



BRIEFING PAPER

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Coronavirus Bill: childcare and education settings

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1. Introduction

This briefing paper is one of a collection of Commons Library briefings on the Coronavirus Bill (the Bill). It deals with the sections of the Bill relating to education and childcare. The other briefing papers, dealing with other parts of the Bill and general background, are available on the Commons Library website ([Coronavirus Bill \(Overview\)](#)).

The UK Government has stated that the coronavirus outbreak presents “particular challenges and risks to those operating in an educational or childcare context.” This is both because of the need or tendency for people to learn in groups and because of the harmful impact that a break in education may have on a young person’s development and progression to further study or employment.

What is in the best interests of those in education will, the Government believes, “vary according to the level of risk which presents itself in a particular place at a particular time.” As a result, the Bill seeks to provide the Government with powers to enable it to “react flexibly to manage differing levels of risk.”¹

The Bill includes three powers relating to education:

- 1 a power to require or direct the temporary closure of an educational institution or registered childcare provider;
- 2 a power to make specified types of directions in connection with the running of the education and registered childcare systems; and
- 3 a power to dis-apply or vary specified existing requirements contained in or arising out of education and childcare.

The following sections set out the Bill’s provisions as they relate to childcare and early years providers, schools, and further and higher education providers.

Further information is available in the [Explanatory Notes](#) (Bill 122-EN) and [Impact Assessment](#) for the Coronavirus Bill, which were published on 19 March 2020.

See also:

- [Department of Health and Social Care \(DHSC\) news story, Emergency bill to strengthen coronavirus \(COVID-19\) response plans, 17 March 2020](#)
- [DHSC briefing, Coronavirus bill: what it will do, 17 March 2020](#)

¹ [Coronavirus Bill Explanatory Notes](#), paras 70-1.

2. The Bill

2.1 Temporary closure directions

Clause 35 and Schedule 15 of the Bill provide the Secretary of State for Education with the power to require the temporary closure of education and childcare establishments in England. Such a direction may be issued to certain providers, all providers within England or an area of England, or all providers of a certain description. Directions may be framed in general terms or require the taking of particular steps – for example, relating to the attendance of specific groups. The Secretary of State may also authorise a local authority to issue temporary closure directions to schools and childcare providers. The Office for Students may be authorised to issue directions to higher education institutions.

Before giving such a direction, the Secretary of State would be required to have regard to advice from the UK Chief Medical Officer, or one of their deputies, and would have to be satisfied that the direction is “a necessary and proportionate action in response to the incidence or transmission of coronavirus.”

A provider to whom a temporary closure direction is given would be required to take reasonable steps to ensure that people do not attend the premises.² They would also be required to have regard to any guidance issued by the Secretary of State. The Secretary of State would also be able to apply for an injunction enforcing the provisions of a direction.

The Bill makes broadly equivalent provision with regards to education and childcare establishments in the devolved nations, with the power to direct closures exercised by the respective ministers in Wales and Scotland, and by the Department of Education in Northern Ireland.

In England, Wales and Northern Ireland the directions would be referred to as temporary closure directions. In Scotland they would be referred to as educational closure directions.

The Bill also gives Scottish Ministers the power to issue a “student accommodation closure direction” which can require a manager of student accommodation premises to take reasonable steps to restrict access to premises for a specified period; or can provide that students for whom student accommodation is provided may be confined there for a specified period.

2.2 Temporary continuity directions

Clause 36 and Schedule 16 of the Bill provide the Secretary of State for Education with the power to make directions – referred to as temporary continuity directions – in connection with the running of education and childcare establishments in England. As with temporary closure directions, temporary continuity directions may be issued to certain providers, all providers within England or an area of England, or all providers of a certain description.

The Secretary of State may also authorise a local authority to issue temporary continuity directions to schools and childcare providers. The Office for Students may be authorised to issue directions to higher education institutions.

² In the case of childcare settings, this would include people attending the premises for purposes connected with the provision of childcare.

Such directions may require the taking of reasonable steps expressed in general terms, or the taking of particular steps that the Secretary of State considers reasonable (for example, relating to an establishment staying open or altering term dates).

