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Local Authority Chief Executives and  
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Copy: COSLA  
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Our ref: DFM/Covid-19/School Closures  
19 March 2020

*L. Colleague,*

## COVID-19 – CLOSURE OF SCHOOL AND ELC PREMISES – PROTECTION OF KEY INTERESTS

In response to the escalating Covid-19 outbreak, Scottish Ministers, following consultation with the Chief Medical Officer and Scientific Advisory Group on Emergencies (SAGE), and engagement with COSLA, Education Scotland, ADES, SOLACE and the teaching unions, have taken the decision to advise that all schools and local authority early learning and childcare settings should **close to children and young people with effect from 1700 on Friday 20<sup>th</sup> March 2020**, with the exception of any critical provision to protect the following key interests and groups:

- **Key workers:** to ensure that children of key workers, for example NHS and social care staff, have continuing access to appropriate learning and childcare, potentially beyond the normal school day, that allows their parents/carers to participate in the national response to Covid-19. A definition of key workers is provided in Annex A.
- **Educational continuity:** to ensure S4-S6 pupils can complete course work for national qualifications.
- **Vulnerable children:** to maintain protections and support for children who may be particularly vulnerable in the current circumstances, particularly in respect of free school meals, children with additional support needs and at-risk children.

We are advising private and third sector childcare providers that they can remain open subject to the following:

(i) that they refocus their operating models to support solely the children of key workers and vulnerable children; and

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(ii) that, wherever possible, they do this in coordination with local authorities in their areas, to ensure maximum efficiency.

Childminding services can continue to operate on a limited basis with reference to public health guidance.

Local authorities are asked to give particular weight to the use of private and third sector childcare providers for continued critical provision, to ensure financial support for that sector and to make use of existing expertise and resources.

We are clear that it is for local authorities to make judgements as to how best to protect these interests in their local area, and the extent to which opening of physical settings is required. However, please note that opening of physical settings should be kept to the minimum required, in order to support virus control. Clear prioritisation of critical provision will therefore be crucial.

**Guidance** on some key issues in respect of schools is provided in Annex A to this letter. Issues relating to ELC and childcare settings are covered in Annex B.

All other learning and teaching should continue to be delivered remotely wherever possible, taking account of staff availability and resilience.

I have also felt it necessary to take the difficult and unprecedented decision that the exam diet for 2020 cannot go ahead. To ensure that the awarding of qualifications can continue I have asked the Chief Examiner to develop a credible certification model in the absence of the exam diet. It will be critical that coursework is completed and teachers' professional judgements of estimated grades are made and submitted to SQA to support this process. Further detail is set out in Annex A.

For the avoidance of doubt:

- **term dates have not changed** – for the majority of children, learning and teaching should therefore continue remotely, supported by teachers and other staff who are well and able to continue working.
- precise arrangements for **vulnerable children and children of key workers** will depend on decisions made by local authorities, but we believe it is likely that many will attend a physical setting, whether that be their current school operating in a different way, or an alternative "hub" venue; and
- **senior phase pupils** with coursework for national qualifications to complete should agree with their schools how to complete this.

## Financial support

I fully understand that local authorities, schools and ELC providers will have questions and concerns about the financial and other resource implications of maintaining critical provision.

Responding to Covid-19 must be our priority. I am therefore content to:

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- relax current guidance on Pupil Equity Funding in order that headteachers and local authorities can support our most vulnerable children as part of our Covid-19 response. While we are still in the process of finalising these allocations, Local Authorities have recently been made aware of their schools' proposed Pupil Equity Funding for 2020/21 and 2021/22, which will total more than £250m over the next two years.
- apply the same flexibility to schools and local authorities in receipt of Challenge Authority and Schools' Programme funding.
- relax grant conditions in respect of funding for Regional Improvement Collaboratives, allowing resource linked to this initiative to be diverted to the Covid-19 response.

In light of the expected impact of the Covid-19 pandemic on delivery of our commitment to expand funded early learning and childcare from this August, I will also allow local authorities to deploy that funding flexibly to support families and deliver the critical provision referenced above.

