



Department
for Education

Minimum Service Levels for Education

Government Consultation

**Launch date 28 November 2023
Respond by 30 January 2024**

Table of contents

Secretary of State for Education foreword	3
Who This Is For	4
Issue Date	4
Enquiries	4
Additional Copies	4
The Response	4
Respond Online	4
Other Ways to Respond	4
Deadline	5
Background	6
Overview of the Act	6
How an MSL will work	6
Geographical scope	7
Legal context	7
The case for an MSL in schools and colleges	9
International comparisons	11
Proposals	12
Settings in scope of an MSL in schools and colleges	12
Settings out of scope of an MSL in schools and colleges	12
Design principles and coverage for an MSL in schools and colleges	13
Remote education	15
Proposal 1: priority cohorts in schools and colleges	16
Vulnerable children and young people	16
Exam groups	18
Children of critical workers	21
Proposal 2: a hybrid approach (all pupils in primary and priority cohorts in secondary and FE settings)	23
Use of rotas for extended periods of strike action in proposal 1 and proposal 2	25
Workforce implications for schools and colleges	26
The Case for an MSL in higher education	27
An MSL in higher education	28
Strike action	28
Students' experience	28
Teaching and exams	29
Mitigations	30
Consultation Questions	32
Respondent information	32
Impact of the policy	34

Secretary of State for Education foreword

My priority is to ensure every child has the opportunity to fulfil their potential.

We all saw the devastating impact of the disruption caused by the COVID-19 pandemic, and the impact on children from being out of school for long periods of time. Every day out of school is a missed opportunity, and these absences have had a significant impact on attendance, pupil attainment, wellbeing and mental health. That is why I am grateful for the incredible work by school leaders, teachers and staff to help pupils recover from the effects of the pandemic. It is more critical than ever that every child spends every day in school that they can, in a supportive and nurturing environment.

In this context, last academic year's teacher strikes were highly disruptive for children and parents. They resulted in more time out of education for far too many pupils. Cumulatively over 25 million school days were lost over 10 strike days in schools alone, with up to 200,000 teachers striking every national strike day. Millions of people were affected by education strikes, and they deserve to have the reassurance that services which are essential to their future will be available to them when needed.

I am therefore committed to putting in place greater protections for children, parents and families in the event of future strike action. We will need to balance the rights of workers to strike with a child's right to receive an education.

Unfortunately, it is not only schools and colleges that have been affected by industrial action. We all know young people and adults who are studying at university, and who have worked hard to earn their place. It is only right that they receive the education that they deserve and have paid for.

The recent industrial action by university staff puts this at risk, especially for those students whose education and career plans were jeopardised because their final exams were not marked when usually expected.

In this consultation, I am asking for your views on introducing a minimum service level in education services. Your feedback will help to inform the design of a minimum service level in schools, colleges and universities.

Who This Is For

This consultation is for anyone working in or with an interest in education in Great Britain. We welcome input from:

- employers in early years, schools, further education, and higher education;
- education trade unions;
- teachers, staff, and governing bodies;
- local authorities; and
- parents, pupils, and students.

Issue Date

The consultation was issued on 28 November 2023.

Enquiries

If your enquiry relates to the policy content of this consultation, you can contact the team at: Minimumservicelevels.consultation@education.gov.uk

If your enquiry relates to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk, by telephone: 0370 000 2288 or via the [DfE Contact us](#) page.

Additional Copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The Response

The department's response will be [published on GOV.UK](#) in 2024.

Respond Online

To help us analyse the responses please use the online system wherever possible. Visit [DfE consultations on GOV.UK](#) to submit your response.

Other Ways to Respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request and complete a word document version of the form.

By Email

Minimumservicelevels.consultation@education.gov.uk

By Post

MSL Consultation

Department for Education

Sanctuary Buildings, 20 Great Smith Street

London SW1P 3BT

Deadline

The consultation closes on 30 January 2024.

