the provision of ELC by specifically evidencing how they have implemented the national guidance for COVID-19, while ensuring positive outcomes for children.'

322. The first QI echoed the approach recommended in the Scottish Government Guidance on Education Recovery and in the Refreshed Narrative for Curriculum for Excellence. The EIS was of the view that all ELC settings would have been placing a focus on these aspects as part of their planning arrangements and in line with existing practice.
323. Comprehensive risk assessments ought to have covered infection control, as outlined in the second QI. These risk assessments, which ought to have been completed with input from the trade unions, would have been sufficient to provide documentary evidence that appropriate risk mitigation measures had been identified, implemented and were the subject of ongoing review.
324. Finally, the reference to 'promoting resilience' in the third QI gave rise to some concern as there was the potential for this to be interpreted in a way which did not prioritise the wellbeing of all staff members.
325. With relevant planning documentation and risk assessment paperwork in place, together with arrangements for appropriate review, the EIS questioned the need to introduce these additional Quality Indicators, and in so doing increase the bureaucracy associated with the completion of additional paperwork, particularly at that time. Staff workload, and indeed, anxiety levels, were high. Teachers were adjusting both curriculum and pedagogy to take account of the COVID-19 context, whilst doing their best to ensure

that the environment was both welcoming and nurturing as children settled back into nursery.

326. We were contacted by members, some of them headteachers, raising concerns about the additional pressure which the new QIs and approach to inspection introduced. They advised that the Care Inspectorate was seeking to observe practice in the playroom remotely through the provision of Ipads. The increased levels of bureaucracy and artificial intrusion into the life of the setting served only to increase the anxiety of staff in ELC. We understand that this was part of the inspection process as Care Inspectorate Inspectors could not physically access settings to observe practice. This would form part of the evidence upon which gradings were made. Online engagement is no substitute for face-to-face engagement in any context but even more so, during inspections. We believe that the quality of interaction and relational approaches would be more difficult to capture through online engagement. We have no evidence in relation to the level of gradings from virtual inspections in comparison to those which were formerly in-person. Furthermore, the fact that new QIs were introduced would make such comparison challenging.

327. In line with the 'Time to Tackle Workload' campaign, the EIS advised members to take every opportunity to reduce the bureaucracy of the process. Rather than completing additional paperwork, which may have had no added value to the learning experiences of the children in the setting, the EIS urged members to simply attach copies of plans already completed, demonstrating how learners' needs were being met in terms of health and wellbeing, and by attaching copies of risk assessments to demonstrate the steps taken both in terms of infection prevention and control and staffing arrangements.

*Precarity of GTCS-Registered Teachers in ELC Settings*

328. During the first lockdown, many GTCS-registered teachers who either taught in ELC settings or provided peripatetic support to those settings volunteered to support children and young people in hub schools.
329. When the decision was taken that schools would re-open in August 2020, many did not return to their settings or their previous duties but instead were allocated to schools to support education continuity. Whilst it was understood that this was to be for a short period to assist in covering absences (which remained high as a result of the transmissibility of variants of concern) and Education Recovery, many reported fearing whether they would ever return to ELC settings.
330. Given the significant decline in the number of GTCS-registered teachers in ELC settings over the last ten years, the concern was that local authorities would take this opportunity to further cut provision. In some local authorities, this has happened.
331. This precarity added to the pressure and anxiety which many of our members felt at this time.

*Introduction of 1140 hours*

332. On top of all these concerns, ELC staff were then asked to implement another significant change in relation to provision, moving from the provision of 600 hours of free childcare to 1140 hours. Although implementation had been delayed from 2020 to August 2021, settings were still operating under restrictions and COVID-19 rates remained high.
333. New staff had to be employed to meet the increased demand placed on services. However, there was little time to train them and acquaint them with traditional nursery practice. EIS members continue to advise that the increased workload demands arising from

implementation of the 1140 hours mean that managers and headteachers have little time to devote to the professional learning and training of these staff members, some of whom, through no fault of their own, continue not to fully grasp quality ELC practice.

334. The EIS was clear that ELC staff were and continue to be 'on their knees', overworked, and stressed. The combination of the factors referenced here has created a perfect storm, impacting on the health and wellbeing of staff and the provision available to children.

*Instrumental Music Teachers (IMTs)*

335. IMTs were another group of staff for whom the pandemic posed particular challenges, both in terms of safe delivery of teaching and learning but also in relation to anxiety around security of continued employment.

336. The following paragraphs outline the challenges faced by IMTs:

*Lack of Resources*

337. Like teachers, the immediacy of transition to online learning proved to be problematic for IMTs. In August 2020, the EIS surveyed IMT members and the results of that survey can be found in our Instrumental Music Teachers Survey Report.<sup>57</sup> The survey asked whether local authorities had provided the necessary resources (such as laptops, tablets, external microphones, webcams, internet provision, etc.) to facilitate remote or blended provision. By that time, some five months after lockdown, only 49% of respondents indicated that they had the necessary resources, 51% said that they still did not. The qualitative responses to this question provided deeper

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<sup>57</sup> Instrumental Music Teachers Survey Report, September 2020, Instrumental Music Teacher Survey – September 2020 (eis.org.uk)



insight into the challenges which continued to exist in accessing resources both for IMTs and for pupils.

338. Whilst some members indicated that they had been given laptops, many referenced the fact that they had to use their own IT for scanning, printing and recording. Others indicated that the digital infrastructure was insufficient to support connectivity for live streaming, with members resorting to using their own data or Wi-Fi. In some cases, where staff had not been given access to technology, IMTs had no other option but to use their own devices and as they could not connect to the school Wi-Fi, again personal data allowances were used. Even if the IMT had access to technology and the internet, the issues highlighted above in relation to digital and fuel poverty for children and young people also pertained.

*Variable Access to Professional Learning*

339. IMTs were also asked whether they had been given access to professional learning to enable them to deliver teaching remotely or through a blended approach. Whilst 64% of respondents said that they had, the qualitative comments highlighted the variation across the country. It was apparent that some generic training had been provided in the use of different digital platforms but unfortunately, this had not been specifically designed for the delivery of instrumental music tuition.
340. To bridge this gap, many members had undertaken independent professional learning, focusing on the practical aspect of instrumental music tuition in remote or blended contexts. On a positive note, the comments members made suggest a strong sense of collegiality across the sector, with peer support being provided and opportunities to share good practice. In some areas, IMTs led the way in the roll-out of online learning.

### *Impact on the Working Week*

341. When asked if there had been any adjustments to their working day/week as a consequence of managing the risks of COVID-19, 77% of respondents said there had. Many reported that they were experiencing longer working days and were often delivering teaching after the school day had finished. Some were providing face-to-face lessons in schools, where this was permitted, and in addition, preparing video lessons for those schools which had moved to blended or remote delivery, following risk assessments.
342. IMTs, who were providing tuition in voice, brass, and wind instruments, also reported that they were preparing video recordings for their pupils and reviewing recordings of their pupils playing at home, as a result of the prohibition to sing or play these instruments in school. In some cases, no additional time had been allocated for these activities with the workload proving to be unsustainable on this basis.
343. A small sample of qualitative comments made are as follows:

*'I have to now teach primary pupils in a live video setting after school times, this has extended my normal working times. I am still doing tuition lessons for secondary pupils in school all day.'*

*'I am having to do a lot more work in the evenings at home as I can't sing in school. Any recordings I need to do for pupils have to be done at home. This is after seeing the pupils face to face in school but not being able to sing in school. Much longer working days without being allowed any time out of school. Not sustainable long-term but I'm doing my best for my pupils.'*

*'Have six schools, can only visit two. Home working, new IT skills, but platform provided for video lessons is untested and problematic. Increased dependence on IT is having a detrimental effect upon social equity.'*

*Ever Changing Scottish Government Guidance*

344. The constant changes in the arrangements for the delivery of instrumental music tuition was another factor which proved to be stressful as IMTs attempted to adapt to the challenges of managing the risks of COVID-19.
345. Even when risk assessments were conducted, members referred to the apparent inconsistency in approach being adopted by local authorities in implementing the Scottish Government guidance. This was a significant cause of frustration and concern in terms of equity of provision and access to education for many learners; as well as reducing health and safety of staff to a postcode lottery.
346. Members raised concerns about a lack of ventilation in rooms allocated for instrumental music tuition, noting that they were often too small to accommodate physical distancing effectively. The pandemic highlighted ongoing and persistent risks to the health of IMTs, who had been teaching, and continue to teach, in poorly ventilated and ill-equipped spaces. Some members were advised that they would have to use the dining hall for lessons, as this was the only space big enough and available to provide tuition safely. Whilst allowing tuition to continue, these spaces too were not conducive to quality learning and teaching.

*Support to ensure continuity of instrumental music tuition for pupils from the most disadvantaged backgrounds*

347. Over 61% of respondents said that arrangements had not been put in place to ensure that children from the most disadvantaged backgrounds could continue with instrumental music lessons. The inequity of access to provision was highlighted by many members.

*'Unsure how disadvantaged primary school children especially will be able to access video lessons at home this term. Many of them had issues accessing Glow/Teams at the start of lockdown and throughout the summer and no new arrangements have been made for them as far as I am aware.'*

*'Kids access to Wi-Fi and iPads is currently a bit of a postcode lottery. Many schools still haven't issued pupils their iPads and are saying that they may not receive them until January 2021. In my experience, these tend to be predominantly in schools in high SIMD areas.'*

#### *Anxiety about the future of instrumental music tuition*

348. The qualitative comments made by members at the end of the survey highlighted the level of anxiety which IMTs felt around the ongoing provision of instrumental music tuition. Members were fearful that the inability to provide direct face-to-face teaching would impact on the continued participation of children and young people in tuition. This, in conjunction with the barriers which charging of fees at that time presented, heightened existing concerns around the future of instrumental music tuition in Scotland's schools and also, about job security for IMTs. These concerns, added to increases in workload and the anxiety about returning to schools in the context of the pandemic, highlight the significant stress which IMTs were facing and the potential impact on their physical, emotional, and mental health at that time and now.

### *Anxiety for students sitting SQA examinations*

349. On the re-opening of schools in August 2020 and with the prohibition on singing and playing brass and wind instruments, many IMTs expressed their anxiety about the impact which the delay in the provision of tuition would have on those pupils expected to complete SQA practical assessments, ordinarily scheduled to take place in February 2021. IMTs across the country were concerned about the time available to prepare young people for this diet and the potential impact of this on outcomes for them. IMTs were so concerned that some IMTs themselves advocated a return to face-to-face tuition, despite the risks cited.

### *Low Morale*

350. It was clear from the survey of IMTs that morale was low, with members feeling devalued and that the significant contribution which Instrumental Music Tuition makes to the health and wellbeing of children and young people was being overlooked.

351. Although, early in the pandemic, the Scottish Government cited evidence about the increased risk of transmission from the air particles generated from singing, and playing brass and wind instruments, members repeatedly asked for a review of the evidence as more was being learned about COVID-19. However, when the EIS raised this at CERG, it received no answers and no updated information.