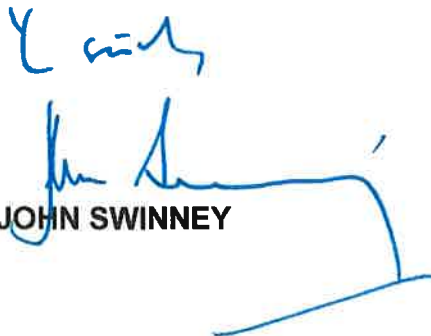
A £350m package of support for our communities was announced yesterday, which includes establishing a £70m food fund to support households who may be worried about accessing food. These additional funds will also support the continued provision of free school meals, ensuring continued support for families who need it within their communities.

Please do not hesitate to contact my officials or your linked Education Scotland Senior Regional Advisor, if you have any questions about the action required to implement this advice.

I will ask my officials and senior Education Scotland staff to engage with you over the course of next week, to offer any assistance in establishing your alternative provision for the three key groups named above. I would hope to see these provisions up and running by the end of next week (Friday 27 March). We will be keen to understand the models and arrangements that you put in place. I will ask officials to build a picture of what this looks like over the country, in partnership with you, in order that we can learn from each other whilst maintaining a national overview.

I recognise what exceptional steps these are, and how disruptive they will be to our society and economy. That is a measure of the extraordinary challenge we face.

I am grateful to you all for your commitment to working in partnership to steer our country through these unprecedented times.

  
**JOHN SWINNEY**

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## **Annex A – Guidance on protection of key interests**

We are clear that local authorities are best placed to make judgements as to how best to protect key interests in their local area, and the extent to which opening of physical settings is required.

However, please note that opening of physical settings should be kept to the minimum required, in order to support virus control. Clear prioritisation of critical provision will therefore be crucial.

Local authorities are requested to have regard to the following key points when implementing arrangements to protect key interests.

### **A. Maintaining critical provision**

#### **1. Daily reporting**

- i. Daily reporting of attendance and absence should continue until 17:00 on 20 March. Thereafter we will work with you to gather data and information on the provision for the three critical groups (vulnerable children, children whose parents/carers are key workers and senior pupils with coursework to complete). Confirmation of school closures is needed in order to confirm the overall picture. This will allow the Scottish Government and key partners to assess where further support may be required to protect key interests.

#### **2. Health and safety and workforce considerations**

- i. The default assumption should be that children and young people outwith the three groups mentioned above will not attend educational settings, and that learning and teaching will be undertaken remotely, supported by those teachers working remotely on an ongoing basis. Schools need to consider communication channels that can be used to enable this to continue over a potentially prolonged period of time.
- ii. Because critical provision and remote learning and teaching are expected to be put in place to maintain educational continuity wherever possible, SNCT Circular 20/74 applies at present.
- iii. Where local authorities judge that it is necessary to open physical settings to make provision for the three key groups and protect key interests, local authorities should take account of the welfare of the children and young people and also the welfare of staff.
- iv. It is vital that the latest Health Protection Scotland guidance on managing Covid-19 in non-healthcare settings is followed to maintain a safe working environment for staff, whether they are attending physical premises or working remotely. This guidance can be found [here](#). It includes clear instructions on cleaning requirements that should apply to any physical premises that require to be kept open to protect key interests.
- v. With regard to pay, COSLA have confirmed to Scottish Government officials that, in the event of school closures, school staff will continue to be paid. Officials will ensure that any other significant national HR issues arising from school closures are logged and

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dealt with in conjunction with unions and employers – for teachers, this will be via regular SNCT joint secretary calls.

- vi. Please ensure that you engage with local trade unions (including LNCTs) when developing and communicating all workforce arrangements in respect of alternative provision.
- vii. When implementing any critical provision to protect key interests, please ensure appropriate engagement with local health protection teams. Contact details are provided in Annex 1 of the [Health Protection Scotland Covid-19 non-healthcare settings guidance](#).

### 3. Statutory requirements

- i. Emergency legislation is being introduced in the UK Parliament this week, and is expected to become law by the end of next week. A Legislative Consent Motion will be considered in the Scottish Parliament in relation to all devolved aspects of the bill. This legislation provides for certain statutory duties placed on education authorities to be disapplied, or any failures to be disregarded, where any breach is attributable to a closure direction being in place.
- ii. The power to make a closure direction also allows Scottish Ministers to make similar disapplication provision in relation to other statutory education duties in addition to those that have been listed on the face of the bill. Scottish Ministers intend to issue a closure direction under the new powers as soon as those powers are available, which is expected to be following Royal Assent. In the meantime we recognise the uniqueness of the circumstances that we are faced with and that education providers are doing their best in these challenging circumstances.

