

Briefing Paper 7 | August 2021

## Covid-19 Legislation: Education



### Overview

This Briefing Paper considers the key legislation adopted by the States Assembly to address the impact of Covid-19 on children and young people attending day nurseries, schools and colleges, for the period to the end of Summer term 2021. It also examines some of the key areas of public health measures (including mask use and lateral-flow testing) employed in educational settings as part of the response to the pandemic.

### Schooling during the early pandemic

Following the outbreak of the Covid-19 pandemic, the Minister for Education<sup>1</sup>, in consultation with the Deputy Medical Officer of Health and the Emergencies Council, used powers under the [Education \(Jersey\) Law 1999](#) to direct the closure of Government of Jersey provided schools<sup>2</sup> from Monday 23rd March 2020, initially until the end of the Easter School holidays (Monday 20th April 2020) in order to contain the spread of the virus. The Minister was also able to extend this action to private schools under [Article 40 of the Education \(Jersey\) Law 1999](#) which allowed the Minister to impose conditions on the registration of fee-paying schools to ensure their closure in emergency situations. A similar mechanism, whereby conditions may be attached to the registration of children's day care premises to require their closure on health and welfare grounds under the [Day Care of Children \(Jersey\) Law 2002](#), was employed to cover the Early Years age group.

These statutory arrangements were not designed for emergency situations such as the Covid-19 outbreak. Given the unprecedented nature of the decision to close schools to contain the spread of Covid-19, the statutory basis for the Minister's decision required reinforcing; in order to provide clarity and certainty for children and young people, parents and schools and day care accommodation, especially if the closures were to extend for a prolonged period of time.

### Introduction of the Covid-19 (Schools and Day Care of Children) (Jersey) Regulations 2020

The Assembly adopted the [Covid-19 \(Schools and Day Care of Children\) \(Jersey\) Regulations 2020](#) on 27th March 2020. These Regulations expressly allowed for the Minister for Education to require the closure of school premises or day care premises to prevent the spread of Covid-19. They also made provision for the Minister to implement arrangements for the education of

<sup>1</sup> Further to an [Order](#) made by the Chief Minister on 2nd March 2021, this role became Minister for Children and Education.

<sup>2</sup> Government-provided schools includes fee-paying provided schools (Jersey College for Girls, Victoria College and the related preparatory schools). Provided schools are defined within [Schedule 1](#) of the Education (Jersey) Law 1999

compulsory school-age children whilst they were unable to attend school as a result of the closure of school premises (i.e. home-schooling delivered virtually).

The Regulations that enabled these powers are set out below:

*Regulation 2 – power to require closure of schools and day care accommodation*

Regulation 2 provided that, during the period of the Covid-19 outbreak, the Minister for Education could, by published notice, require Government of Jersey ‘provided’ schools (i.e. States-run schools), private ‘non-provided’ schools, and children’s day care accommodation to close their premises in order to contain the spread of the virus. The notice could apply to all schools or day care providers, or to specified schools or day care accommodation.

*Regulation 3 – arrangements for the provision of education otherwise than at a provided school*

Regulation 3 provided that the Minister for Education could determine and implement alternative arrangements for the education of children who ordinarily attended provided schools, but who were prevented from doing so as a result of the Covid-19 outbreak. These arrangements were to be treated as if they were approved by the Minister under [Article 13 of the Education \(Jersey\) Law 1999](#) as ‘education otherwise than at school’.

The Regulation also provided that, whilst the standard of teaching might not meet the same standard as required by Article 13 (owing to the extraordinary circumstances), the Minister would, nonetheless, make arrangements to ensure that children continued to receive teaching as if they were in full-time attendance at school. [Article 12 of the Education \(Jersey\) Law 1999](#) puts a duty on a parent to ensure that their child receives full-time education. The Regulation, therefore, made clear that where a child had to receive alternative education arrangements (i.e. home-schooling), a parent would not be in breach of that duty so long as they ensured that their child received their education in accordance with the alternative provision.

## Scrutiny of the Regulations

[Comments](#) on the [Regulations](#) were presented by the Education and Home Affairs Scrutiny Panel<sup>3</sup>. The comments raised concerns about potential confusion for parents over their legal requirements with regard to home-schooling and potential exemptions and considerations given to parents who, for reasons of personal circumstance, were not able to fulfil the expectations to deliver home schooling (e.g. not having sufficient access to online learning resources, or needing to work full-time). The Panel also cited concerns about how online learning would be followed up by schools with students; and questioned how the Minister would seek to minimise learning inequalities that might arise between children of families with access to online resources and those without.

The Panel committed to regular meetings with the Minister for Education to provide ongoing scrutiny of the new Regulations but acknowledged the need for their introduction, given the exceptional circumstances.