352. Members noted the obvious tension between the apparent lack of priority which the Scottish Government gave to commissioning further research in this area and the well reported beneficial impact of Music on health and wellbeing and on achievement and attainment more generally. Little regard appeared to be being given to the fact that some members could only provide tuition outdoors and then, only if

mitigation measures, such as shorter lessons and physical distancing requirements were in place.

#### *Impact on Teachers of Expressive Arts and Science and Technology*

353. Many of the challenges and frustrations highlighted for IMTs in relation to Scottish Government guidelines and their impact on pedagogy and the ability to deliver learning and teaching were also experienced by teachers of the Expressive Arts (Drama, Art, and Dance), of Physical Education (PE) and of Science and Technology.

354. Practical 'hands on' learning activities, experiments, and investigations could not continue on the same basis as they had pre-pandemic and teachers had to adapt some aspects of their pedagogy to these activities in the interests of safety. This had an impact on workload and on the length of the school/working day, with many activities taking longer, from planning to take account of any obstacles, setting up equipment, delivery and clearing up and cleaning equipment after use. In our Curriculum and Pedagogy Guidance,<sup>58</sup> the EIS advised members to consider carefully which practical activities were possible, highlighting the Scottish Government guidelines in relation to *encouraging* physical distancing between pupils.

#### *Science and Technology*

355. Throughout the pandemic and particularly after the emergence of Omicron, which proved to be more transmissible, the advice produced by registered charity SSERC promoted a cautious approach to practical activities in science and technology, acknowledging the importance of maximising physical distancing and highlighting that activities involving blowing (e.g. peak-flow meters) should not be

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<sup>58</sup> EIS Guidance for Special Education (Primary) Members on Education Recovery: Curriculum and Pedagogy, Updated April 2022

carried out in the classroom. Teachers in these areas had to consider innovative and creative ways in which they could seek to deliver the curriculum whilst keeping themselves and learners safe. The SSERC advice was helpful as it provided practical advice and contained a list of Frequently Asked Questions for teachers who may have been worrying about what they could or could not do. It also provided links to suggested resources. Nevertheless, the workload implications of delivering teaching and learning in these areas was significant, as was the anxiety about the risk of infection.

*P.E.*

356. Similarly for P.E., the advice was subject to constant review and change throughout the pandemic. Indoor P.E. was not possible for a long period, given the heightened nature of transmission from the activities involved and the increased risk of airborne particles in confined spaces. When delivery was restricted to outdoors, additional considerations had to be given to the weather conditions, to the clothing which children and young people might need, and to the type of equipment which could be used safely and cleaned between use. Given the importance of minimising physical distancing between pupils where possible, the emphasis was on non-contact sports. Understandably, this influenced the manner in which the curriculum could be delivered practically over this period and undoubtedly added to the workload and stress of P.E. teachers, who were constantly seeking to tailor their delivery to meet pupils' needs safely.
357. When Scotland moved to the Levels system, this added to the complexity of delivery as the restrictions varied between areas. Therefore, P.E. teachers not only had to be aware of the general restrictions in place but also of the specific mitigations for the area in which the school was located.

358. Although P.E. could continue indoors after Omicron, Education Scotland advice emphasised the importance of caution and for regular reviews of risk assessments. It stated:

*'the greater transmissibility of the current dominant variants of the virus means that ongoing vigilance is required to minimise the opportunities for spread.'*

It went on:

*'in preventing aerosol transmission, physical distancing and ventilation remain important mitigation measures. For all physical education, particular attention should be paid to ensuring effective ventilation, good hygiene and sanitising equipment'.*

359. Specific consideration also had to be given to how the risk of transmission could be managed safely in changing rooms, with particular regard being given to the cleaning of surfaces after use, and ventilation.

360. The additional planning and cleaning of equipment added considerably to the workload of P.E. teachers and the length of their working day.

#### *Home Economics*

361. Similarly, there was a key focus on planning and hygiene in the delivery of practical lessons in Home Economics. Education Scotland guidance provided practical advice in relation to arrangements for the purchase, storage, and handling of food items and the need for enhanced hygiene measures for equipment and resources to avoid vectors of transmission.



362. Where teacher demonstrations were necessary, they had to take place from behind a Perspex screen or alternatively, through the use of technology, such as data projectors, digital cameras or visualisers.
363. Additional consideration also had to be given to the planning of practical activities for young people with ASN, with risk assessments being conducted where there was a need for staff to be in close proximity of the learner.
364. Even arrangements for the safe collection of food by young people at the end of the school day had to be carefully planned to ensure that the movement of young people in corridors was minimised.
365. The lack of auxiliary support for teachers of Home Economics, which had been a significant issue pre-pandemic, was intensified over this period as a result of the additional safety mitigations, associated with COVID-19. Home Economic teachers have long cited the importance of auxiliary support in terms of ensuring compliance with key legislative requirements under food safety, infection control, hygiene, and health and safety. Against this backdrop, the importance of this role became even more critical. However, despite this, many Home Economic teachers received no or little support in ensuring that safety mitigations around practical lessons were in place.
366. They were then faced with the dilemma of reducing the number of practical lessons taught, thereby curtailing and diluting depth and enjoyment of learning or having to strive to undertake these additional duties themselves, using their non-contact time to do so and foregoing breaks and lunchtimes in the process.
367. Furthermore, if non-contact time was used to set up practical lessons and complete what should be auxiliary duties, marking, preparation, assessment and reporting – all essential elements of a teacher’s role – were, consequently, being undertaken out with contracted hours.

368. It is unsurprising, therefore, that Home Economics teachers felt that they had to choose, on a daily basis, between meeting learners' needs on the one hand and their own health and wellbeing and family life, on the other. The physical nature of the tasks, long hours, and the mental pressures of dealing with relentless, excessive workload, and health and safety requirements linked to COVID-19 took their toll on the health and wellbeing of Home Economic teachers. Members reported burn-out and feeling exhausted.

369. In the absence of dedicated auxiliary support to assist with vital set up and cleaning arrangements, Home Economics teachers ended up feeling isolated and undervalued. Little has changed to date.

*Drama, Dance and Art and Design*

370. Throughout the pandemic, caution was urged in teaching the Expressive Arts, with Education Scotland guidance the subject of ongoing review and revision.

371. Risk assessments had to be conducted regularly to ensure that appropriate mitigations were in place, with an emphasis placed on ventilation, enhanced cleaning regimes and group sizes.

372. Time had to be built into lessons for cleaning and hygiene, altering the nature of the activities which could be delivered. This added to the workload of these teachers also.

*Impact on Headteachers and Depute Headteachers (HTs/ DHTs)*

373. The period immediately prior to school closures in March 2020 provided a foretaste for school leaders of what was to come. In the absence of clear direction from the Scottish Government, increasing numbers of children and young people were being withdrawn from school by parents. As highlighted above, the announcement of school

closures on the 16 March 2020 threw schools into a state of uncertainty and fear. The announcement itself was completely unclear in terms of expectations of teachers to attend work, and, in the absence of clear guidance, it was left to HTs – sometimes supported by local authorities, sometimes not – to make arrangements for vulnerable staff, and to field questions from desperate parents and learners around issues such as qualifications and ASN.

374. The following paragraphs outline the issues arising for HTs and DHT members:

*Move to Online Teaching*

375. The pivot to online learning and working was a major challenge for school leaders. The shortcomings in digital infrastructure, connectivity, and equity had long been a source of concern for schools, but the initial period of lockdown from March-June 2020 exposed the paucity of provision. It became clear that, in many areas, local authorities had been reliant on teachers using their own personal devices or school-based devices for school business. This hindered the ability of school leaders in some cases to quickly pull staff together in online meetings and to make a timeous start on developing online support for pupils, particularly for the most vulnerable and disadvantaged, who evidently faced the greatest barriers to access. Such issues presented themselves with greater force in the scaling-up to online learning and working in session 2020-21. Whilst digital provision for learners was well-established in some local authorities, the picture painted by school leaders suggests that in general it was not. Some local authorities were slow to respond, and even where provision of devices was well-established, lack of connectivity, particularly for the most disadvantaged learners, remained problematic.

### *Lack of Notice over Key Decisions*

376. School leaders have highlighted the pressures placed upon them by the frequent and sudden changes to official guidance. The announcement on 21 May 2020 by Scottish Government that schools would re-open in August 2020, using a blended-learning model, placed huge demands on school leadership teams. In most local authority areas, this provided approximately five weeks for HTs to implement a contingency for which there appeared to be no local or central planning, and for which they were not trained or anywhere near adequately resourced.
377. Nonetheless, HTs and DHTs recognised that the announcement provided a degree of certainty to staff, parents and learners, and that whilst the lead-in period was extremely tight, with official guidance on blended learning only issued on the 5 June 2020, a collaborative approach, supported and resourced by local authorities, could deliver a workable blended-learning model. HTs report that this period was one of intense activity: timetables had to be constructed; digital hardware had to be sourced and distributed; professional learning for staff had to be arranged; and practicalities such as well-being support, school meals and transport had to be planned for. Therefore, the announcement by the DFM on 23 June - in most councils, the second-last day of term - that schools would open on a full-time basis from August 2020, was greeted with surprise, confusion and exasperation by school leaders. Not only did this mean that the mountain of work overtaken by leadership teams in the previous month was in vain, it allowed virtually no time to devise and implement plans for the full return of schools in August. There was a clear – but unacknowledged – assumption on the part of local and central government that HTs and senior management teams were required to sacrifice the greater part, if not all, of their annual leave

to ensure school buildings, staff, families and learners, were prepared in line with the as-yet-unpublished guidance (which was only outlined on 16 July 2020, and not published in any comprehensive detail until 30 July 2020, in the middle of the school holidays). The lack of a clear rationale underpinning the government's abrupt volte-face, fed suspicions from staff and parents that this was a political decision motivated to assuage lobbyists who wished a return to 'normal'. Thus, school leaders had to contend with, amid other challenges, a great deal of fearfulness and scepticism across school communities.

378. The pressure on school leaders only intensified with the full reopening of schools in August 2020. Within four weeks of reopening, the EIS HT/DHT Network reported that school management teams, without a real break since before lockdown, were facing 'burnout' due to 'excessive' and 'unsustainable' workload demands. Whilst the full reopening of schools presented a veneer of normality, the logistics involved placed an extraordinary pressure on school leaders. Chief amongst the challenges were configuring timetables, class groupings and physical layouts of classrooms and communal areas to ensure alignment with the constantly changing government guidelines. HTs report that such guidance was often deliberately ambiguous. For example, it stated:

*'schools are encouraged to maintain children in consistent groups throughout the day wherever possible... As a precautionary approach, secondary schools should encourage distancing where possible between young people, particularly in the senior phase. There does not have to be strict adherence to 2m physical distancing. Importantly, schools should ensure that the particular approaches adopted...do not*

*introduce capacity constraints and/or prevent a return to full-time learning in school.'* (emphasis added)

379. Far from empowering school leaders to take a precautionary approach in balancing education with health and safety, it placed school leaders in the invidious position of interpreting guidance to ensure that schools conformed to the expectations of local authorities and government to remain open. This pressure was most evident in the prescribed physical distancing guidance for teachers and other adults in schools, which, by common consent, was literally impossible in a number of contexts throughout the period of restrictions. HTs readily agree that the re-opening of schools was necessarily predicated on robust risk assessment procedures; however, the volume of risk assessments – one EIS HT member stated that he completed thirty risk assessments in one week prior to the return – their scope and diversity, was overwhelming for HTs. To place such a burden on individual senior leaders – in many cases without adequate support from the local authority, was unacceptable, and in and of itself, created a serious risk to health.