Before giving a temporary continuity direction, the Secretary of State would be required to have regard to advice from the UK Chief Medical Officer, or one of their deputies, and would have to be satisfied that the direction is “a necessary and proportionate action for or in connection with” the continued provision of education, training or childcare or services related to them.

A provider to whom a temporary continuity direction is given would be required to have regard to any guidance issued by the Secretary of State. The Secretary of State would also be able to apply for an injunction enforcing the provisions of a temporary continuity direction.

As with temporary closure directions, broadly similar provisions are made with regards to Scotland, Wales and Northern Ireland.

2.3 Disapplying wider legislative provisions

The Bill additionally allows the Secretary of State for Education, by notice, to disapply and modify, for a maximum period of one month, certain specified legislative requirements or restrictions relating to education and childcare. This includes, for example, requirements to provide school meals (including free school meals) and local authority duties to guarantee education. The UK Government’s Impact Assessment for the Bill explains that this “will enable local authorities and education and childcare providers to operate a service level different from usual practice, without being in breach of regulatory requirements.”³

Broadly equivalent provision is made for Scotland, Wales and Northern Ireland.

Guidance on the Bill published by the DHSC stated that the power to issue temporary continuity directions and to disapply certain legislative requirements will:

[E]nsure that children, young people and those who work with them remain safe, while minimising disruption to everyday life and progression to further and higher education or employment by ensuring schools have the flexibility and support they need to respond pragmatically to the changing situation.⁴

3. Commentary

3.1 Childcare settings

Impact Assessment

The UK Government’s Impact Assessment for the Bill states that in the event of a period of closure of childcare providers, there would be an immediate impact on parents, resulting in many having to take paid or unpaid leave. It adds that “some may lose their jobs as a result of having to stay at home.”

The Assessment also notes that parents may lose money for paid-for hours of childcare during periods of closure. However, compensating individual families would, it says, be “extremely difficult to manage.” It adds that the Government did consider whether agreements that are already in place between providers and families would cover

³ DHSC, [Coronavirus Bill Summary of Impacts](#), 19 March 2020, p36.

⁴ DHSC, [What the Coronavirus Bill will do](#), 17 March 2020.

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compensation in the event of unexpected closures, “but this does not appear to be the case.”⁵

The Impact Assessment states that the powers around temporary continuity directions are needed “to enable the education and childcare systems to keep running as far as possible, mitigating some of the negative impacts of a coronavirus outbreak on those systems and the wider economy.” It states that the directions may be needed, for example, in order to override a decision of a childcare provider to close when there is no need to do so.⁶

The Assessment states that the powers to temporarily disapply existing legislative requirements in childcare legislation may be necessary in order to allay concerns that local authorities and providers may have when operating in these difficult circumstances and would help to maintain staff morale and wellbeing. This is likely, the assessment states, to be seen by the sector as “a sensible and necessary approach, although for early years in particular it is likely that that concerns about safeguarding will be expressed.” With regards to this, it emphasises that requirements around safeguarding cannot be relaxed [emphasis in original]:

We need to be clear that these arrangements do not relax requirements such as safeguarding or health and safety, and that any action taken will be focused on the interests of children and young people and their wellbeing. The key and immutable principle is the safety and wellbeing of children, young people, staff and others engaged in the sector. Therefore, there are **certain requirements that cannot be relaxed**, such as those relating to safeguarding or health and safety. Also, in operating under requirements that are relaxed, consideration must be given to these factors.⁷

The Assessment states that relaxing requirements is “likely to have a detrimental effect on things such as the quality of services” but emphasises that the dis-applications will be regularly reviewed and each dis-application will only last one month before it ends or needs to be reviewed.⁸

Some parents may also, the Assessment states, be “resistant to the relaxation of certain measures which may result in pupils or children not receiving a normal service.”⁹

Closure of childcare settings

In a statement on 18 March 2020, the Education Secretary, Gavin Williamson, announced that schools in England would “remain closed until further notice”. He stated that this would be “for all children except those of [key workers](#) and the children of the most vulnerable.” He added that the Government expected early years providers to do the same. The Government was, he said, “working with Her Majesty’s Treasury on the financial support that will be required.”¹⁰

The Department for Education (DfE) published a definition of key workers (for England) on 19 March 2020. See:

- DfE, [Guidance for schools, colleges and local authorities on maintaining educational provision](#), 19 March 2020.