### 4. Communication

- i. Local authorities should ensure that they, and their schools and ELC settings, have in place clear plans to communicate regularly with their families and communities about alternative provision for the three key groups and arrangements for remote learning and teaching.

### B. Supporting key workers

- i. Local authorities should put in place provision to ensure that children of key workers, for example NHS and social care staff, have continuing access to appropriate learning and childcare that allows their parents/carers to participate in the national response to Covid-19. There should be a presumption that, if parents can make their own childcare arrangements within the community, they should do so. If one parent is a key worker and the other is not, the non-key worker should normally be expected to provide childcare.
- ii. A **definition** of key workers is provided here. There should be a particular focus on:

Key workers in posts which ensure that essential services can be delivered and cover tasks within the local community which support the vulnerable and aid community resilience. This may be slightly different in each community to allow the country to

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address local priorities. Whilst decisions will be taken at the local level, we would expect this to include consideration of:

- **Category 1** – Health and Care workers directly supporting COVID response, and associated staff; Health and Care workers supporting life threatening emergency work, as well as critical primary and community care provision; Energy suppliers (small numbers identified as top priority already); staff providing childcare/learning for other category 1 staff.
- **Category 2** – All other Health and Care workers, and wider public sector workers providing emergency/critical welfare services (e.g Fire, Police, Prisons, Social Workers, etc), as well as those supporting our Critical National Infrastructure, without whom serious damage to the welfare of the people of Scotland could be caused.
- **Category 3** – All workers without whom there could be a significant impact on Scotland (but where the response to Covid-19, or the ability to perform essential tasks to keep the country running, would not be severely compromised).

Local authorities should be guided by this definition and prioritise provision of arrangements accordingly. They should consider any circumstances that mean that specific classes of worker are critical in their local contexts.

- iii. Local authorities will be best placed to judge what learning and childcare arrangements for the children of key workers are most appropriate for local circumstances.

However, they are asked to give particular weight to the use of private and third sector early learning and childcare settings for continued critical provision, to ensure financial support for that sector. Where possible, they should make provision available that extends beyond the school day, in partnership with providers of out of school care and after school and holiday clubs.

- iv. **NB:** Wherever feasible, we ask that schools continue to allow any blood donor sessions that are arranged in the coming months in a school to continue. This is important as maintaining sufficient supplies of blood for hospitals will be challenging, but essential.

### C. Ensuring educational continuity

- i. Local authorities should take appropriate steps to ensure educational continuity, working closely with teaching unions and other key partners. They are asked to ensure a particular focus on S4-S6 pupils preparing for national qualifications.
- ii. The default position for the majority of children and young people is that **learning and teaching should continue remotely**. This may be done by provision of learning packs at the point of school closures and on a regular basis as appropriate, using technological solutions and other forms of communication.

Schools can make use of the free tools available in Glow. The public facing Glow Connect site – [www.glowconnect.org.uk](http://www.glowconnect.org.uk) – includes practical advice, guidance and support for schools in setting up a range of online learning spaces in Glow. It also includes a specific page on Contingency Planning.

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It may be important for teaching staff to be able to access pupil records remotely in a secure way, so working arrangements should be discussed to ensure they remain effective.

- iii. As the Deputy First Minister has announced, due to current and likely ongoing circumstances, it will not be able to deliver the exam diet for 2020.

This is an unprecedented step and, in these circumstances, the Deputy First Minister has commissioned Scotland's Chief Examining Officer to develop a credible certification model that can be used to certificate in the absence of the exam diet in order to ensure that young people in our schools and colleges who, through no fault of their own, are unable to sit exams, are not disadvantaged.

The Scottish Qualifications Authority (SQA) will provide further detail in due course but in order for such an approach to be as effective as possible, the Scottish Qualifications Authority will require relevant units to be completed, and coursework and teacher estimates of grades to be submitted, by the agreed deadlines, or indeed sooner where that is possible. Schools should support the completion of units and submit coursework and teacher estimates as soon as they can – and by the dates provided.