*Pupil, Wellbeing, Equity and Equality*

380. The profound shock of the pandemic to the education system exposed the glaring inequity which continues to blight the lives of many learners, and highlighted the vital role schools play in mitigating such disadvantage. It underlined also the pivotal role of HTs and DHTs as leaders of learning and safe-guarders of wellbeing, as the lead professionals in empowered teams of teachers in navigating the disruption and steering school communities towards recovery. Unfortunately, many senior leaders report that their experience of school re-opening was one of being swamped by a flood of other roles and priorities, with leadership of learning and stewardship of wellbeing being lost in the deluge.

### *Staffing and Workload*

381. Whilst senior leadership teams are accustomed to dealing with teacher shortages on a regular basis – particularly given the propensity of councils, in recent years, to restrict permanent contracts and to expect schools to provide a maximum amount of internal absence cover – the rise in teacher absences from August 2020 onwards, due to COVID-19 and self-isolation, presented immense pressures in terms of sourcing additional staff, or in re-directing and re-shaping extant staffing to ensure continuity of learning and teaching. Indeed, EIS HT/DHT Network members stated that, increasingly, they had to adopt an HR and indeed public-health role beyond their core remit. The operation of contact-tracing at school level largely fell on senior leaders, and occupied much of the working day as well as evenings and weekends. Frequently, the detection of positive cases linked to schools could trigger a number of staff absences with no notice; and outbreaks of COVID-19 could result in whole classes or establishments being closed, with HTs often having to handle communications with the school community and make provision for the continuity of teaching and learning. Senior leaders report that, from August 2020 onwards, they were, essentially, 'on call' 24-hours per day, with variable levels of support from local authorities. The intensity of such workload itself was an evident driver of work-related stress; but the mental toll on school leaders, who recognised that such demands were drawing them away from their prime responsibilities of leading learning and wellbeing across the school community, cannot be overstated.
382. HTs and DHTs were particularly dispirited and frustrated by the Scottish Government's refusal to switch to remote learning in the last school week of December 2020. In the context of an increasing viral threat in schools, a slightly earlier closure of school buildings would

have provided an added protection for learners, staff and their families. This was especially galling for school leaders who – having already given up much of their summer holidays, and worked evenings and weekends to manage COVID-19 cases, and who, by the nature of their role, were among those most exposed to multiple contacts - faced the prospect of their festive holidays being interrupted to support contact tracing procedures for late-identified cases. Moreover, the switch to remote learning, eventually announced on 4 January 2021 appeared to vindicate the protestations of HTs in respect of a pre-Christmas switch to online learning, and again fed the suspicion that the timing of such decisions was motivated by political optics.

#### *Health and Safety in the School Community*

383. In the course of the pandemic, rules around mitigations, isolation and testing became increasingly complex and subject to change. Often it was left to HTs to explain, interpret, and adjudicate, often in the context of unclear or contradictory guidance, or guidance which was very nuanced with exceptions and qualifications. This created insecurity, anxiety and, at times, conflict. Examples include the introduction of the NHS COVID-19 app where some HTs had been advised by local authorities to countermand some notifications; guidance in relation to pregnancy risk assessment which appeared to afford enhanced protection for pregnant teachers but which in reality afforded little of substance; and the completely confusing guidance around when staff should cease self-isolation, especially in the latter stages of the pandemic.
384. The pressure fell on school leaders during the pandemic to support staff, pupils and their families, as they coped with ill-health, loss, bereavement and trauma, often at a cost to their own health and wellbeing. And whilst the challenges may have changed, the impact



of Covid continues to be felt in Scottish schools. The pressure on HTs and DHTs has not dissipated, and school leaders continue, with no additional resourcing, but rather in the face of cuts to staffing levels and rising levels of ASN, to seek to provide the ongoing support which school staff, children, young people and their families need. They too need to be supported.

*Impact on Additional Support for Learning Teachers*

385. Additional Support for Learning (ASL) teachers, whether they were in hub schools during periods of lockdown, mainstream settings, ASN bases, or Special schools were under significant stress during the pandemic, not only worrying about the wellbeing of their pupils but also managing the heightened risk they faced on a daily basis of contracting COVID-19 in their workplace.
386. From the early stages of the pandemic, it became apparent that the risk of contracting COVID-19 was higher for Additional Support for Learning (ASL) teachers given the range and type of interaction they had with the children and young people in their classes. Depending on the nature and complexity of needs, ASL teachers would have had to come into physical contact with pupils when providing intimate care; physical support to complete essential tasks; and emotional support to provide comfort and reassurance, where appropriate. This level of contact for some was necessary for delivery of inclusive pedagogy. In other situations, learner behaviours, such as shouting out or spitting, may have resulted in an increased risk of airborne particles or droplet transmission in class settings. Despite the evident risks, many ASL teachers, being cognisant of the vulnerabilities of their pupils and the impact of lockdown on their health and wellbeing, wanted to deliver face-to-face teaching in schools.

387. Given the increased level of risk, the EIS advice, set out in our Curriculum and Pedagogy Guidance, was that there should be bespoke risk assessments, which were regularly reviewed, to ensure that appropriate supports were in place for the pupils involved and also in identifying the necessary mitigation measures required for staff, who for various reasons may not have been able to maintain physical distancing arrangements. The EIS recommended that consideration was given to smaller class sizes, to the allocation of additional staffing and resources and the use of face coverings (or PPE and other protective barrier measures, where deemed necessary).
388. However, as highlighted above, despite these recommendations, the reality of implementation was challenging in practice. ASL teachers were concerned about the lack of provision of PPE and the inconsistency in the implementation of mitigation measures.
389. Even where mitigations were in place, these proved to be extremely difficult to manage in practice. Physical distancing was not possible for many children and young people with ASN, even when distance markers were in place. Members of the EIS ASN Network have highlighted that physical distancing was easier to support and maintain in the earlier stages of the pandemic when class sizes were smaller and there were fewer children in the classroom. However, as class sizes increased, this became more problematic. They have also observed that behaviour was much better when class sizes were smaller.
390. Face masks, which were recommended as a key mitigation measure when coming into close contact with pupils, presented their own challenges. Many pupils with ASN would not tolerate their use and became distressed or anxious on occasions when they were worn, with the resultant impact on behaviour. This meant that in practice,

teachers would balance the impact on the child of wearing a face mask with the risk posed to their health if they did not. Members of our ASN Network reported feeling conflicted. They worried about the risk of taking the virus home, following their interaction with the children. However, they also worried about the child becoming distressed and anxious if they followed the recommended advice. In addition, teachers were concerned about the potential of taking the virus from home into school. With many children with ASN having underlying health conditions, they were anxious about the impact of transmission on vulnerable children and on their families. This anxiety was something they carried with them throughout the pandemic and was heightened in periods in which the virus was more prevalent in the community.

391. Efforts were also made to minimise the spread of the virus by keeping groups of pupils in 'bubbles' and by restricting movement around the school. In some schools, this resulted in classes remaining with their teacher in the same class for the duration of the school day, with lunch being brought to the classroom. This meant that ASL teachers could not seek the support of other colleagues over break or lunch periods and many reported feeling isolated and anxious.
392. Furthermore, the supports which pre-COVID, such as engagement with health visitors, speech and language therapists, social work and mental health services, would have been available from partner agencies were largely unavailable over this time, as most agencies were operating reduced workloads and where there were staff, they were working from home. This had a significant impact on the workload of teachers as many essential interventions which would be recommended as part of GIRFEC planning, fell on ASL teachers to implement. Even now, many services have not fully returned to capacity and the waiting lists to provide support for children and

young people continue to grow, with teachers still filling the gap in provision.

393. The changes to the Scottish Government guidelines were a further source of anxiety for this group of teachers. They had to continually review their practice to ensure that they were complying, as best they could, with the latest safety advice. With continuity and routine being important for many young people with ASN, changes brought another level of anxiety. Teachers were aware of this and would have had to manage the introduction of new processes with due consideration to the needs of the learners. Having to do this on an ongoing basis added to the pressures which ASL teachers felt. As one member of our ASN Network highlighted, it is important to stay calm in an ASN setting, otherwise the children and young people will detect that something is wrong, and this can impact on behaviour. The ever-changing guidance did nothing to assist teachers in their endeavour to maintain a stable and calm atmosphere.

394. All these factors had, and continue to have, a significant impact on the mental and physical wellbeing of ASL teachers. The isolation and pressure of having to make key decisions around their health and that of their pupils on a daily basis has taken its toll. Reports from the ASN Network suggest that the impact of this period is still being felt today, with many ASL teachers off work with Long Covid or having returned with significant adjustments in place to support them in the classroom.

#### *Impact on Student Teachers*

395. The pandemic was a time of increased anxiety for student teachers, who not only had to cope with the pressures of completing teaching training, but in addition had to deal with the uncertainty of navigating the course in uncharted territory. Teachers who were mentors and

lecturers delivering the course had not encountered this situation and were themselves having to respond to the challenges of remote delivery and what this meant for key elements of the teaching qualification.

396. Early advice from the GTCS and the Scottish Council of Deans of Education ('SCDE') on 16 March 2020, prior to the decision by the Scottish Government to close schools, was helpful in easing some of the anxiety which many student teachers had about the ability to complete their course in academic session 2019/20. The contingency advice published at that time made it clear that all Initial Teacher Education (ITE) placements would end that day for the remainder of the academic session. The joint statement stated that '*alternative methods of programme delivery*' had been designed '*to provide clarity and consistency to students, and to reduce the burden on schools and teachers*'.
397. This pragmatic approach was helpful in allaying some of the fears of student teachers and those of in-school mentors about the way forward, providing welcome reassurance that student teachers could still graduate if the professional practice they had undertaken to that date was assessed as satisfactory. A whole range of evidence could be drawn upon to make this assessment. Where insufficient progress had been made, retrieval placements would be arranged in session 2020/21. This proactive and sensitive approach adopted by GTCS and the SCDE is in stark contrast to the delay outlined above by the Scottish Government and COSLA around decisions about school closures.
398. When it became evident through the work of the CERG Sub-Groups that planning was underway for the re-opening of schools, GTCS, SCDE, the Association of Directors of Education in Scotland (ADES) and the Student Placement Management Group (SPMG) worked

together to produce guidance for Teacher Education Institutions (TEIs) in Scotland. It was recognised that long established practices and the balance of Initial Teacher Education (ITE) courses would have to be reviewed in light of the challenges facing schools as they re-opened.