It has similarly been announced that schools in **Scotland** are expected to close from Friday 20 March.¹¹ In a statement on 19 March 2020, the Deputy First Minister, John Swinney,

⁵ DHSC, [Coronavirus Bill Summary of Impacts](#), 19 March 2020, p51.

⁶ As above, p30.

⁷ As above, p36.

⁸ As above, p37.

⁹ As above, pp36-7.

¹⁰ HC Deb, [Educational Settings](#), vol 673, c 1083, 18 March 2020.

¹¹ Scottish Government, [School and nursery closures](#), 18 March 2020.

stated that local authorities will put in place appropriate arrangements to support vulnerable children and those whose parents are employed as key workers, which may include provision for them to attend school or local childcare. He added that:

Local authorities are also being encouraged to work with local childcare providers in the private and third sectors to ensure ongoing provision to enable key workers to remain in work. Funding will continue to allow contractual payments to private and third sector providers, including childminders, for statutory early learning and childcare hours to continue. This is worth £220 million to the childcare sector in 2020-21.¹²

While schools in **Wales** are set to close from Friday 20 March, childcare settings will not be required to close. The Welsh Government has also additionally confirmed that funding for the Childcare Offer for Wales will continue to be paid to local authorities and childcare settings who currently receive payments for children in their care, even where services are disrupted.¹³

Schools, state nursery schools and nursery units in **Northern Ireland** are set to close from 23 March 2020, but at the time of writing it is not clear if this also applies to private and voluntary nurseries.¹⁴

Concerns around closures (England)

On 17 March 2020, the Government announced that it will continue to pay funding to local authorities for the early education entitlements for two, three and four year olds during any periods of nursery, pre-school or childminder closures, or when children cannot attend due to coronavirus. The DfE additionally set out an expectation that local authorities should continue to pass on the funding they receive to providers.¹⁵

On 18 March, the Government also additionally announced that non-local authority providers of childcare will pay no business rates in the 2020-21 financial year. Local authorities will, the announcement said, be compensated for this measure.¹⁶

These measures are in addition to the support for small business announced at the Budget on 11 March 2020. For further information on the Budget measures, see Library Insight: [Support for businesses during the Coronavirus \(covid-19\) outbreak](#).

Prior to the Education Secretary's statement on 18 March, concerns had been raised regarding the impact on childcare settings if they were forced to close. The UK Government's Impact Assessment, for example, states that "work with stakeholders has shown that providers' insurance policies are highly unlikely to cover any loss of income due to coronavirus."¹⁷

In response to the Secretary of State's announcement, Neil Leitch, Chief Executive of the Early Years Alliance, an early years membership organisation in England, recognised that the Government must do all it can do mitigate the spread of coronavirus but raised concerns about the financial impact on childcare settings:

We recognise that these are very unique circumstances and that the government must do all it can to mitigate the spread of coronavirus, and we know that today's decision will not have been taken lightly.

¹² Scottish Government, [Update on school closures and exams](#), 19 March 2020.

¹³ Welsh Government, [Childcare Offer for Wales payments will continue even if children do not attend due to coronavirus isolation](#), 18 March 2020.

¹⁴ [Coronavirus: NI schools to close due to Covid-19 pandemic](#), BBC News, 18 March 2020.

¹⁵ DfE, [Free childcare offers to continue during coronavirus closures](#), 17 March 2020.

¹⁶ DfE, [Schools, colleges and early years settings to close](#), 18 March 2020.

¹⁷ DHSC, [Coronavirus Bill Summary of Impacts](#), 19 March 2020, p51.

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That said, the monumental impact that this will have on childcare providers across the country cannot be underestimated. Many now face a significant loss in revenue while still being required to pay mortgages and rents and other fixed costs. There can be no doubt that this move will have a huge detrimental financial impact across the sector.