Background

1. This consultation sets out proposals for a minimum service level (MSL) in schools and colleges. It presents two options for protecting face-to-face education on strike days. The first option focuses on prioritising attendance for vulnerable children and young people, exam groups and children of critical workers. The second option focuses on all pupils in primary school, and priority cohorts in secondary and further education settings. The consultation also seeks to gather evidence on the impacts of strike action in higher education, and the case for an MSL covering this sector.
2. The MSL would be delivered through regulations. Any regulations made following this consultation must be approved by both Houses of Parliament.
3. If implemented, these regulations would mean an employer – in this case, a school, college, local authority, or university – could issue a work notice to require individuals to work during strike action in order to deliver a minimum level of provision. If introduced, the regulations would be brought forward under the powers provided to the Secretary of State in the Strikes (Minimum Service Levels) Act 2023.

Overview of the Act

4. The Strikes (Minimum Service Levels) Bill was introduced in Parliament in January 2023 and received Royal Assent on 20 July 2023. The Strikes (Minimum Service Levels) Act 2023 amends the Trade Union and Labour Relations (Consolidation) Act 1992 to:
 - establish powers for the government to make regulations to set an MSL within specified services, including education, healthcare, fire and rescue and transport services;
 - enable employers within those specified services to determine the workforce required, and issue work notices to deliver the MSL on a strike day, where MSL regulations have been made; and
 - add a new obligation for unions to take reasonable steps to ensure compliance with work notices.

How an MSL will work

5. The Strikes (Minimum Service Levels) Act 2023 aims to limit the impacts of strike action on the lives and livelihoods of the public. It aims to ensure a balance between the ability of unions and their members to strike and the rights of the wider public to be able to access key services.
6. Where an MSL is applied, there should be a more consistent level of service for the public during periods of industrial action, as well as a reduction in the circumstances in which there are no services at all. In the case of education, this will help safeguard the safety and education of children and minimise disruption to the public. This will

ensure a child's education can continue as far as possible, including through remote education where face-to-face education is not possible.

7. In practical terms, where an employer provides a service specified in MSL regulations, and where a trade union gives notice of strike action to the employer, the employer may decide to issue a work notice ahead of the strike day(s). It will be at the discretion of individual employers whether or not to issue work notices to deliver the MSL. This legislation is intended to provide new tools to reduce any disproportionate impacts during strikes, not to prevent unions or individuals from taking industrial action.
8. The work notice must specify the persons required to work, and the work they must carry out to deliver the MSL for that strike period. The work notice must be issued a minimum of seven days prior to the strike day but can be varied by the employer up to four days before (unless a later time is agreed with the union).

Geographical scope

9. Employment rights and duties and industrial relations are reserved matters in Great Britain. The Strikes (Minimum Service Levels) Act 2023 enables the government to apply an MSL to key sectors across Great Britain. The government recognises that in some cases this will affect employers in services that are devolved. The UK Government is engaging with the Scottish Government and Welsh Government on the geographical scope of the regulations and will continue to work with them on the detail of these proposals. As employment law is devolved for Northern Ireland, it is for the Northern Ireland Assembly to assess whether to introduce legislation that would allow an MSL to be set in the event of strikes.
10. Education systems vary across Great Britain. We are keen to understand, including through the responses to this consultation and engagement with the devolved governments, the implications of those differences for setting an MSL. This will help to inform a decision on whether MSL regulations are needed across Great Britain and, if so, whether different regulations for England, Scotland and Wales are appropriate.

Q: Do you agree or disagree that an education MSL should apply consistently across England, Scotland, and Wales?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *No preference*

Legal context

11. When setting an MSL, the interference with Article 11 of the European Convention on Human Rights, which is the freedom of assembly and association, must be justified. We believe the MSLs are justified as they seek to protect the rights and freedoms of others, including the public. This is set out within the memorandum on the European

Convention on Human Rights, which accompanied the Strikes (Minimum Service Levels) Act at its introduction to Parliament.

12. The International Labour Organisation, which is an agency of the United Nations, has stated that minimum service levels are justifiable:

- for services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term);
- for services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population; and
- in public services of fundamental importance.