399. Recognising the difficulties of having student teachers physically present in schools to undertake direct teaching, the requirements for school placements was altered for session 2020/21. Guidance on Student Teacher Professional Placements for TEIs in Scotland was published on 29 June 2020. This advice, jointly published by ADES, GTCS, SCDE and SPMG, covered the period between August and December 2020, reflecting the uncertainty of the future trajectory of the virus. The number of direct classroom teaching days was reduced from 90 to 50 days, representing 55% of the time ordinarily allocated to school placements.
400. In terms of assessment of final placements, whilst the requirement for two observations of teaching remained in the guidance published in June 2020, there was provision for one to be online if direct observation was not possible. However, recognising that there was a need for greater flexibility, this was ultimately reviewed and in the Protocol issued on 5 October 2020, different approaches to assessment evidence were outlined. In addition to providing for enhanced support for student teachers, the advice highlighted that one observation was required for that academic year only provided it was supported by professional dialogue with the in-school mentor or the student teacher themselves, and sufficient evidence from an electronic teaching file. It was clear, however, that whilst the person observing the lesson could do so remotely, the observation had to be of the student teacher's 'in-person' teaching and not remote delivery of a lesson.

401. Despite these alternative assessment arrangements, it was acknowledged that some student teachers may still have found completion of the course challenging and so, provision was also made for extension and retrieval placements. Such was the anticipated need for these placements, that further guidance issued in February 2021 indicated that student placements for the new cohort of students in 2021/22 should not be scheduled until October 2021. This would allow the period between August and October for extension and retrieval placements to be undertaken.
402. This advice was subject to ongoing review and sought to balance the reality of supporting student placements with the health risks associated with having too many adults in a classroom, making practical recommendations in light of this. Regular updates and alterations to reflect the rising levels of COVID-19 provided clarity and reassurance for student teachers, as well as for teachers in school who were asked to support them. It provided a point of reference for those seeking clarity on a particular point and may have helped to ease some of the anxieties arising from the requirement to attend schools in person.
403. Despite clarity in terms of the process, the reality of having to undertake ITE over this period was undoubtedly stressful for the students in these cohorts. In addition to having to adhere to all the Covid mitigation measures, student teachers had to be able to adjust between face-to-face delivery and online provision. In the early stages of the pandemic, teachers who would have been mentoring the student teachers were, as we have highlighted, already dealing with increased levels of stress and workload and adjusting themselves to online delivery. Trying to provide the appropriate support to student teachers must, therefore, have been a challenging situation for both.

404. Recognising these challenges, the EIS provided webinars to support student teachers, with opportunities for question and answer sessions embedded. These sessions were well-received by members.

*Impact on Probationer Teachers*<sup>59</sup>

405. Early in the pandemic, concerns were raised about the impact of COVID-19 on probationer teachers completing the Teacher Induction Scheme (TIS). It became apparent that if a probationer was absent from work as a result of contracting COVID-19 or through compliance with the self-isolation rules, then this may result in them not being able to complete the required number of teaching days to meet the requirements of the TIS. The same was true for those on the Flexible Route.<sup>60</sup>

406. In a similar way to student teachers, GTCS and SCDE acted precipitously in issuing advice for probationer teachers. On 16 March 2020, a statement was issued indicating that due to the unprecedented circumstances, GTCS had revised the minimum requirement for 2019/20 only, to ensure that probationers were not disadvantaged by any absence or potential school closures as a result of COVID-19. It went on to state that GTCS would accept 140 satisfactorily completed

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<sup>59</sup> All newly qualified teachers in Scotland must complete a period of probationary service to show that they meet the GTCS Standard for Full Registration. Those undertaking this probationary service are known as 'probationer teachers'. There are two routes available to complete this probationary service: (i) Teacher Induction Scheme (TIS); (ii) the Flexible Route. The TIS provides a guaranteed 1-year full-time training post in a local authority to every eligible student graduating with a teaching qualification from one of Scotland's Higher Education Institutions.

<sup>60</sup> The Flexible Route is a way to complete probationary service for teachers who:

- Have decided to opt of TIS;
- Are not eligible to join TIS;
- Want the flexibility of working part-time;
- Want to complete their probationary period somewhere other than a Scottish local authority school;
- Already hold Full Registration in on or more subject(s)/sectors and are looking to gain Professional Registration in an additional subject.



days for Teacher Inductions Scheme (TIS) probationers and 200 satisfactorily completed days for Flexible Route probationers.

407. This guidance provided clarity and reassurance for those probationers who were in the final stages of the induction scheme. It ought also to have provided a ready source of new teachers to assist with Education Recovery. However, despite the EIS's submissions, the Scottish Government did not respond by making teachers in this cohort permanent and many were advised on the completion of their induction year that there were no jobs for them, this despite the fact that retired teachers were being contacted and asked to return to work.
408. Responding to the challenges which these teachers faced, the EIS provided ongoing support and advice at this time, through webinars.
409. It was acknowledged that probationer teachers completing their induction year during the pandemic may need additional support in the early phase of their career, given the unusual circumstances and the hybrid nature of provision in the subsequent year.
410. Piloted in 2022, the Stepping Stones Programme was developed by Education Scotland, GTCS, and Columba 1400 to signpost professional learning for Early Career Teachers and to support their wellbeing. Work is ongoing to explore how the national Stepping Stones initiative can be delivered at a local level.
411. Work is also underway at the Strategic Board of Teacher Education to consider how support for Early Careers Teachers can be amplified to address recruitment and retention issues.
412. Precarity of contract, however, continues to be a major driver of stress and key factor in many Early Career Teachers leaving the profession. Statistics show that by September 2023, just 17% of Primary

teachers who had completed the TIS in the previous year had secured permanent jobs – either full-time or part-time. This is down from 20% in 2022 and from 58% in 2017.

413. Despite the challenges of having completed their training during the pandemic, it is concerning that these teachers feel that they have no other option but to leave the profession, whether as a result of precarity of contract, under-resourcing or workload pressures. The EIS continues to campaign against precarity for Newly Qualified Teachers and to encourage the Scottish Government to deliver on its manifesto commitment to recruit 3,500 additional teachers.

*Impact on Teachers with Protected Characteristics*

414. Early in the pandemic, the EIS stressed the importance of specific advice around protection of BAME teachers and the disproportionate impact on women workers overrepresented in frontline roles such as education hubs and in ELC settings. The EIS's response to the *September 2020 Equality and Human Rights Committee's Call for Views on the Equality Impact of COVID-19 and lockdown*<sup>61</sup> also spoke to some groups being at higher risks of isolation due to lockdown (such as people with disabilities, older people, those with mental health conditions and LGBT people). In addition, it highlighted that the pandemic had delayed important equality-related progress such as anti-racist education, LGBT inclusive education and tackling poverty.

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<sup>61</sup> The EIS's response to the September 2020 Equality and Human Rights Committee's Call for Views on the Equality Impact of COVID-19 and lockdown, September 2020, [https://yourviews.parliament.scot/session-5/impact-covid-19-pandemic-equalities-human-rights/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&\\_q\\_\\_text=EIS&uuld=107942979](https://yourviews.parliament.scot/session-5/impact-covid-19-pandemic-equalities-human-rights/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=EIS&uuld=107942979)

415. The EIS's response to the February 2023 *The Economy and Fair Work Committee: Call for Views on the Disabled Employment Gap Inquiry*<sup>62</sup> emphasised that the pandemic and successive lockdowns had had a hugely disproportionate impact on disabled people's health and livelihoods; that COVID-19 related safety and workplace issues continued to impact disabled people's equitable access to Fair Work; and that emergency responses to the pandemic had failed to take disabled people's needs into account. It also highlighted that for many workers, including teachers, their working environment had put them at greater risk of contracting COVID-19. We argued therefore that COVID-19 should be considered as an industrial injury or occupational disease. In terms of Long Covid, the paper referenced the fact that repeated exposure may be a significant risk factor in developing this condition, and so, could disproportionately impact disabled people. We have since passed policy supporting the campaign to have Long Covid recognised as an automatic disability under the Equality Act 2010.

416. The following sections outline the specific impact which we believe that the pandemic had on members with protected characteristics:

*BAME Teachers*

417. Throughout, but particularly during the first year of the pandemic, news reports suggested that people from BAME backgrounds were both at disproportionate risk of contracting COVID-19 and of becoming critically ill from the virus. Initially, the EIS advice was that all minority ethnic staff, with underlying health conditions and disabilities, who were over 70, or who were pregnant should be individually risk assessed, with appropriate reasonable workplace

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<sup>62</sup> The EIS's response to the February 2023 *The Economy and Fair Work Committee: Call for Views on the Disabled Employment Gap Inquiry*, February 2023, [https://yourviews.parliament.scot/efw/disabled-employment-inquiry/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_\\_text=EI&uuld=450366935](https://yourviews.parliament.scot/efw/disabled-employment-inquiry/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&q__text=EI&uuld=450366935)

adjustments identified and implemented. Effectively, we argued that the needs of BAME staff should be considered in a similar way as other vulnerable groups, and consideration given also to staff living with people who were BAME.

418. Early in the pandemic, the EIS Glasgow BAME Network held an online forum open to all EIS BAME members and made a request that the EIS develop national guidance on COVID-19 for BAME members, including risk assessments for BAME staff. As a result, the EIS developed bespoke guidance<sup>63</sup> and a risk assessment<sup>64</sup> in June 2020, influenced by the BAME Network's advice for BAME staff<sup>65</sup>. The EIS recommended that all BAME staff request an individual risk assessment.
419. The EIS established a National EIS BAME Network on 16 September 2020, with early discussions focusing on wellbeing in the context of COVID-19, Black Lives Matter, and the implications of a possible full return to workplaces. At that time, members expressed significant anxiety about the return to 'in-person' teaching<sup>66</sup>, in addition to the adverse mental health impact of knowing they belonged to a group that was high risk, and in the wider context of heightened conversations about racism after the murder of George Floyd in the U.S.A, EIS members were concerned that risk assessment processes were inadequate and felt that there was little guidance on options to mitigate risk, leaving members feeling demoralised having to fight for their right to extra protection. Members were encouraged to speak to their trade union representatives if they had any concerns about the

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<sup>63</sup> EIS Guidance for Black Asian and Minority Ethnic Members on the Re-opening of Schools, June 2020, <https://www.eis.org.uk/Content/images/corona/BAME%20Members%20Guidance%20Covid.pdf>

<sup>64</sup> EIS BAME risk assessment, BAME risk assessment FINAL Mon.pdf (eis.org.uk)

<sup>65</sup> BAME Network's advice for BAME staff , May 2020, BAMEed-Network\_Schools-and-Covid-19\_-guidance-for-BAME-staff-and-their-employers-2.pdf (bameednetwork.com)

<sup>66</sup> Many were already teaching in hubs.

provision of safety measures for BAME staff, including working from home.