While the recent commitment from the Department for Education on the continuation of the 'free entitlement' funding during these difficult times are welcome, these alone are not enough to ensure that the childcare sector can survive these difficult times. Most providers also rely on private fees from parents as a key source of income, and so the inevitable loss of revenue once these measures are implemented will be significant. And of course, all this comes at a time when many nurseries, pre-schools and childminders across the country were already struggling financially as the result of years of government underfunding.¹⁸

Mr Leitch called for a commitment for “a dedicated support package for the early years sector, to ensure that they are able to weather this storm.” He additionally said that it remained to be seen how the proposal for childcare settings to remain open for key workers can be implemented in practice:

From a practical perspective, it remains to be seen how this proposal can or will be implemented in practice. Early years providers now face the prospect of having to identify which of their parents are 'key workers', and then making incredibly difficult decisions on how many staff members will be needed to provide to deliver this care, and what happens to those staff who are no longer required to work.

This is going to be a huge undertaking, and all at a time when providers are worried about how and if they are going to survive this situation.¹⁹

Purnima Tanuku, Chief Executive of the National Day Nurseries Association, raised similar concerns in response to the Secretary of State's announcement:

This is absolutely devastating news. I have just expressed my total shock and disappointment to the minister who had previously assured us they would keep nurseries open as long as possible.

How can the private nursery sector remain sustainable in the face of mass closures and expensive overheads?

We must have reassurance from government that as well as continuing to pay the early years entitlement funding, they will support the sector in the same way they have promised for other sectors badly affected by this catastrophe. Nurseries will lose income from parents but will still have staff to pay and rental or mortgage costs.

It's vital that parents can access high quality care once they return to work again en masse and nursery businesses and their staff must be supported to be in a position to deliver this.

We also need to know how some nurseries - who care for children of key workers and for vulnerable children – can continue to remain open with few children.²⁰

There could also be a potential issue in parents being required to continue to pay for childcare places despite the provider being closed. The BBC has, for example, reported a question from a parent who asked whether they are still expected to pay fees when they cannot send their child to nursery. The BBC Education Correspondent responded that:

Parents are being told to look at the contracts they have, because usually there is a clause which states in the event of a flood or emergency that you'll continue to pay.

The problem with this is we don't know how long this will go on for. Some parents may want to pay because they don't want the nursery to close long term. Nurseries still have overheads such as staffing costs etc.

¹⁸ [Childcare settings and schools to 'partially' close](#), Early Years Alliance, 18 March 2020.

¹⁹ As above.

²⁰ [All nurseries in England set to close](#), National Day Nurseries Association, 18 March 2020.

In these difficult times a lot of parents may struggle with their own job security, rent and mortgages and there is the moral question of whether they should be paying for a service they are not receiving if the nursery is shut.

The government has said additional funding will be made available, the question is whether it will be enough to take the financial burden away from nurseries and parents.²¹

3.2 Schools

Closures

Government Ministers in England, Scotland, Wales and Northern Ireland all announced on Wednesday 18 March 2020 that schools would close on or before Friday 20 March 2020. Prior to this, some schools had begun taking their own decisions to close completely, or to restrict access to certain year groups.

In **Wales**, the Minister for Education, Kirsty Williams, said that schools would have “a new purpose”, serving those “most in need”. These groups included:

- Those involved in the immediate response to coronavirus
- Vulnerable people, including those benefitting from free school meals
- Children with additional learning needs.

Alongside these measures, Ms. Williams also confirmed that public examinations such as GCSEs and A Levels would not go ahead this year.²²

In **Scotland**, Nicola Sturgeon, First Minister, said that it wasn't possible to say how long the school closures would continue for. A [news article](#) on the Scottish Government website provided further details. The Scottish Government's focus would be on mitigating the impact on three particular groups “as a priority”:

- Vulnerable pupils and those receiving free school meals
- Pupils undertaking coursework and preparing for exams
- Key workers with children “including doctors, nurses and emergency services workers”.²³

On Thursday 19 March, Deputy First Minister, John Swinney MSP, confirmed that exams for Scottish school pupils would not take place this year.²⁴

In **England**, Education Secretary Gavin Williamson confirmed that schools would close to most pupils until further notice.²⁵

Some groups of children and young people, Mr Williamson said, would continue to receive provision. These included:

- The children of key workers, expected to include emergency services workers, NHS staff, and transport and delivery workers.
- Children with a social worker. This would include ‘children in need’, and those who are looked after.