---

<sup>3</sup> Further to the adoption of [Amendment \(No. 45\) of the Standing Orders of the States of Jersey](#), the name of the Panel became the Children, Education and Home Affairs Scrutiny Panel on 3rd June 2020.

## Provision of Education for children of Critical Workers and Vulnerable Children during Lockdown

Access to emergency school-based childcare provision was made available for employees in critical services (see Appendix 1). The listed services and organisations were considered essential to provide services critical to the Island during any order to ‘stay at home’ for the general population, as these services needed to ensure they could operate at minimum levels.

Vulnerable children (identified through having a social worker, being in receipt of a [Record of Need \(RON\)](#), or through the recommendation of relevant professionals) were also supported in schools to undertake the same work that their peers were undertaking at home. Also included in this group were [Children Looked After \(CLA\)](#). These pupils were offered, and their families were encouraged to accept, a place in school.

Special schools remained open throughout the Covid-19 crisis, with staff managing provision for their [Special Educational Needs and Disabled \(SEN/D\)](#) pupils through a combination of physical placements in school (both full-time and part-time), targeted outreach work (where key workers and teachers took pupils out or visited them at home) and individually provisioned home-learning, both online and using physical resources.

Many of these pupil groups (and their teachers and key workers) continued to attend school during the Easter school holiday and during the May half-term break where they followed an activity and enrichment-based experience.

## Digital Devices for Home Learning

From the outset of the pandemic, free broadband was offered via telecom providers and [Digital Jersey](#) to the homes of school children and care leavers without access. In June 2020, an extra 240 devices were ordered by the [Department of Children Young People Education and Skills \(CYPES\)](#) and around 20 internet devices were donated through a social media scheme.<sup>4</sup>

However, [research conducted by CYPES in September 2020](#) showed that schools did not have enough devices to support pupils with their online learning. In April 2021, a total of £380,000 was secured via a community and Government partnership project to support school students with additional online learning devices.<sup>5</sup> The funding was to provide up to 400 tablets for primary school students, 720 laptops for Year 6 and secondary school students, and 50 4G internet connectors to be used with laptops.

## Reopening of Schools after Lockdown

### *Primary Schools*

As Jersey entered Level 2 of the Safe Exit Strategy in early June 2020 (and following an initial [Children’s Rights Impact Assessment \(CRIA\)](#) in May 2020) all pupils in Year 6 were offered full-time places in their schools. Year 6 was identified as a priority in terms of transition as these pupils would move from primary to secondary school in September 2020.<sup>6</sup>

Following Scientific and Technical Advisory Cell ([STAC](#)) advice and a [subsequent CRIA](#), pupils in other year groups were able to [return to full-time education from 22nd June 2020](#). Safety

---

<sup>4</sup> [More online devices ordered to help students learn from home \(gov.je\)](#)

<sup>5</sup> [Community and Government partnership secures £380,000 for additional learning devices](#)

<sup>6</sup> [R Impact of Learning at Home report 2020.pdf \(gov.je\)](#)

measures included the formation of whole class ‘bubbles’ and limiting interaction between different ‘bubbles’. No physical distancing was required within each bubble at primary school level.<sup>7</sup>

Private nurseries were also allowed to open to a set number of children, and child-minders were permitted to care for small groups.

### *Secondary Schools*

Pupils in Years 10 and 12 were offered part-time attendance at their secondary schools in mid-June 2020, with school variations in possible attendance depending on staffing and rooming capacity in each school. These year groups were selected to attend first as both would be taking external examinations (GCSEs and A-levels or equivalent) in the next academic year.<sup>8</sup>

Secondary pupils in Years 7, 8, and 9 were also offered part-time attendance, with restricted timetables and days, from 29th June 2020. Due to the need for secondary pupils to be taught in different combinations of subject groups across a day by several different teachers, physical distancing and ‘bubbles’ presented challenges to controlling interactions between pupil groups. Year group bubbles were identified, and teaching groups maintained a 1 metre physical distance. Thus, class groups could only be between 10 and 15 pupils in number depending on room size, and for many settings it was not possible to offer catering or breakout spaces beyond formal classrooms.<sup>9</sup>

Initially, schools prioritised their exam groups for contact time with staff. Next, they moved to ensure that every year group experienced at least 2-3 days in school before the end of the term.

### *Schooling from September 2020*

At the start of the September 2020 term schools opened to children from all year groups. Schools and colleges enforced at least 1-metre physical distancing between all adults and between adults and children wherever possible. In secondary schools and colleges, there was also no physical distancing requirement between students, although year groups were kept as separate as possible.

Staggered start and finish times, and a continued emphasis on rigorous hand hygiene and enhanced cleaning also formed part of the package of measures around reopening.

