



# Key worker status in higher education in Scotland

## GUIDANCE FOR MEMBERS AND BRANCHES

### WHAT IS A KEY WORKER?

The definitions of key workers agreed with local authorities previously during the pandemic will continue to apply.

The definition of key workers sets out that: '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.'

Decisions on who is included are taken at a local level but the Scottish government has stated that for those working in education (category 3 workers), the definition should only apply to those '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).'

The full guidance can be found at: Coronavirus (COVID-19): school reopening arrangements for January 2021 - gov.scot ([www.gov.scot](http://www.gov.scot))

### WHAT DOES BEING A 'KEY WORKER' MEAN?

The guidance is concerned with access to school places for children of parents who are regarded as key workers.

Although decisions are taken at a local level, the Scottish government guidance is clear that the following principles should apply:

- The number of children taking up these places in schools during the strict lockdown period should be kept to the absolute minimum necessary.



*The advice from the Scottish government is that people should stay at home in all but exceptional circumstances. People should only attend work only where this work cannot be done from home.*

- Only key workers who are physically attending their workplace or who cannot fulfil their critical functions when they are working remotely from home may qualify for places.
- Where alternative options are available – eg where childcare/remote learning can be provided or supported by one non-key-worker parent or carer who is able to work from home – these should be used instead of children attending school in person.
- If it is possible for children to be at home during this exceptional period, until schools reopen to them, then they should be. Whole workforces or entire groups of staff should not be designated as key workers.

## **ARE HE STAFF IN SCOTLAND 'KEY WORKERS'?**

Staff who are working remotely/ from home will not be regarded as key workers.

The advice from the Scottish government is that people should stay at home in all but exceptional circumstances. People should only attend work only where this work cannot be done from home.

In universities the vast majority of work can, and should, be done remotely/from home. We do not believe that at the current time it is critical to be providing learning and support on campus, rather this should be done remotely where possible, or postponed where that isn't appropriate.

However, Universities Scotland is seeking a declaration from the Scottish Government that university staff delivering critical in-person student support and learning and teaching should be deemed key workers.

We are concerned that some employers are seeking such a declaration to argue that staff are required to work on campus and/or deliver face-to-face teaching or services.

Given the overriding advice about working from home and keeping children at home where possible, this would, at the very least, be an irresponsible response from employers who should be setting an example of good community behaviour.

We will update this advice as soon as the Scottish government has made a decision on this point.

## **HE STAFF WITH SCHOOL-AGED CHILDREN**

Only those staff working on campus and regarded as key workers will be able to access a school place for their children. We believe this should be restricted to a skeleton staff agreed with the local recognized trade unions.

No member of staff should be required to work on campus if they do not wish to do so.

Even when a member of staff is regarded as a key worker there should be no obligation on them to send their children to school if they do not wish to do so.

Employers should make appropriate arrangement for parents who are home-schooling.

This may range from flexible working and reduced workloads to offering paid special leave/furlough (on full pay) to such staff where requested. Employers cannot expect parents of school aged children to work 'normally' during school closures. Branches should seek to reach agreement with their employer to facilitate such arrangements, ensuring that those who make such requests are fairly treated when they are considered, and do not suffer a career detriment as a result, since this could be a breach of the Equality Act 2010.

All staff working from home (with or without children) should be provided with the necessary equipment to do so safely and workloads should be reasonable providing for or regular breaks in accordance with the Display Screen Equipment regulations (see: <https://tinyurl.com/y5rta5uq>)

Bargaining for better workloads in HE in light of the Covid-19 pandemic can be found at: <https://tinyurl.com/y33jz6pq>

## WORKING ONSITE/ON CAMPUS

All staff should work from home wherever possible, both in line with government advice and with employers' duty to minimize the health and safety risks their staff are exposed to.

Any requirement to work on site should be solely on the basis that the work is essential and cannot be performed remotely, not simply on whether a member of staff could be categorised as a key worker for the purpose of accessing a school place for their children. As stated above, we believe this would apply to only a skeleton staff which should be negotiated with the recognised trade unions.

All government guidance makes clear that the most important thing everyone can do is 'Stay Home' because this will limit transmission of COVID-19 and help to get the virus under control.

Where it is essential that you attend work (ie it is impossible for your work to be carried out at home) then:

- The employer should have carried out a revised generic and personal risk assessment taking into account the new variant of the virus (see <https://tinyurl.com/yp3uh3m>).
- Personal risk assessments should include travel to and from work, and relevant personal circumstances.
- All control measures should be in place before any member of staff is required to attend work.
- Adequate cleaning regimes must be in place.
- PPE should be provided where necessary.



*Even when a member of staff is regarded as a key worker there should be no obligation on them to send their children to school if they do not wish to do so.*



*If you have any concerns about your health and safety (including those arising from an unreasonable workload), you should raise it directly with your manager and make sure your local UCU branch representative is copied in.*

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See also the Thompsons Solicitors briefing on employer and employees' responsibilities in the wake of coronavirus - <https://tinyurl.com/y2oparcx>

### **I DO NOT FEEL SAFE ATTENDING THE WORK SITE. WHAT SHOULD I DO?**

In addition to the guidance on collective approaches to address COVID-19 health and safety concerns individual members may also have particular concerns about the safety of a return to onsite work and / or face-to-face activities. This may be due to inadequate controls put in place by the employer or particular individual circumstances.

UCU has produced a series of template letters for use by members who reasonably believe that a request or demand that they return to on site working would place them in serious danger from Covid-19, in order to raise their concerns directly with their manager.

The letters are drafted for use by members in different circumstances; the relevant template will need to be tailored to the circumstances of an individual member and branches may need to support members to assist them in completing their letter. The template letters can be found here - <https://www.ucu.org.uk/covid19letters> - you will need your UCU member log in details to access them.