²¹ BBC News website, [Coronavirus: your questions answered](#), 19 March 2020, at 12:22

²² Welsh Government, [Statement from Minister for Education, Kirsty Williams, on school closures in Wales](#), 18 March 2020.

²³ Scottish Government, [School and nursery closures](#), 18 March 2020.

²⁴ Deputy First Minister speech, [‘Coronavirus \(COVID19\) – impact on education’](#), 19 March 2020.

²⁵ HC Deb, [Educational Settings](#), vol 673, c1083, 18 March 2020.

- Children with Education, Health and Care (EHC) plans. These are children and young people with complex special educational needs and disabilities (SEND).

Mr Williamson estimated that around 10 per cent of pupils would fall into one of these categories. He also undertook to provide additional support for those entitled to Free School Meals.²⁶ [Subsequent DfE guidance on support](#) in this area was published on 19 March 2020.²⁷

In addition to the school closure measures, Mr Williamson said that public examinations for GCSEs and A levels wouldn't take place this year, and nor would national curriculum assessments, commonly known as SATs. Consequently, school performance (league) tables would not be published for this year.²⁸

In **Northern Ireland**, First Minister, Arlene Foster, confirmed that schools would no longer open from Monday 23 March 2020, and said that there was ongoing work on how "schools [could...] continue to be a base for the education of children whose parents are health service staff or other key workers such as the blue light services."²⁹ It has subsequently been confirmed that GCSEs and A Levels will not go ahead in Northern Ireland this year.³⁰

Commentary and analysis on school provisions

In the days prior to the closure announcements, teaching and leadership unions repeatedly called for more clarity on what was expected of schools, and raised specific concerns about:

- The ability of schools to continue to operate safely and effectively given increasing levels of staff absence, and staff and pupil wellbeing;³¹
- The position of vulnerable children and young people, including pupils with disabilities;³²
- Access to food for disadvantaged children who would normally qualify for free school meals (FSM) and those who were not eligible, but were still in food poverty;³³
- Plans for public examinations such as GCSEs, A levels, Scottish equivalents, and other statutory assessments.

Reaction from teaching and leadership unions after closure announcements on 18 March 2020

After the announcements about school closures on Wednesday 18 March 2020, unions welcomed the fact that centralised decisions had been taken, but called for more clarity on what was expected, how any arrangements to cater for vulnerable groups would work, and which employees would count as key workers.

²⁶ Oral Statement to Parliament, '[Educational Settings](#)', 18 March 2020, v673, col.1083 onward

²⁷ '[Coronavirus: Answers promised after school shutdown confusion](#)', BBC News, 19 March 2020.

²⁸ DfE, '[Schools, colleges and early years settings to close](#)', 18 March 2020.

²⁹ As reported by BBC News online, '[Coronavirus: NI schools to close due to Covid-19 pandemic](#)', 18 March 2020.

³⁰ '[Coronavirus: School exams in NI will not go ahead](#)', BBC News, 19 March 2020.

³¹ See e.g., National Education Union (NEU) letter to Prime Minister, '[Coronavirus school closure update](#)', 17 March 2020.

³² See e.g., National Association of Head Teachers (NAHT) news story, '[Coronavirus - special schools, pupils with SEND/ALN and acute medical needs](#)', 17 March 2020.

³³ See e.g., '[Coronavirus: Leadership unions say school closures 'likely' after DfE crunch talks](#)', in *Schools Week*, Monday 16 March 2020.

Immediately following the announcement for England, the National Association of Head Teachers (NAHT) said that the education sector wanted to do all it could to support the country. However, at that point, there were “more questions than answers”. Noting the “enormous task” ahead, it said its priority was working with school staff and the DfE “to make this work on the ground”.³⁴

The Irish National Teachers’ Association (INTO), which represents some teaching staff in Northern Ireland said that the First Minister’s announcement was “to be welcomed” in that it ended the uncertainty for teachers and school leaders. INTO had previously said that it was opposed to schools staying open.³⁵

The National Education Union (NEU) and NEU Cymru also welcomed news of the closures in England and in Wales, and stressed that in the Government should focus on ensuring children in food poverty were “fed properly”.³⁶

DHSC Impact Assessment – school considerations

The Bill’s Impact Assessment identifies the following ‘key considerations’ in relation to school closures:

- Potential detrimental effects on pupil progress, particularly for those in the examination phases and for pupils with SEND.
- Potential detrimental effect on children entitled to FSM.
- Potential for disruption to initial teacher training – much of which is delivered through school placements.
- Potential financial implications for fee-paying schools, and also for schools with residential (boarding) provision, where parents may be overseas.³⁷

3.3 Further and higher education providers

Universities and colleges are independent institutions and under current policy they can determine their own arrangements for access, term dates and attendance.