### **Mask Use in Schools**

On 21st September 2020, students from the age of 11 years old were required to wear face masks on LibertyBus school buses. On 18th November 2020 (and following advice from STAC), students in Years 11, 12 and 13 in further and higher education were encouraged to wear masks in all indoor areas of the school/college buildings when moving around corridors and communal areas, where physical distancing could not be maintained. This did not include when eating, drinking or undertaking PE.

In primary, secondary schools and higher and further education settings, mask use was mandatory for all adults (including teachers, other staff and visitors) when moving around indoor areas within the premises, such as in corridors and communal areas where physical distancing

---

<sup>7</sup> [R Impact of Learning at Home report 2020.pdf \(gov.je\)](#)

<sup>8</sup> [R Impact of Learning at Home report 2020.pdf \(gov.je\)](#)

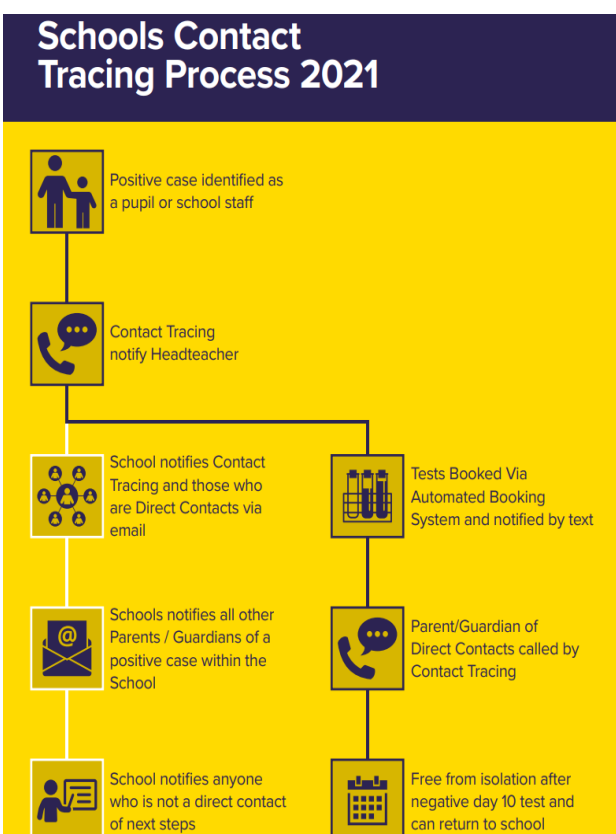
<sup>9</sup> [R Impact of Learning at Home report 2020.pdf \(gov.je\)](#)

could not easily be maintained. Staff were not required to wear masks in lessons, and exemptions applied to individual adults and children with special needs, disabilities or conditions that would make it difficult to wear a mouth and nose covering. The wearing of masks in public indoor spaces where physical distancing and other measures could not be guaranteed became mandatory on 30th November 2020 via an Order signed by the Minister for Health and Social Services.

From 10th May 2021, following low numbers of Covid-19 cases in the Island, the recommendation for masks for staff in early years and at primary schools and for staff and students at secondary schools (which had been in place since November) ceased, including the requirement for children over the age of 11 to wear masks on school buses. However, visiting adults were advised to continue to wear masks inside schools and class bubbles remained in place, as did advice on the ventilation of school spaces.

## Contact Tracing in Schools

The contact tracing process in schools, colleges and nurseries allowed for the parents or guardians of under 18s to be notified in the event of someone within an education setting testing positive for Covid-19. In most cases, students were sent home if they had been in direct contact with a positive case. Pupils displaying symptoms of Covid-19 were not allowed to return to school until they had received a negative test.



The contact tracing process was as follows:

1. positive case identified as a pupil or school staff
2. Contact Tracing Team notified Head teacher
3. school provided details of direct contacts within the setting to Contact Tracing Team
4. school notified parents or guardians of children who were direct contacts via email
5. parents/guardians of direct contacts received a text message for test appointment
6. parents/guardians of direct contacts received a phone call from Contact Tracing
7. school notified all other parents and guardians of children who were not direct contacts that a positive case had been identified within the school

Tests were automatically booked for the individuals identified. The number of tests booked depended on the date of interaction.

A direct contact, in most instances, was defined as someone spending more than 15 minutes (inside or outside) within 2 metres or less, or having direct physical contact without personal

protective equipment, with an individual who was an [active positive person](#). This generally included those people in the child's friendship group, classes and activities.

An [indirect contact](#) was defined as anyone who was outside this distance and duration, did not have physical contact or wore suitable personal protective equipment.