420. The impact of the COVID-19 pandemic on BAME workers cannot be disentangled from the wider context for BAME workers in Scotland. There were a number of other issues raised by the EIS in relation to BAME members at that time, some of which were summarised in the EIS's reply to the STUC Survey on the Impact of COVID-19 on Scotland's BAME Workers and Communities, in September 2020<sup>67</sup>:

- To realise Fair Work for BAME workers, there is a greater need for racial literacy amongst all education staff and employers.
- Existing evidence on health inequalities among minority ethnic groups strongly suggests that the stress of living with racism has an adverse effect on health and raises the risk of disease.
- BAME families are more likely to be economically affected by lockdown, as they are overrepresented in self-employed and zero-hour or casualised contracts – with casualised contracts being more likely to experience redundancies – specifically in Further and Higher Education.
- A reduction in class size to allow physical distancing between pupils, and between staff and between staff and pupils, was the only way to limit the risk of COVID-19, recognising that BAME staff are disproportionately affected.

## **Disabled Teachers**

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<sup>67</sup> EIS response to STUC Survey on the Impact of Covid-19 on Scotland's BAME Workers and Communities, September 2020

421. Many members found the initial guidance in relation to working at home (March 2020) contradictory and confusing, fearing that they would have to make a choice between keeping themselves safe or losing out on pay. Essentially, it was left up to individuals to determine whether they felt comfortable to go into school or their workplace or not. For individuals with underlying health conditions, the pandemic, lockdown and reopening impacted disproportionately in terms of anxiety, as well as financially. Families with a disabled member were more likely to face financial hardship.
422. The changing nature of the guidance and the manner in which it was presented was not helpful for neurodivergent members and added to their stress. Initial meetings from late May 2021 of the EIS Autism Appropriate Workplaces Focus Group suggested that the loss of routine due to rapid changes during Covid was incredibly stressful and unsettling. There were also more generally concerns regarding disabled members' access to reasonable adjustments during lockdown and working from home, as well as in hubs. Unfairly, the onus was frequently placed on individuals to adapt. For example, for deaf workers, mask wearing inhibited their ability to teach, and for visually impaired workers, the reorganising of classrooms to enable social distancing impacted their work experiences also. Such adjustments to working practices for a disabled person may have had significant physical and mental health impacts and added to their exhaustion.
423. The EIS's '*One Thousand Women's Voices*' survey found that disabled women were more likely than non-disabled women to report that their ability to carry out paid employment had been affected during the pandemic. The survey further found that disabled members were almost twice as likely to have been physically ill during the pandemic.

424. Autistic members reported mixed feelings with regards to their experiences of the lockdowns. One member, in the October 2021 Survey of Autistic Members to inform the EIS's work on Autism Appropriate Workplaces, said:

*'When the guidance was clear, it was helpful as it was very clear what should be happening but with the relaxation of rules it causes a lot of stress as I no longer know which rules, I still need to be following and don't know if a rule has been relaxed or if others are just breaking it. It's very inconsistent and confusing. I also struggle a lot wearing masks for sensory issues, but at the same time enjoy them because they make it easier to mask as I don't have to worry about facial expressions.'*

425. Though some autistic members found the lack of social contact, when working from home, challenging, others spoke about the social aspects of work being made easier by relying more on structured social activity such as online events, making it more accessible for them to take part.

426. For frontline workers, being expected to teach in hubs undoubtedly contributed to the risk of repeated Covid infections, and possibly Long Covid. The EIS has committed to campaigning to have Long Covid recognised as an automatic disability under the Equality Act 2010. The impact of Long Covid on the workforce remains to be fully understood, but anecdotally many EIS members have had to access workplace adjustments, have reduced their hours or changed jobs due to the devastating impact of Long Covid.

427. The inability to access regular hospital appointments, assessments, and treatment during the pandemic has also greatly impacted

disabled people. Though not required to obtain reasonable adjustments, access to a diagnosis can be a powerful tool for disabled people to advocate for what they need in their workplaces.

428. The EIS set up a Disabled Members' Network in January 2021 to provide a space for members to come together and discuss common issues. The EIS continues to be concerned that many disabled workers, including those who have been affected by long-term illness due to the pandemic, are not appropriately supported through absence management processes and sick pay arrangements, nor appropriately risk assessed as COVID-19 infections continue to be a present risk.

429. We cannot forget that for some teachers who were shielding throughout the pandemic, the transition back to school may have been very difficult and slow, with some only returning during this academic session, and then only with significant mitigations in place. COVID-19 has not gone away and for these members, the risk remains a real and present danger. The ongoing imperative of risk assessments, which are regularly reviewed and effectively implemented, cannot be overstated.

#### *Women Teachers*

430. Early in the pandemic, the anti-violence against women and girls' charities in Scotland raised alarm regarding the risks arising from lockdown to women and children, living with domestic abuse. Following on from this, the footers on EIS emails were changed to signpost to domestic abuse services. An article in the Scottish Educational Journal ('SEJ') featured domestic abuse during lockdown with advice from Scottish Women's Aid. The EIS also worked with partners in the anti-violence against women sector to produce short interviews for 16 days of action, focused on Gender Based Violence



(GBV), with an added COVID-19 consideration. The topic was also included in the EIS Working at Home Guidance.

431. In 2020, the EIS Strategy Sub-Committee decided to highlight and campaign on the gendered nature of the issues facing the teaching workforce and actions to address them.

432. In October 2020, the EIS Education and Equality Department developed a briefing paper on 'Gender and COVID-19'<sup>68</sup>, highlighting that the pandemic was widely predicted to reverse progress on gender equality. We knew that the pandemic had exacerbated the gendered burden of care, emotional and unpaid labour. Women were also overrepresented in frontline roles, such as education, and in roles where physical distancing and PPE were thought to be less possible, such as, in work with young children.

433. As a result of discussions following the publication of the paper, the EIS was concerned that women were at the forefront of the COVID-19 pandemic (in the caring and teaching professions) whilst also bearing the brunt of exacerbated gender inequality in unpaid house and caring work. In recognition of this, and to document and organise around women's contributions to history in the making, the EIS gathered the stories of one thousand members about their experiences of health, homelife, paid and unpaid work during this time. The findings were published alongside a film, documenting the everyday lives of some EIS women members.

434. The report from the survey highlights:

- **Intensified unpaid work:** 68% said the amount of housework they did, had changed during lockdown, many commenting on the burden of juggling paid and unpaid work.

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<sup>68</sup> Briefing paper on Gender and Covid 19, October 2020

65% had seen caring responsibilities increase, a third had nobody to help. 25.5% had experienced illness of someone they care for, and 21% had been physically ill themselves (double as high for disabled respondents).

- **Mental health impact:** 93.5% experienced increased stress, anxiety, low mood or depression (around 30% higher than other surveys of women during this time), 19% had experienced bereavement and 71.5% had not accessed health or emotional support (higher for BAME respondents). Around one in ten EIS members lived alone during the pandemic, facing further isolation.

435. The survey results also showed a significant and concerning mental health impact, which led to the creation of a separate internal EIS briefing on this issue. Even before the pandemic, women were at higher risk of mental ill-health, and from the survey findings, it was clear that the additional pressures of the time had an adverse impact on women.

#### *Pregnant Teachers*

436. Many pregnant members found the initial guidance in relation to working from home (March 2020) contradictory and confusing, fearing that they would have to make a choice between keeping themselves safe or losing out on pay. Essentially, it was left up to individuals to determine whether they felt comfortable to go into school or their workplace, decisions which only added to the already significant stress and anxiety around the impact of the virus.

437. In response to the numerous inquiries the EIS was receiving from pregnant members at that same time, extensive risk assessment advice was developed to support pregnant teachers and significant investment was made in providing advice and representation to

ensure their safety.<sup>69</sup> This advice covered individual risk assessments, PPE and testing, as well as relaying guidance from the Equality and Human Rights Commission and the Royal College of Obstetricians and Gynaecologists.

438. EIS Local Associations also undertook various actions, dependent on local circumstances, to support pregnant members. Feedback gained by EIS Headquarters in September 2021 detailed various issues, including variation in practices in relation to risk assessments.

#### *Impact on Learners*

439. Early in the pandemic, the EIS called on the Scottish Government to conduct an Equity Audit to ascertain the impact of school closures on all learners to inform next steps in relation to Education Recovery. It was commendable that the government responded positively to this call and established the Equity Audit Stakeholder Reference Group, led by Education Scotland to advance this area of work. The EIS was represented and contributed to the work of this group.
440. The Equity Audit, published in January 2021, provided valuable insight into the impact of the pandemic and highlighted that those pupils from socio-economically disadvantaged backgrounds had been most badly affected. It outlined the crucial need for significant investment in education to meet the needs of the children and young people and of a comprehensive and bold plan for Education Recovery.
441. What is clear from the Equity Audit is that children and young people have been impacted in a range of ways from their experiences of COVID-19:

#### *Rising Need: Isolation, Illness, Bereavement and Poverty*

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<sup>69</sup> EIS strategy to support pregnant workers, 2020, Pregnancy RA.pdf (eis.org.uk)

442. All children and young people have been affected in some way by the pandemic and the Scottish Government's response to it. Confinement, restricted social interaction, illness, bereavement, poverty and food insecurity will all have made their mark to varying degrees on individuals, families and communities.
443. For children in the early stages of primary, they would have missed, over the periods of lockdown, the opportunity to attend ELC settings; to make friends with children of their own age; and to develop vital social skills, such as sharing and even how to play cooperatively. They would also have missed the opportunity to participate in vital transition opportunities, as they prepared to enter primary education.
444. EIS members from various local authorities have reported an increase in the number of children presenting with delayed development or minimal speech and language acquisition on arriving in primary 1. We have gathered this evidence both anecdotally, through our Networks and Committees, and from the results of surveys, such as the EIS National Branch Survey on Violence and Aggression<sup>70</sup>. It is perhaps unsurprising, therefore, that there has been an increased level of distressed behaviour in this cohort of children as they struggle to communicate an underlying need verbally and in socially acceptable ways.
445. Families living in poverty were amongst the hardest hit by the pandemic and reports highlight the growing number of children who are now attending school with serious health concerns, such as malnutrition and rickets. Our knowledge of this is partly anecdotal through engagement with members in our Networks and Committees but is also rooted in the anti-poverty work conducted by the EIS, e.g. the PACT project and our support of the STUC Campaign for the

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<sup>70</sup> Violence and Aggression National Branch Survey, November 2023

provision of universal free school meals. There is also additional evidence available, e.g. Audit Scotland's report, 'Improving outcomes for young people through school education' published in March 2021<sup>71</sup>, and the Scottish Government's Equity Audit published in early 2021<sup>72</sup> which highlight aspects of the disproportionately negative impact of the pandemic on children and young people who are socio-economically disadvantaged.

446. Furthermore, an entire generation of young people in our secondary schools have had their personal, social and emotional development seriously inhibited during repeated lockdowns and many struggle to express their feelings, with anger, confusion and frustration manifesting itself through violence and aggression. It is no surprise that almost three quarters (72%) of the responses to our Violence and Aggression National Branch Survey in November 2023<sup>73</sup> reported that violence and aggression had 'increased significantly' over the last four years.
447. The EIS is also aware that LGBT young people may have experienced the detrimental impact of being at home without the support of their school and peers over periods of lockdown. In May 2020, the EIS published advice for teachers on supporting LGBT learners at home with tips for affirming and inclusive virtual teaching.