The Secretary of State has intervention powers in relation to general further education and sixth form college corporations, but the use of these powers is limited to circumstances in which there has been mismanagement or unreasonable behaviour, so these powers would not be suitable for the circumstances outlined in the Bill. Similarly, the Office for Students has regulatory powers over HE providers but does not have the power to close institutions. The [Impact Assessment](#)³⁸ of the Bill gives further details on current provisions in this area.

The Bill will give Ministers of State in England, Wales, and Scotland and the Department of Education in Northern Ireland the power to issue directions to temporarily close post-16 institutions.

Further and higher education organisations have published guidance for providers on measures they should adopt during the coronavirus pandemic:

- Office for Students: [Coronavirus \(COVID-19\) – advice for higher education providers](#)
- Universities UK: [Coronavirus \(COVID-19\) - information for universities](#)

³⁴ NAHT press release, [‘NAHT comments on government’s new expectations for schools during the Covid-19 outbreak’](#), 18 March 2020.

³⁵ Irish National Teachers Association, [‘Latest guidance on Covid-19’](#), as at 19 March 2020.

³⁶ National Education Union press notice, [‘Closure of schools’](#), 18 March 2020; NEU Cymru press notice, [‘NEU Cymru welcomes school closures in Wales’](#), 18 March 2020.

³⁷ DHSC, [Coronavirus Bill Summary of Impacts](#), 19 March 2020, p51.

³⁸ Department for Health and Social Care, [Coronavirus Bill Summary of Impacts](#), 19 March 2020

- Association of Colleges [Coronavirus Update \(COVID-19\)](#)

Individual universities and colleges are also publishing information for students on their websites.

Clause 35 and **Schedule 15** of the Bill gives Ministers of State in England, Wales, and Scotland and the Department of Education in Northern Ireland the power to temporarily close 16 to 19 academies and further and higher education providers by issuing a “temporary closure direction”. A temporary closure direction requires the “responsible body of that institution to take reasonable steps to secure that persons do not attend the premises of the institution for a specified period.”³⁹

The Bill also gives Scottish Ministers the power to issue a “student accommodation closure direction” which can require a manager of student accommodation premises to take reasonable steps to restrict access to premises for a specified period; or can provide that students for whom student accommodation is provided may be confined there for a specified period.

Clause 36 and **Schedule 16**’s measures on continuity of provision which require some educational providers to stay open, or to re-open, to admit specified persons for the purposes of the receipt of education, training, childcare or ancillary services, also apply to 16-19 academies and further and higher education providers in England, Wales, Scotland and Northern Ireland.

3.4 Gavin Williamson statement 18 March 2020

On Wednesday 18 March 2020 the Secretary of State for Education Gavin Williamson announced in a [statement](#)⁴⁰ to Parliament that schools would close from Friday 20 March 2020 and that sixth forms and FE colleges would be expected to do the same.

In his speech the Secretary of State for Education said that university arrangements would be left to the discretion of individual university vice-chancellors.

The announcement recognised that providers were finding it increasingly difficult to remain fully open.

3.5 University and college closures

Since Tuesday 17 March 2020 many universities and colleges have suspended face-to-face teaching and have moved to online delivery of courses and supporting students remotely:

After nearly a week of universities scaling back teaching hours, the vast majority have notified students that they will have to move to online learning in the next few days.

Institutions took the decision in the absence of clear government guidance, after prime minister Boris Johnson called on all members of the public to limit interactions with others to stop the spread of Covid-19.

Universities UK said its members were “working hard” to implement social distancing strategies while continuing to teach. It insisted that the majority of universities remained open, and that students would be able to keep living in their halls of residence. Many students are opting to go home.