- iv. A statement from the SQA has been issued today following the statement from the Deputy First Minister to Parliament.

### **C. Protecting vulnerable children**

- i. Local authorities should ensure they have appropriate arrangements in place to protect children who may be particularly vulnerable in the current circumstances when school closures are in place.
- ii. Local authorities will be best placed to identify and prioritise vulnerable children in their areas, taking into account issues such as child protection, welfare, poverty, children with complex additional support needs and the need to provide access to free school meals for some young people. It is important to note that many more families may become vulnerable (redundancies, zero hours contracts not being awarded hours etc.), and that in terms of health some families may be vulnerable without knowing it (e.g. if both parents suffer underlying health conditions – in such cases having the children in school or a local hub may help the parents rest and keep them at home. In extremis kinship, respite or short term foster care may be needed).
- iii. Yesterday, the Scottish Government wrote to all Chief Social Work Officers to ask that special consideration is given to identifying and supporting vulnerable children at increased risk due to Covid 19, for example, lone-parents who have become too unwell to look after their children.
- iv. With regard to free school meals, it is recognised that authorities will make arrangements which are aligned to local circumstances, which may include the provision of food in schools or alternative settings as appropriate, and including the provision of funding, or vouchers. Authorities may wish to be supported by 3<sup>rd</sup> sector and other community organisations in their approaches.
- v. Education Maintenance Allowances should continue to be paid.

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## **Annex B – Childcare provision, including early learning and childcare**

### **Childcare provision closure**

We expect that local authority early learning and childcare services should close along with schools, unless authorities require these to remain open to provide services to critical workers and families most in need of support.

We are advising private and third sector childcare providers that they can remain open subject to the following:

- (i) that they refocus their operating models to support solely the children of critical workers and vulnerable children; and
- (ii) that, wherever possible, they do this in coordination with local authorities in their areas, to ensure maximum efficiency.

These measures apply to all registered daycare of children settings (including after school, breakfast clubs and holiday provision).

**Childminders** will not be required to cease operations at this time, although it is recognised that some may choose to do so. Childminders should continue to have reference to public health guidance. This is because the impact of transmission is more limited in smaller settings. Through the Care Inspectorate, the Scottish Government will write to all registered childminders to advise them of this position.

The Care Inspectorate have committed to providing flexible, quick and pragmatic support to delivery of services, variations to services and the registration of new services where required to support emergency provision. Where there are changes to existing service provision the Care Inspectorate is providing interim registration guidance to support the provision of services. Providers and Local Authorities can also contact the Care Inspectorate for advice and guidance. Inspection and scrutiny work has been scaled down significantly with visits only taking place when absolutely necessary.

The private and third sector will be well placed to support authorities to deliver critical provision as defined in the letter. We strongly encourage authorities to draw on all existing local provision in their planning, and make use of private and third sector capacity where it exists.

### **Support for businesses and third sector organisations**

The First Minister guaranteed earlier today that Scottish Government will maintain funding streams which allow contractual payments to private and third sector providers, including childminders, for statutory early learning and childcare hours to continue. This is worth around £220 million to the sector in the year ahead. COSLA is actively considering this issue and we are working closely with local authorities to ensure they can adopt this position and provide assurance to providers that funding will continue as we all work together to respond to the pandemic.

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Scottish Ministers are committed to supporting our private and third sector childcare providers to remain viable. We are reviewing the package of general business support measures announced by the UK Government this week and we will continue to work closely with local government partners to identify and implement any further support required.

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### **Financial implications for Authorities**

There will be costs associated with the establishment and delivery of emergency provision. Revenue monies allocated to the phased provision of the Early Learning and Childcare expansion may be used flexibly to support families and the delivery of critical provision.

### **Impact on the expansion of Early Learning and Childcare**

The closure of provision will clearly have an impact on the expansion of Early Learning and Childcare. Scottish Government and COSLA are working to agree a realistic position for the delivery and timetable of the expansion. In the immediate future we expect that recruitment, capacity development and procurement work will be deprioritised to allow a clear focus on delivering critical provision to children and families.

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