The case for an MSL in schools and colleges

13. Cumulatively, over 25 million school days were lost through 10 national and regional strike days in the last academic year, with any individual pupil being affected by up to eight strike days. In further education, industrial action by the University and College Union (UCU) and the National Education Union (NEU) saw strikes for 10 days and nine days respectively across colleges and sixth forms. On strike days attendance was approximately 50%¹ across all schools, but the impacts were felt unevenly across the country, with London seeing school closure rates as high as 24%². In addition, not all schools prioritised the cohorts set out in DfE's non-statutory guidance [Handling strike action in schools](#).
14. Missing days in education has a clear negative impact on children. Research shows that each day of absence reduces attainment levels.³ Pupils who perform better at the end of primary and secondary school miss fewer days than those who do not perform as well.⁴ Students with higher attendance gain the best GCSE and A-level results. These impacts are particularly pronounced for certain pupil groups, especially more vulnerable children and young people. These impacts have been compounded by the learning loss that many children experienced during the pandemic.
15. The DfE data also shows that primary school children in key stage 2 who did not achieve the expected standard in reading, writing and maths had missed on average four more days per school year than those whose performance exceeded the expected standard. Similarly, in secondary school, pupils who did not achieve grade 9 to 4 in English and maths had missed 10 more days on average over the key stage than those who achieved grade 9 to 5 in both English and maths.
16. Extended absences can also impact children's mental health. External research from the pandemic shows the impact of missing six weeks of school could be roughly equivalent to children newly exhibiting three to four serious negative behaviours or emotional difficulties.⁵
17. It is recognised that strike action in schools and colleges has the potential for far-reaching consequences for members of the public who are not in any way involved in the dispute. Due to the number of children and young people in education, and the number of children who need to be cared for when schools or colleges are closed, such consequences can have disruptive effects for parents and carers. Prior to the

¹ <https://explore-education-statistics.service.gov.uk/find-statistics/pupil-attendance-in-schools/2023-week-29>

² <https://www.gov.uk/government/publications/school-closures-during-the-2023-teacher-strike>

³ Sims, S. 2020. "School Absences and Pupil Achievement." CEPEO Briefing Note No. 1. London, UK: Centre for Education Policy and Equalising Opportunities, UCL Institute of Education

⁴ [Why is school attendance so important and what are the risks of missing a day? - The Education Hub \(blog.gov.uk\)](#)

⁵ [New evidence shows how school closures hit children's mental health hard | University of Surrey](#)

school strikes, working parents were surveyed on how education strikes would impact them. Around 60% said their work would be affected, with 31% reporting that they would have to work fewer hours and 28% reporting they would not be able to work.⁶

18. In implementing an MSL, the government is seeking to ensure the right balance between minimising the damage to pupils' and students' education and recognising the ability of individuals to strike.

⁶ [Public opinions and social trends, Great Britain - Office for National Statistics](#)

International comparisons

19. Other countries already have MSLs in place to limit disruption to essential public services, including education. In some countries, teachers and other public servants are not permitted to strike. For example, in Germany, teachers are generally civil servants. Where they fall under this category, they are not allowed to strike.⁷
20. France has MSL legislation covering public nursery and primary schools (for pupils aged 3-10), ensuring that children have on-site supervision even if the school is not able to deliver normal lessons. This is provided by schools where less than 25% of teachers are on strike and by local authorities if 25% or more teachers are on strike. Nursery and primary school teachers must also give prior notice of their intention to strike.⁸
21. In Italy, essential services for strike purposes, including education, are defined by law. This balances the right to strike against other constitutional rights, including the right to education. The operation of an MSL is set out in collective agreements.⁹ In education, in the event of a strike, schools must continue with services considered essential including examinations, supervision of pupils, canteen services and management of facilities.^{10,11} The law and associated agreements also cover universities and other types of higher education.

⁷ [Bundesverfassungsgericht - Press - Ban on strike action for civil servants is constitutional](#)

⁸ [Article L133-4 - Education Code - Légifrance \(legifrance.gouv.fr\)](#)

⁹ [House of Commons Research Briefing: Strikes \(Minimum Service Levels\) Bill 2022-23](#)

¹⁰ [Official Journal \(gazzettaufficiale.it\)](#)

¹¹ [Le modalità di attuazione del diritto di sciopero in ambito scolastico - Gli adempimenti del dirigente - Giustoscuola](#)

Proposals

Settings in scope of an MSL in schools and colleges

22. The government proposes that the following education settings should be in scope of an MSL. This includes special, boarding, and residential schools if they belong to any of the listed categories:

- education settings in the state-funded school sector:
 - Academy schools (including free schools, special academies, and special free schools) and alternative provision academies (including alternative provision free schools); and
 - Schools maintained by local authorities, including foundation schools, foundation special schools, pupil referral units, voluntary aided schools, voluntary controlled schools, community schools and community special schools.
- 16-19 academies, including 16-19 free schools and secure schools.
- education settings in the statutory FE sector¹²:
 - Institutions run by further education corporations;
 - Institutions run by sixth form college corporations; and
 - Institutions designated under section 28 of the Further and Higher Education Act 1992.