“Most universities cannot fully close as they have commitments to students who live on campus, to certain research that must run around the clock and to maintaining

³⁹ [Coronavirus Bill Explanatory Notes](#), paragraph 270

⁴⁰ HC Deb, [Educational Settings](#), vol 673, c 1083, 18 March 2020

infrastructure and other systems that cannot simply be switched off or left unattended," it added.⁴¹

Some universities such as [Cambridge University](#) have advised students to return home and others are starting a longer Easter break.

At the time of writing, it appears that only Ulster University and Queens Belfast have closed entirely.⁴² It has been suggested that closing universities may cause difficulties for many students, particularly overseas students, who live in university accommodation:

University vice-chancellors have told the government they cannot completely shut down if the coronavirus outbreak worsens because thousands of students would be left with nowhere to go.

[...]

It is understood that any decisions about whether to instruct universities to close would be taken by the Department for Education (DfE). A spokesperson for the OfS [Office for Students] said universities should "continue to follow advice from DfE and Public Health England".

However, vice-chancellors cautioned that the makeup of universities made their complete shutdown impossible.⁴³

The Impact Assessment on the Bill states that the "main focus for closures should be on buildings on campus where people congregatin" rather than on residential accommodation.⁴⁴

Across Europe many countries including Italy, France, Norway and Ireland have closed all their universities and colleges.⁴⁵

3.6 Impact of closures on providers

On 18 March 2020 the Association of Colleges sent an [open letter](#) to the DfE asking for help to offset the financial impact of college closures:

Every college is implementing its emergency planning procedures, working to the Government's advice, monitoring staff and student illnesses and absences and making decisions which are right for their circumstances. It is difficult to put an accurate figure on the financial impact, but it would be fair to suggest that an average college might lose between £500k and £1million per month of temporary closure or reduced capacity; very few, if any, will be able to cope without Government support.

They are acting responsibly, working hard to support the safety and security of their students, but seek assurances and requests which are now very urgent:

- **Funding:** Colleges seek assurance that Adult Education Budget (AEB), study programme, apprenticeship and other DfE/[ESFA](#) income, wherever possible, can be guaranteed for the coming months;
- **Emergency financial support:** AoC are asking DfE/ESFA to provide simple, rapid and clear routes for colleges to be able to seek and secure cashflow support. Colleges with low cash balances, large student fee income or employer-funded training will be at particular risk;
- **Temporary closures:** In the absence of an instruction from the Government for all colleges to close, college leaders seek assurance that they will be supported in any local decisions to close a college or a campus which are taken in the light of the circumstances. These will include high numbers of staff in

⁴¹ Financial Times, [UK universities suspend face-to-face teaching](#), 18 March 2020

⁴² BBC News, [Coronavirus: UU and OUB close campuses](#), 17 March 2020

⁴³ The Guardian, [Complete shutdown of UK universities due to Covid-19 'impossible'](#), 11 March 2020

⁴⁴ Department for Health and Social Care, [Coronavirus Bill Summary of Impacts](#), 19 March 2020

⁴⁵ University World News, [France, Ireland, Norway add to mass closures of universities](#), 13 March 2020

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social isolation or in vulnerable categories who require social distancing; or outbreaks of the virus amongst staff and/or students; advice from Public Health England and so on. Given the nature of colleges, any temporary closures are likely to be time-limited and partial.

- **Regulation:** The decision by Ofsted to suspend all inspections is welcome, and should be followed swiftly by assurances that data, performance tables, targets and the like will also be suspended for the next few months.⁴⁶

The Secretary of State for Education has said that he would look into ways to help universities that are impacted by the pandemic:

We urge universities who are going to face financial difficulties and pressures to start engaging in an early dialogue and be honest about some of the challenges that they are going to face financially. Otherwise, it is difficult to respond if something comes out of the blue.

The issue of international students is important. We have to be realistic and expect the number of international students who attend UK universities to be lower next year. How we work with the sector to replace that capacity in different ways is something that the Department is already working on. Certainly, we are already having those discussions with UUK.⁴⁷

The Impact Assessment also discusses compensation in paragraph 281:

There is potential for financial detriment to providers arising from closure.