### **Rising levels of ASN**

448. There have been numerous reports of the increased level and severity of ASN since the pandemic. In 2023, 37% of the school population were identified as having an additional support need compared to only

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<sup>71</sup> Audit Scotland's report, 'Improving outcomes for young people through school education', March 2021

<sup>72</sup> The Scottish Government's Equity Audit, early 2021

<sup>73</sup> Violence and Aggression National Branch Survey, November 2023 our Violence and Aggression National Branch Survey in November 2023

6.5% in 2009. These latest statistics also represent a 2.8% increase in the number of pupils with ASN in our schools over the last year.

### **Rising Need: Mental Health**

449. Since the pandemic, the EIS has also seen the number of children and young people, requiring support for their mental health, rise. Teachers supporting older children and young people have attested to the mental health challenges which they face and for which there is insufficient immediate or timely support.
450. Education Scotland's Equity Audit, published in January 2021 notes that most school staff and partners identified an increase in mental health concerns amongst children and young people during the initial period of remote learning. Children and young people noted feelings of isolation, low mood, stress, poor concentration, financial worries and concerns about the virus and the health of family members. Vulnerable children were particularly affected and a few children and young people who were experiencing socio-economic disadvantage struggled initially to get into a routine.
451. The Equity Audit found that staff reported concerns about increased anxiety and levels of poverty, as well as the impact of social isolation. Some teachers reported that the health and wellbeing of children in receipt of free school meals had been disproportionately affected by school building closures and that they were concerned about the potential long-term effects of this.
452. Socioeconomically disadvantaged children and young people were identified as being at significantly higher risk of being adversely affected by both mental and physical health concerns.
453. Unsurprisingly, the data gathered from the Health and Wellbeing Census Scotland 2021/22 confirms this evidence. Analysis of the data

indicates that positive mental health and wellbeing decreases as children become older, with clear differences by sex and deprivation.

454. Girls have less positive perceptions than boys across aspects of life; from perceptions of schools and pressures of school work; feeling positive about their future; being worried about perceptions of their body image, sleep, diet and physical activity; and having trusted adults to whom they can talk.
455. Whilst the level and complexity of need created by poor mental health is rising, the support remains inadequate and teachers and school staff are often left to support children and young people, while they wait for lengthy periods to access specialist services.
456. The Report on Children and Young People's Health and Wellbeing, published by the Scottish Parliament's Health, Social Care and Sports Committee, on 13 May 2022, outlines the negative impact which the pandemic has had on the mental health of children and young people and suggests that the full extent of this impact and how long-lasting it will be, have yet to be fully understood.
457. In setting out its recommendations in the report, the Committee sought assurances from the Scottish Government that the long-term impact of COVID-19 would form an integral part of the future design and development of mental health services and support for children and young people. Whilst there has been investment in CAMHS and counselling services, to address the delays in accessing provision, its impact has yet to be seen, as need increases and waiting lists continue to grow. These delays, however, have a direct impact on learning, behaviour and attendance and place even greater pressures on school staff, particularly those in pastoral care and management, who are left to respond to young people's needs in lieu of the

specialist support needed. They do this, whilst also delivering on their core remits, which include supporting the wellbeing of all learners.

458. The EIS has been clear with the Scottish Government that Education Recovery would need significant investment to meet these needs, not the 'business as usual' approach which we quickly saw emerge and to which we have referred above. We have yet to see this happen.

### **The Issue of Long COVID**

459. Discussions on both COVID-19 itself and Long Covid took place at the SNCT and the SNCT Support Group during 2021 and 2022. The SNCT Support Group meets as required between meetings of the SNCT. SNCT minutes and SNCT Support Group reports can be accessed via the SNCT website.
460. The principles put forward in negotiations by the SNCT Teachers' Panel had their origins in the Scottish Government and the Scottish Trades Union Congress (STUC) Joint Statement on Fair Work Expectations.<sup>74</sup> This stated that no worker should be financially penalised by their employer for following medical advice, and any absence because of being ill with COVID-19 or while infectious, should not affect future sick pay entitlement or count towards any future sickness absence related action. The principles covered a wide range of issues including protecting workers against infection to payments to facilitate home working.
461. The SNCT Teachers' Panel first put forward proposals for a national agreement covering Long Covid and another national agreement on compensatory leave for periods of COVID-19 related to self-isolation during a school holiday period at the SNCT Support Group on 13 January 2021. The extract of the minute of that meeting indicates

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<sup>74</sup> Coronavirus (COVID-19): fair work statement - gov.scot (www.gov.scot)



that discussions concluded without agreement. The Group instructed the Joint Secretaries to continue discussions with a view to seeking resolution of some of the more complex issues.

462. This matter was discussed again at the full SNCT meeting on 24 February 2021 where the letter of advice from the Joint Secretaries (JS/21/82)<sup>75</sup> was approved. This interim advice was issued until a new set of arrangements was agreed.

463. In March 2021, COSLA produced a draft Circular covering Acute COVID-19, Post COVID-19 and SNCT Sickness Absence Provisions. Amongst other things, COSLA highlighted its desire to achieve parity with employees with other health conditions which may also have secondary impacts, such as cancer or MS etc.. COSLA went on to suggest that the initial period of absence (defined by NICE [National Institute for Health and Care Excellence]) as 'acute COVID-19') be recorded using 'special leave' type provisions and not considered under any attendance management processes. However, any ongoing and subsequent absences would be recorded under the relevant associated reason, e.g. fatigue, anxiety, etc. and would be treated under normal sickness allowance and sickness absence procedures.

464. At the meeting of the SNCT Support Group on 21 April 2021, the SNCT Teachers' Panel argued against this, citing the Scottish Government and the STUC Joint Statement on Fair Work Expectations. No agreement was reached at the 21 April meeting on either Covid Sickness Absence and Long-Covid or Compensatory Leave for self-isolation periods during school holidays. Following lengthy discussions, the Joint Secretaries were asked to progress these matters further.

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<sup>75</sup> SNCT letter from the Joint Secretaries (JS/21/82), 25 February 2021, our Violence and Aggression National Branch Survey in November 2023

465. The SNCT Support Group on 21 April 2021 also noted that no national agreement could be reached on either the arrangements for teachers whose children were required to isolate or on providing protection for 'paused shielders' and pregnant teachers. In the absence of a national agreement, the only thing that could happen was that discussions would have to take place locally. This was a source of great frustration to the EIS who firmly believed that national agreements should be reached in response to a national, indeed a global, pandemic.
466. At a meeting of the full SNCT on Thursday, 27 May 2021, the Committee approved Circular SNCT 21/79 which covered COVID-19 Self-Isolation during Annual Leave and Compensatory Days. This Circular recommended that the provisions in section 6.37 of the SNCT Handbook should be considered for periods of self-isolation related to COVID-19. This was recommended because of specific characteristics of self-isolation during the Coronavirus pandemic.
467. At the full meeting of the SNCT on 30 September 2021, the Committee finally approved Circular SNCT/21/84 COVID-19 and Long Covid: Temporary Additions to SNCT Handbook. It applied retrospectively to all relevant absences from 8 July 2021. These temporary additions to the SNCT Handbook were the additions of the following paragraphs:

`COVID-19

*6.36.1 Absence from work with acute COVID-19 and/or Ongoing symptomatic COVID-19 will be treated as paid special leave for the duration that the person is unable to work, or 12 weeks, whichever is shorter. This leave will be separate to other sickness absence entitlements. Where post-COVID-19 syndrome is diagnosed outwith this period that prevents normal working, an employee*

*will be paid under existing sickness pay arrangements and normal attendance policies will apply.*

*6.36.2 If an employee is asked to self-isolate through test and protect, medical advice or similar arrangements and can work at home, they should do so and be paid normally. If they are unable to work paid special leave should be granted.'*

468. This Circular therefore differentiated between cases of 'acute COVID' and 'post-Covid 19 syndrome' (or Long Covid).

469. The Committee noted that the provisions outlined in this Circular would continue to apply until 1 March 2022 when they would be withdrawn. Prior to their withdrawal, and by mutual agreement of all three Sides of the SNCT, it was agreed that further temporary provisions may be agreed which could include extension or modification of the provisions in this Circular beyond 1 March 2022. Following discussion at the SNCT on 23 February 2022, it was agreed that the provisions of this Circular should be extended beyond 1 March 2022 until 19 April 2022. (SNCT/21/87 COVID-19 and Long COVID: Temporary Additions to SNCT Handbook.)

470. SNCT 22/89 COVID-19 Related Absences was issued on 13 April 2022. This Circular reported that SNCT Circular SNCT 21/84 (as extended by SNCT 22/87) would no longer be in effect from 19 April 2022.

471. The temporary changes to the SNCT Handbook previously agreed under SNCT/21/84 (as amended) were amended further as follows:

*'COVID-19*

*6.36.1 Absence from work caused by COVID-19 will be treated as paid special leave for the duration that the*

*person is unable to work, or 10 days, whichever is shorter.*

*6.36.2 If an employee is asked to self-isolate through test and protect, medical advice, by the employer or similar arrangements and can work at home, they should do so and be paid normally. If they are unable to work, they should be paid normally for the period they are required to isolate under the provisions in paragraph 6.34 of the SNCT Handbook (Infectious Diseases).'*

472. The Circular pointed out that absences under 6.36.1 above should not be counted within absence management procedures locally.
473. These temporary arrangements came into effect on 19 April 2022, with the intention that they be reviewed in June 2022. They would be withdrawn on 1 July 2022 unless there was agreement to continue or to amend further. At the SNCT Support Group meeting on 31 May 2022, the SNCT Teachers' Panel argued that the provisions of Circular SNCT/22/89 should be extended into the new session (2022/2023). However, neither COSLA nor the Scottish Government would agree to this extension. COSLA and the Scottish Government expressed the view that the temporary arrangements should come to an end due to the current national guidance. Therefore, currently, there is no extant agreement at the SNCT on Long Covid.
474. Circular SNCT 22/91 withdrew the Covid and Long Covid provisions contained in the SNCT Handbook and in the SNCT Circulars.
475. The EIS has now passed policy supporting the campaign to recognise Long Covid as an automatic disability under the Equality Act 2010.

### **Further & Higher Education**

476. The EIS Further Education Lecturers' Association (EIS FELA) and EIS University Lecturers' Association (EIS ULA) are self-governing associations with respect to Further Education (FE) and Higher Education (HE) matters. Both sectors are devolved to the Scottish Parliament, although the Universities organise through a UK based employers association – meaning that collective bargaining is carried out at a UK level whereas all college (FE) business is carried out in Scotland.

477. The Scottish Government grouped both FE and HE sectors into the 'tertiary sector', sometimes referred to as 'Advanced Learning', and throughout the pandemic, it considered both sectors together, i.e. tertiary sector regulations, advice and guidance.

*Further Education and the work of EIS FELA*

478. When the Scottish Government announced the closure of schools from 23 March 2020, colleges were also closed.

479. Lecturers, like teachers, had a significant amount of change in moving to online learning and working from home. Colleges stayed closed for general-face-to-face teaching for longer than schools and therefore, the campaigning pressures the EIS Executive faced for teachers simply did not exist for college lecturers.