## Debate on Early Schools Closure at Christmas

In response to rising Covid-19 cases, and large numbers of pupils being required to isolate in early December 2020, Deputy Rob Ward of St. Helier lodged a proposition titled '[School Closures](#)' on 8th December 2020, calling for the Government to close schools 2 weeks early. However, at a requisitioned meeting the [Assembly voted against the proposition by 28 votes to 17](#). Accordingly schools remained open until the end of term and the Minister announced they would reopen a day later than planned on 7th January 2021; although the reopening date was moved to [11th January 2020](#) in order to roll out a [voluntary Covid-19 testing programme for all Government and private school staff, along with students in Years 11, 12 and 13](#).

## Lateral Flow Testing in Schools

In January 2021, the Government announced that every staff member in primary and secondary schools and colleges, as well as students in Years 11 and above, [would be offered rapid regular testing \(known as Lateral Flow Testing\) for Covid-19 on their school premises](#). The intention behind Lateral Flow Testing was to increase the detection of asymptomatic cases to help keep schools open and children in continuous face-to-face learning.

The Lateral Flow Tests were self-administered under supervision in schools, at a dedicated testing area on-site, and any positive cases had to then self-isolate and take an urgent PCR test. Whilst not mandatory, testing was strongly encouraged. However, staff and students who experienced Covid-19 symptoms had to follow Government guidance as normal, including immediate self-isolation and booking a Covid-19 test. Positive cases found amongst teachers or students required the individual to self-isolate according to the guidelines.

In response to reports that some children and young people found themselves in situations where a private establishment, such as a school, required them to get a Covid-19 test as part of a blanket ruling, regardless of whether or not there was a concrete reason for the test (such as having travelled abroad, for example), the Office of the Children's Commissioner issued a [note outlining the rights of children and young people](#) with regards to such testing regimes. The [2020 Annual Report from the Office of the Children's Commissioner](#) further summarises advice provided to the Government regarding testing and all other aspects of Covid-19 policy and legislation affecting children and young people.

## Suspension of Legislation affecting Emergency Schools Closures

The [Covid-19 \(Schools and Day Care of Children\) \(Jersey\) Regulations 2020](#) were effectively suspended on 30th September 2020, although they were not active at the time as they required the Minister, by published notice, to close schools. This action, undertaken in March 2020, had expired upon the re-opening of schools in June 2020.

## Summer term 2021

From 10th May 2021, official Covid-19 guidance in schools was updated to relax the use of masks in school settings during lessons; however, the guidance on maintaining class/year group

bubbles remained in place. [Guidance on ventilation in schools](#) continued, as well as guidance on [hand and respiratory](#) hygiene.

In addition, rules were relaxed to allow nurseries and schools to conduct on-Island trips and residential for class/year groups; induction days for new or potential children/students (including for new starters to nurseries, primary schools, secondary schools and 16+ providers) were allowed; events involving multiple year groups, or more than two schools (such as sports days or Island-wide school sports events) were permitted subject to a risk assessment; and school 'proms' were able to take place off school premises and subject to Covid-19 regulations for hospitality settings.

Due to the rise in case numbers in the Island in July 2021 (the 'Third Wave'), and the corresponding increase in numbers of children being forced to self-isolate due to being direct contacts, the Minister for Children and Education issued [new guidance](#) to schools and colleges. Under the new guidance, provided the child/family had agreed to be tested, then children and young people who were direct contacts of a Covid confirmed case could attend school in advance of the result.

The intention of this revised guidance was "to provide greater clarity and to ensure schools are as safe as possible in the last few days of term."

### What will happen next term?

In a response to [Written Question 335/2021](#), the Minister for Children and Education detailed preparations that were underway for a safe return to schools in September 2021. This included the following potential mitigation –

- PCR and LFT (Lateral Flow Test) for all staff
- Good hand sanitising/hygiene messaging
- School ventilation systems and methods are being reviewed
- Masks are being worn in communal areas
- One-way systems implemented
- Bubble groups maintained
- Physical distancing maintained
- Safety signage and Government messaging reviewed and where required updated
- Cleaning strategies reviewed, with frequencies for horizontal surfaces and touch points increased
- Suitable and sufficient PPE (Personal Protective Equipment) provided
- Self-isolation areas

#### Further reading:

- Children, Young People, Education and Skills: [A report investigating the impact of 'Learning at Home' on Jersey pupils as a result of COVID-19 school closures: March to July 2020](#);
- Children's Commissioner for Jersey: [School Closures: Comment on the child rights impact assessment](#)
- Children's Commissioner for Jersey: [Children's rights and Covid-19 testing](#)
- [Children, Education & Home Affairs Panel Covid-19 Response: Impact on Children and Young People](#) (Ongoing Review as of May 2021)