

Date: 2 January 2021

Your Ref:

Our ref: 210102/Williamson G/PR/LB

Rt Hon Gavin Williamson MP
Secretary of State
Department for Education
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NASUWT

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Dear Gavin,

School reopening – January 2021

Your statement to Parliament on 30 December 2020 refers.

You announced to Parliament revised plans for the reopening of schools in the Spring Term 2021 and confirmed that the Spring Term 2021 return dates for primary and secondary schools and colleges in England will be as follows:

- 4 January – majority of primary schools start returning
- 4 January – secondary schools and colleges to provide remote education for exam years and face-to-face education for vulnerable and critical worker children
- 11 January – face-to-face education for exam years and vulnerable and critical worker children and remote learning for other secondary school and college years
- 18 January – secondary school and college students return for face-to-face education

We also note that you have announced that, subject to the Contingency Framework for education and childcare settings, the Government requires a small number of primary schools to restrict access only to children of critical workers and vulnerable children from 4 January 2021 and to provide remote education for all other pupils.

The NASUWT is extremely concerned by the lack of consultation prior to your announcements on 30 December. We are further concerned that the late and changing nature of announcements from the Government on critically important matters affecting the safety of provision in schools and colleges has seriously undermined and compromised the ability of schools and colleges to respond appropriately and safely to the current situation and challenges.

You will not be surprised to learn that your announcement, together with its timing has caused high levels of anxiety for school leaders and for those working in schools

and colleges. NASUWT members have been desperately seeking clarification from their employers as to the requirements and expectations regarding reopening of their schools and colleges, and school and college employers have been struggling in the face of yet another very late announcement, to put in place plans to ensure the safety of staff and pupils. However, it is also clear that employers face unprecedented logistical challenges in ensuring the safe reopening of provision which you have failed to recognise or address.

Your announcement has also caused considerable levels of confusion and uncertainty, not least with regard to your decision to apply the Coronavirus Contingency Framework to some but not all schools in Tier 4 areas. The lack of clarity regarding the criteria and factors you have used to make this decision is adding to anxiety and fear about safety in those schools that are expected to continue to operate normally. These concerns have been further compounded by your decision on 1 January 2021 to require schools in a further ten London boroughs to not reopen on 4 January.

It is now abundantly clear that the pandemic is seriously impacting on the ability of all schools and colleges to continue to operate normally, and there is genuine concern that schools and colleges are not able to reopen fully and safely at this time.

The NASUWT remains of the view that schools, colleges and other settings should only remain open to all pupils where it is safe for them to do so. As the Government has confirmed, the country finds itself in the grip of an escalation of virus transmission which, we believe strongly, requires additional urgent measures beyond those you have set out to date. It is time for you to put the health and safety of staff and pupils in schools and colleges ahead of any other considerations.

We recognise that it has been the Government's priority to keep schools open wherever possible. However, you must also be aware that as the facts of the situation have changed dramatically, and as the threat of virus transmission has increased significantly, there is now a need to reassess how best to continue to provide education to pupils.

Given the increased risk of virus transmission amongst children and young people, we must insist that you confirm that an immediate nationwide move to remote education for all pupils in primary, secondary and special schools and colleges is the only sensible and credible option at this time to minimise the risks to those working in schools and to safeguard public health.

The Union further reiterates to you that we are putting you on notice, by reserving our members' legal rights in the context of a tortious claim for breach of duty of care and personal injury due to foreseeable risk, and any other legal recourse available. The Union will also consider an employer to be in breach of our members' legal rights under Section 44 and 100 of the Employment Rights Act 1996, if they are subjected to detriment and/or dismissal in circumstances of danger which our members have reasonable belief to be serious and imminent. NASUWT members' rights under sections 47B and 103A of the Employment Rights Act [protected disclosure for the purposes of whistleblowing], including their rights under the Equality Act, are also reserved.

The NASUWT recognises that schools and college employers have been placed in a situation where the wrong decision will result in people becoming seriously ill and dying, and will, therefore, appreciate that there can be no compromise on health and safety. If this means that schools and colleges need to delay reopening to pupils in order to ensure they can complete all necessary planning, consultation and training of staff required to safeguard the health and safety of staff and pupils, then that position must be accepted.

I look forward to your response to these serious and urgent matters.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Roach', written in a cursive style.

Dr Patrick Roach
General Secretary