480. The work of the FELA Executive may be considered in several phases:

- March to August 2020: Colleges generally closed.
- August to December 2020: Colleges delivering limited in-person teaching and training, with most students online.
- January to June 2021: Colleges generally closed to face-to-face teaching, with most students online.

- August 2021 onwards: Colleges re-open, with the work of EIS FELA focusing on protecting lecturers with effective ventilation and CO<sub>2</sub> monitors.

481. In April 2020, the Scottish Government formed a standing group chaired by the Further and Higher Education Minister called the 'Further and Higher Education Ministerial Leadership Group' ('MLG'). This was replaced by the Advanced Learning Covid Recovery Group ('AL CRG') in May 2021. The EIS was represented on both bodies.

482. It should be recognised that the longer closure of colleges led to less campaigning on Covid issues by the FELA Executive as members were generally happy with working from home, although there were issues with physical distancing, masks etc. in the first year, as there were in schools. The EIS FELA Executive received regular reports from the MLG and later the AL CRG, but there were few contentious issues and this meant that the EIS FELA Executive had less to consider as it was more removed from the decision-making process than the EIS Executive.

483. The MLG and AL CRG were chaired by the Minister for Further and Higher Education. They worked well and were collegiate fora where the EIS felt that its voice was heard and listened to. Draft guidance was shared, edited and approved at these meetings. There were a small range of working groups that fed into these two groups, and the EIS met with civil servants and other trade unions between MLG and AL CRG meetings and influenced the early drafts of guidance that was considered at the MLG and AL CRG meetings.

484. It should be noted that Covid did not displace the industrial relations aspect of the trade union work the FELA Executive carried out. A bitter industrial action dispute and industrial action took place at Forth Valley College over the firing and rehiring of college lecturers as non-

lecturing staff. This dispute broadened to be a national dispute and led to national industrial action – Action Short of Strike - as most FELA members were working from home. Both of these industrial disputes were successfully resolved.

485. The national collective bargaining body for Scottish College staff, the National Joint Negotiating Committee (NJNC), made some collective agreements on COVID-19.

486. Whilst the EIS Executive did not consider educational issues arising because they were picked up by the Education Committee and issues around terms and conditions were dealt with by the Salaries Committee at the SNCT, the EIS FELA Executive considered Education matters directly as well as from its Education Sub Committee.

487. In terms of the educational impact of the pandemic, the delivery of education in colleges was severely disrupted despite the efforts of lecturing staff who responded to the challenges of the pandemic with commitment and flexibility. EIS-FELA members reported large numbers of students struggling with the move to online learning for a variety of reasons; including poverty, mental health and caring/family responsibilities. As with the school sector, those who already experienced inequality were more likely to experience challenges in accessing and engaging with the changes in learning provision that were implemented. The results of a survey conducted by EIS FELA capture this through the statistical and qualitative comments gathered – ‘EIS FELA member survey – COVID and return to work’ (July 2020)<sup>76</sup>.

488. Practical subjects were impacted greatly, with it being difficult to provide a similar level of provision to students, particularly those undertaking apprenticeships. Courses which had practical subjects as

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<sup>76</sup> EIS FELA member survey – COVID and return to work, July 2020

part of their composition were brought back onto college campuses from August 2020, with little uniformity in the COVID mitigation measures to be applied or guidance on their practical implementation. Physical distancing understandably resulted in class sizes being reduced for practical delivery, but consequently caused delays for those students progressing within these courses. The lack of in-person meetings between teaching staff and partner organisations presented challenges in relation to building and maintaining working relationships. Although this could be achieved by digital means, arguably the lack of face-to-face contact meant that relationships took longer to build, and issues could not be dealt with swiftly. The move to digital / video conferencing technology was undertaken by teaching staff, however, some partner organisations were at different stages in their development and use of such technology. The practical experience offered to students was also seriously impacted by there no longer being the capacity to undertake off-campus visits.

489. The move to online learning impacted significantly on the substantive formal assessment practices of students. Formative assessment measures had to be developed by lecturers and EIS-FELA members reported little in the way of meaningful support from the SQA whilst undertaking this significant amount of work.
490. The periods of lockdown also halted on-site learning and thus had a marked impact on the learning journey of SVQ students. Training officials from external organisations were unable to assess students due to such measures. This led to elements of practical learning being deferred, with a subsequent impact on student progress.
491. As with other parts of the education system, lecturing staff with caring responsibilities and/or protected characteristics faced additional barriers in light of necessary changes to teaching and learning provision brought about by the wholesale move to online learning.



## Higher Education and the work of EIS ULA

492. When the Scottish Government announced the closure of schools on 23 March 2020, universities (including HEIs) were also closed.
493. University lecturers seemed to cope relatively easily and transition more quickly to wholly online teaching, possibly due to better networking, established virtual learning environments and the existing use of recorded lectures.
494. With the financial impact of COVID-related closure and the potential for significant future financial loss for University finances<sup>77</sup>, Universities appeared to put pressure on the Scottish Government to re-open in August/September 2020.
495. Decisions for the H.E. sector were also facilitated through the MLG and then the AL CRG. The discussions and outputs were fed back to the EIS ULA Executive Committee.
496. The work of the EIS ULA Executive may be considered in several phases:
- March to August 2020: Universities generally closed
  - August to December 2020: Universities delivering blended learning, with most students staying in term time accommodation but taking many of the lectures online. Only students undertaking laboratory work attended in-person.
  - January to June 2021: Universities generally closed to face-to-face teaching, with the focus on online delivery.
  - August 2021 onwards: Universities re-open to face-to-face teaching. The work of the ULA Executive, like the EIS FELA

Executive, focussed on protecting lecturers through effective ventilation and the use of CO2 monitors.

497. It should be recognised that the longer closure of universities to face-to-face activity, and H.E. lecturers' familiarity with online teaching, led to little campaigning by the ULA Executive as members were generally content with their situation.
498. The national collective bargaining for Scottish university staff, the New JNCHES, made some collective agreements on COVID.
499. All the work done at the MLG and AL CRG was equally relevant to the HE Sector as it was for the FE sector. On the whole, the majority of the AL CRG work was focussed on the HE sector, especially on issues to do with student accommodation.

### **Lessons Learned from the Scottish Government's Response to the COVID-19 Pandemic**

500. Having reflected on all the evidence the EIS has gathered of the impact on the pandemic on teachers, on the Education staff, on children and young people and on their families, the Institute would make the following recommendations to inform both contingency planning and any future response to a global pandemic:

*For the Protection of All*

*A national approach*

501. Leadership from the Scottish Government and national bodies must recognise that in times of *national* crisis, there must be a swift *national* response and clear guidance to ensure that essential health and safety mitigations which have been directed nationally are in place locally. Situations should be avoided where local approaches are developed in the absence of national policy, the type of which arose

from the delays in national policy development in the early stages of the pandemic, specifically in relation to the issuing of national advice and guidance to schools. Health and safety protections for teachers and school staff as workers, and for young people as students, must be agreed nationally with the full involvement of trade unions and not be determined by post-code. The EIS accepts that within a nationally agreed approach, there may be circumstances when a local variation is agreed and appropriate, provided the basis for that variation is based on agreed criteria stipulated in the national guidance which would then be uniformly applied.

*Health, safety and wellbeing as a priority*

502. The Scottish Government must unequivocally and demonstrably place the health, safety and wellbeing of children, young people, teachers and Education staff above other factors, particularly those which are politically and economically motivated.

*Decisions based on reliable scientific data*

503. Empirical evidence, transparently shared with the teaching profession through the associated trade unions, should govern all decision-making, in the interests of ensuring that schools and other education settings are safe places to work and learn, and in which there is effective protection of all from harmful disease and the potential of longer term associated health risks.

*Decisions based on advice from teaching unions*

504. Trade unions have direct and daily contact with members, so have close insight into real-life experiences in workplaces every day and acutely so during public health crises. This insight and expertise must be actively sought and considered to inform all key decisions relating to health, safety and wellbeing.

*Realistic expectations*

505. During a global pandemic and in the recovery period thereafter, the delivery of education cannot, and should not, be expected to adhere to a 'business as usual' approach (particularly around attainment, qualifications and inspections) and should focus on the holistic needs of learners with due focus on wellbeing, rather than narrow attainment and performativity targets. Teacher trade unions must be full and equal partners in shaping Education Recovery plans, the key principles of which should be considered in contingency planning for future pandemics.

*Support for Teachers and Education Staff*

506. Speedy access to sufficient supplies of PPE and early implementation of essential risk mitigation measures, including remote and blended delivery.
507. This is essential to reduce actual risk to physical health and safety and reduce the risk of psychological harm, building confidence amongst the teaching profession, young people and their parents/carers that risks are being responsibly, appropriately and swiftly evaluated and mitigated.

*Priority access to vaccinations for teachers and Education staff*

508. This is in recognition of the heightened risk of infection from being physically present in school buildings during a pandemic, a risk from which teachers and school staff as workers deserve to be protected, and which without due mitigation through priority vaccination, will again significantly undermine education continuity.

*Protecting staff with underlying health conditions*

509. The Scottish Government, COLSA and local authorities in collaboration with trade unions, must ensure that appropriate mitigation measures are in place to support the health, safety and wellbeing of teachers and Education staff with underlying health conditions and/or who have clinically vulnerable dependents.

*Treating teachers and Education staff with dignity, respect and equality*

510. There must be a departure from policy and practices relating to response to a major public health crisis which suggest that the health and safety of workers as human beings working in one sector of education is less important than that of any other colleagues, simply to serve wider political interests.

*Listening to the voices of teachers*

511. The Scottish Government, COSLA and national bodies must listen to the very real and heightened concerns of the teachers as workers who are endeavoring to maintain a vital public service amidst crisis conditions. It is not enough to have trade unions in the room. As the voice of teachers, trade unions must be listened to and heard and the real and urgent concerns that they raise on behalf of members and their students, acted upon swiftly and effectively in good faith.

*Collegiate and transparent decision-making and effective communication*

512. The Scottish Government, in reaching key decisions should engage effectively with key education stakeholders, including the teacher trade unions, and communicate decisions in good time to allow effective implementation, which does not impact negatively on the workload of teachers.

### *Remote and blended learning*

513. As part of contingency planning, there should be investment in Education to support readiness to move to digital platforms in the event that full or partial of closure of school buildings is necessary, whilst continuing to acknowledge, value and prioritise the centrality of human relationships in the delivery of education.

### *Addressing unsustainable workload*

514. Amidst what in reality is a period of recovery from the COVID-19 pandemic and in preparing for the future, Scottish Government must invest in the teaching profession now and address the unsustainable level of workload which is driving many teachers to leave the profession. In supporting the wellbeing of teachers in any further pandemic, the Scottish Government, COSLA, local authorities and parents must be mindful of the mental, emotional and physical strain placed on teachers in delivering education continuity amidst such crisis conditions and with insufficient staffing levels even under normal circumstances. Appropriate supports must be put in place, including the employment of more teaching staff, to ensure that workload is manageable and will not negatively impact on the health, safety and wellbeing of teachers, and/or the experiences and outcomes of students.