Providers will retain much of their costs but risk losing income from commercial activities, facing compensation/refund claims from students, and potentially some extra charges for void accommodation. In the event we decide to compensate providers for adverse financial impact from the financial burden of requirements we would need the ability to direct relevant public funds to them. We understand that for registered providers in the “approved fee cap” category, we might be able to achieve this through OfS under the provisions of s39 HERA 2017.

That power would not cover payments to registered providers in the “approved” category or non-registered providers. We understand that under the powers being proposed generally here, we would not need specific provisions, as there would be wider powers for government to deploy public funds. If that is not the case, then this is an issue we would need resolving here.⁴⁸

Participation in education post-16

The direction to close post-16 providers temporarily conflicts with duties on young persons aged 16 and 17 to take part in education, employment and training under section 2 of the *Education and Skills Act 2008*, and duties on institutions within the statutory further education sector that flow consequential to the duty under section 2. The duty to participate is therefore removed for the duration of any temporary closure.⁴⁹

3.7 Sector comment on the measures

Universities UK:

Alistair Jarvis, Chief Executive of Universities UK:

We are facing unprecedented challenges as a country, and universities continue to respond in the best interests of their students, staff and their local communities. The health and wellbeing of all students and staff is the number one priority and a range

⁴⁶ Association of Colleges, [Colleges and COVID-19](#), 17 March 2020

⁴⁷ HC Deb [\[Education Settings\]](#) 18 March 2020 c1101

⁴⁸ Department for Health and Social Care, [Coronavirus Bill Summary of Impacts](#), 19 March 2020

⁴⁹ Department for Health and Social Care, [Coronavirus Bill Summary of Impacts](#), 19 March 2020 para 270

of measures are being taken to keep university communities well-informed, supported and safe.

The government understands that universities must continue some essential services and cannot fully be locked down given students living on many campuses and some areas of research that cannot be left unmonitored. Universities are particularly mindful of international students who are separated from friends and family and may be unable to travel because of the pandemic. Universities will continue to do all they can to support those remaining on campuses and keep them safe, and are regularly communicating with students and staff to provide them with timely and accurate information.

Universities are also considering ways in which they can support their local communities and the national effort – offering expertise, equipment and facilities.

We await further information following today's announcement that school exams will not go ahead. Students should not lose out on the opportunity to go on to university this year because of the challenges posed by the pandemic. We are committed to working closely with the government, UCAS, examination regulators and school leaders on the practical implications of this and hope there will be clarity on this for students, parents, teachers and university admissions staff as soon as possible.⁵⁰

Association of Colleges

Chief Executive David Hughes:

The Prime Minister and Education Secretary have announced that all colleges will close for most students after Friday until further notice. The Education Secretary has recognised the vital civic role that colleges can and do play with a request to help key workers to stay in work and support vulnerable students, including over Easter. I am confident from our detailed discussions with officials and ministers that the Government recognises the need to provide financial certainty and security to colleges at this difficult time, in order to allow college leaders and staff to focus on their students and their communities.

Colleges will also need to maintain skeleton staff to manage their estates, finances, IT and payroll as well as any residential students or other facilities including farms they may have. We are keen to facilitate sharing between colleges on how you are managing in these unprecedented times and making sure that innovative approaches are able to be replicated quickly. Please talk to your Area Director if you are willing to share, or have questions.

We are working very closely with DfE and ESFA to manage the flow-on implications of this announcement and in particular the funding support which will minimise the long-term impact on students and colleges. Discussion also continues around how the summer exams will be affected, and how assessments on all other qualifications will be dealt with. Plans are coming together, but it is too early at this stage to provide any details today.

More than anything I want to make sure that every college leader feels confident to do everything they can do to support their students and communities without having to worry too much about the financial challenges. I have been given assurance that the financial issues will be dealt with sensitively, and that early notice to ESFA of cashflow problems or future financial distress is the best course of action. Early engagement will be viewed as a strength, rather than a weakness, and the FE Commissioner will not be sent in because every college will need support.⁵¹

⁵⁰ Universities UK, [UUK response to latest government measures on Coronavirus](#), 18 March 2020

⁵¹ Association of Colleges, [Partial college closures announced by Government](#), 18 March 2020

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