### *Placing trust in teachers and their professional judgement*

515. The Scottish Government and national bodies must demonstrate their trust in teachers' professional judgement, particularly in relation to assessment and Senior Phase qualifications. Decisions about any alternative arrangements for the delivery of Senior Phase qualifications must be taken at an early stage, with moves to agreed and pre-determined contingency models being fully discussed with teachers through their trade unions, as well as with young people and

their parents/carers so that all can have clarity with regards to and confidence in the arrangements adopted. Any move to a contingency model should not add to teacher workload.

*Decisions taken which are inclusive of all*

516. The Scottish Government and all national bodies should consider the impact of any decision taken from the perspective of teachers holding protected characteristics to ensure equality for all and address any heightened risk to their health, safety and wellbeing arising from the implementation or non-implementation of key mitigation measures.

*Subject-specific safety considerations*

517. In acknowledging the challenges and concerns of teachers delivering practical subjects, the Scottish Government should ensure that it commissions specific scientific research to inform the safe delivery of practical subjects and/or practical activity within subjects not classified as practical within the SNCT Handbook, have this regularly reviewed throughout any period of public health crisis and ensure that any concerns which the profession raises around the delivery of that subject are allayed, both during the pandemic and beyond.

*Balancing caring responsibilities with work*

518. A consistent approach must be adopted across Scotland to support women teachers, recognising the heightened pressures and impact which the unpaid work they provide societally will have on their health and wellbeing in times of public health crises.

**Support for Children and Young People**

*Sufficient support for children and young people with ASN*

519. The Scottish Government, COSLA and local authorities must commit to resourcing smaller class sizes to support teachers in meeting the needs of children and young people as a key priority of Recovery and invest in specialist teaching and support staff to build capacity, for the future.

*Positive action to end food insecurity*

520. There should be immediate action from the Scottish Government to ensure that *all* local authorities adopt a cash-based approach in the event of disruption to free school meals provision in school buildings, to ensure that support is provided to families in a swift, dignified, and effective manner.

*Address digital and fuel insecurity*

521. The Scottish Government must ensure that children and young people are equipped and have the connectivity and power to engage in online learning when this is necessary.



## **Appendix 1 - COVID and the SNCT**

The EIS has a Salaries Committee. Representatives from that Committee attend meetings of the Scottish Negotiating Committee for Teachers (SNCT). The SNCT comprises 22 members: 11 from the teaching unions, with 8 of these 11 being drawn from the EIS; 8 members are from COSLA; and 3 members are from the Scottish Government. Further information about the SNCT can be found on their website.

The Scottish Negotiating Committee for Teachers (SNCT) requires there to be a Local Negotiating Committee for Teachers (LNCT) in each council. LNCTs have the powers to vary certain devolved conditions of service agreements and to reach agreement on a range of matters not subject to national bargaining. National matters remain to be negotiated nationally while devolved matters can be varied by agreement locally. Issues which are devolved and issues which are retained centrally can be found on their website.

SNCT is a tripartite body comprising members from teaching organisations, COSLA, and the Scottish Government. The pay and conditions of service for teachers and associated professionals employed by Scottish councils are set out in the SNCT Handbook of Conditions of Service.

### ***Documentation / Circulars***

The SNCT has the authority to vary pay and conditions of service of teachers and associated professionals. Such variations made by collective bargaining are incorporated into contracts of employment. Where agreement has been reached by the SNCT, that agreement is issued as a Circular. SNCT Circulars are numbered and are sent to Chief Executives and Directors of Education of all Scottish local authorities. Circulars are also sent to LNCT Joint Chairs.

### ***Letters of Advice***

It is open to the SNCT to provide additional advice on the implementation of Circulars. Such advice does not vary conditions of service but is designed to set out the thinking of the SNCT to reduce the potential for misunderstandings at local level or to provide advice on good practice. Letters of advice may be issued by either the Joint Secretaries or Joint Chairs.

During the pandemic, several Circulars and Letters of Advice were issued by the SNCT. These can be obtained via the weblinks indicated above and are listed below.

***Circulars Issued by the SNCT during the Pandemic***

***SNCT 20/74 SNCT Emergency Provision CORONAVIRUS (COVID-19) (16 March 2020)***

This SNCT Circular aimed to assist in maintaining educational continuity during this time. It covered the following topics:

- The Duties of Teachers and Associated Professionals
- Communication
- Class Arrangements
- Working Hours
- External Supply Cover
- Relocation
- Self-Isolation
- Vulnerable Staff
- Pregnant Staff
- Care Arrangements
- Communication with Staff
- Absence Management
- Medical Certification

## **SNCT 20/75 SNCT School Closures CORONAVIRUS (COVID-19) (26 March 2020)**

The SNCT intimated that, in response to the escalating COVID -19 outbreak, the Scottish Government had announced that all schools and ELC premises would close from 17.00 on 20 March for an indefinite period with the exception of any critical provision to protect the following key interests and groups.

- Key workers
- Vulnerable children

This Circular also announced that Community Hubs would be open over the spring break 2020 for vulnerable children and for children of key workers who could not make their own childcare arrangements. The pay and leave arrangements for those affected were also outlined.

## **SNCT 20/76 Arrangements for Re-opening Schools August 2020 CORONAVIRUS (COVID-19) (4 June 2020)**

The Strategic Framework for the Reopening of Schools and ELC Provision confirmed that the start date of the new term is standardised to 11 August 2020 on an exceptional basis for the purposes of managing COVID-19.

This Circular required LNCTs to take decisions regarding the following issues in advance of the 11 August 2020 Re-Opening:

- Early return and leave dates
- Realignment of Session 2020/21
- Pre-Existing Holiday Arrangements or Commitments
- Quarantine Arrangements
- Summer Retirals

### **SNCT 21/79 COVID-19 Self-Isolation During Annual Leave and Compensatory Days (22 June 2021)**

This Circular recommended that the provisions in section 6.37 of the SNCT Handbook should be considered for periods of self-isolation related to COVID-19. The Circular acknowledged that the strict nature of self-isolation is a public health instruction rather than an employer requirement.

### **SNCT/21/84 COVID-19 and Long COVID (30 September 2021)**

This Circular made temporary changes to the SNCT Handbook covering the following issues:

- Approach to Employee Absence Caused by COVID-19
- Changes to the SNCT Handbook in paragraph 6.36
- Reference SNCT Letter of Advice JS/21/82
- Implementation and Duration

This Circular intimated that this collective agreement would be withdrawn no later than 1 March 2022. (See below for further extensions).

### **SNCT 21/86 Temporary change to fit notes and self-certification for illness (20 December 2021)**

This Circular informed recipients that the Statutory Sick Pay (Medical Evidence) Regulations 2021 came into force on 17 December 2021 and modified the existing regulations. As a result, self-certification for illness related time off work (sick leave) had been extended from 7 days to 28 days.

With immediate effect, paragraphs 6.29 and 6.30 of the SNCT Handbook were changed to reflect the provisions of the Statutory Sick Pay (Medical Evidence) Regulations 2021. These measures expired on 26 January 2022.

## **SNCT/22/87 Addendum to SNCT Circular SNCT 21/84 COVID-19 and Long COVID (25 February 2022)**

This Circular extended the provisions of SNCT/21/84 beyond 1 March 2022 and until 19 April 2022.

## **SNCT 22/89 COVID-19 Related Absences (13 April 2022)**

This Circular intimated SNCT Circular SNCT 21/84 (as extended by SNCT 22/87) would no longer be in effect from 19 April 2022. In its place, new temporary arrangements have been introduced with regard to COVID-19 related absences caused by illness, infection or requirement to isolate.

These temporary arrangements came into effect on 19 April 2022, were reviewed in June 2022, and withdrawn on 1 July 2022, unless there was agreement to continue or amend. There was no agreement to continue or amend and, by virtue of SNCT/22/91 below, these temporary arrangements were withdrawn.

## **SNCT 22/91 Withdrawal of Circulars: CORONAVIRUS (COVID-19) (12 September 2022)**

This Circular intimated that the following Circulars are now withdrawn but will remain in the SNCT archive for reference purposes:

- SNCT/20/74 Coronavirus COVID-19
- SNCT/20/75 SNCT School Closures Coronavirus (COVID-19)
- SNCT/21/79 COVID19 Self Isolation During Annual Leave and Compensatory Days.

The following Circulars intimated that they were specific and time limited and the provisions no longer apply but will also remain in the SNCT archive for reference purposes:

- SNCT/20/76 Arrangements for Reopening Schools August 2020

- SNCT/21/84 COVID and Long COVID
- SNCT/21/86 Temporary changes to fit notes and self-certification for illness
- SNCT/22/87 Addendum to SNCT Circular SNCT 21/84 COVID19 and Long Covid

## **Letters of Advice issued by the Joint Secretaries during the Pandemic**

### **JS/20/78 Supply Teachers Job Retention Payment (3 April 2020)**

This letter of advice gave details regarding how the issue of payment for supply teachers not in a contract as at 20 March 2020 were to be administered in all councils.

### **JS/20/79 SNCT Advice on Working Time Agreements Session 2020-21 (12 May 2020)**

This letter gave advice on the formulation of Working Time Agreements for session 2020-21 by referencing JS/20/77 dated 28 February 2020.

### **JS/20/80 SNCT Supply Teachers Job Retention Payment Frequently Asked Questions – FAQs (25 May 2020)**

This document provided a response to a number of frequently asked questions (FAQs) following the issue of Circular JS/20/78 on 3rd April 2020. Recipients were advised that these FAQs should also be read in conjunction with the SNCT Circular SNCT/20/75 – SNCT School Closures, CORONAVIRUS (COVID – 19) issued on 26th March 2020. Both circulars advised that there should be no detriment in pay arrangements for all staff.

### **JS/20/81 CORONAVIRUS - COVID-19 Quarantine Arrangements – Letter of Advice (11 September 2020)**

This Joint Secretaries' letter of advice focussed on school holidays and outlined the arrangements which should obtain for pre-booked holidays arranged prior to the announcement of quarantine arrangements on 22nd May 2020 and the arrangements in other situations.

**JS/21/82 COVID-19 Sickness Absence – Letter of Advice (24 February 2021)**

In this letter of advice, the Joint Secretaries intimated that the SNCT was considering sickness absence leave and pay entitlement for illness due to COVID-19 and to the illnesses and conditions arising from 'Long Covid'.

In addition to existing sickness absence provisions, the SNCT recommended that there should be an extension to sick pay entitlement for all employees suffering from COVID-19 related illness. In such situations the extant provision under paragraph 6.36, Part 2 of the SNCT Handbook were to be applied and the period of sickness allowance extended.

*I believe that the facts stated in this witness statement are true. I understand that this statement will form part of the evidence before the Inquiry and may be published on the Inquiry's website.*

*By typing my name and the date below, I accept that this is my signature duly given.*

*Signed: Andrea Bradley*

*Date: 2<sup>nd</sup> September 2024*