Settings out of scope of an MSL in schools and colleges

23. The government proposes that the following education settings should be out of scope. In these sectors union membership is generally lower, and we believe that the likelihood of these settings facing significant disruption from strike action is low:

- Early years (aside from reception year in the settings above);
- Independent schools;
- Independent training providers, non-maintained special schools, and specialist post-16 institutions; and
- Out-of-school settings, and wraparound childcare providers.

¹² As defined under s.91(3) of the Further and Higher Education Act 1992

Q: Do you agree with the settings proposed to be in and out of scope?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *No preference*

Design principles and coverage for an MSL in schools and colleges

24. The government proposes that an MSL in schools and colleges should aim to:

- ensure a child's education can continue as far as possible during strike action, including through remote education where face-to-face teaching is not possible;
- mitigate against further lost education for pupils and students;
- ensure the safeguarding and welfare of vulnerable children and young people;
- allow children and young people to prepare, without disruption, for public exams and formal assessment; and
- maintain the running of specified services in the Strikes (Minimum Service Levels) Act 2023.

25. These objectives clearly need to be balanced with the ability of workforces to strike.

26. Headteachers and principals are best placed to understand the needs of their staff, children and young people. We believe that they should have the flexibility to determine the appropriate staffing levels which are reasonably necessary to deliver an MSL in their setting. We propose that employers should have the ability to decide which and how many workers are identified in a work notice to deliver the MSL, rather than government setting specific ratios or percentages.

27. We expect that those named in a work notice could include:

- headteachers or principals;
- teachers and lecturers, including special educational needs co-ordinators (SENCOs);
- teaching assistants;
- teaching and learning support staff;
- designated safeguarding leads;
- administration staff; and
- other non-teaching staff important to the running of the setting, such as caretakers, technicians, cleaners and kitchen staff.

Q: Do you agree with the design principles for the MSL?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *Not applicable*

Remote education

28. For pupils who are not prioritised for attendance on strike days under proposal 1 or proposal 2 below, we would expect every effort to be made by schools to put in place appropriate arrangements for remote education. This aligns with DfE's non-statutory guidance [Handling strike action in schools](#), which stipulates that, where possible, schools should provide remote education in line with the DfE's [Providing remote education: guidance for schools](#).

29. We know from evidence that the provision of remote education is already something that parents expect schools to deliver. Evidence commissioned by the DfE via the Parent, Pupil and Learner Panel (PPLP) in June 2022 found that around two-thirds of parents (65%) said they would expect remote education to be provided by the school if their child was unable to attend school because it was closed.¹³

Q: Do you agree with the approach to remote education?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *Not applicable*

Q: What are the challenges around delivering remote education on strike days?

Q: Are you responding with an interesting in:

- *Early Years, Schools, and/or Further Education*
- *Higher education*
- *All sectors*

¹³ [Parent, Pupil and Learner Panel - June Wave](#)

Proposal 1: priority cohorts in schools and colleges

30. One option for setting an MSL is to prioritise attendance for specific groups of children and young people. This is the approach set out in DfE's non-statutory guidance [Handling strike action in schools](#), which has been followed by many schools to manage strikes to date. The three cohorts named in this guidance are:

- vulnerable children and young people;
- pupils and students due to take public examinations and formal assessments; and
- children of critical workers.

31. Proposal 1 sets out an MSL that would prioritise attendance for the same three cohorts.

Vulnerable Children and Young People

32. Ensuring that vulnerable children and young people remain protected is a top priority for the government. Schools and colleges play a vital role in safeguarding and identifying pupils and students who might need additional support.

33. During strikes in the last academic year, only approximately 50% of vulnerable children and young people attended school.¹⁴ We know that vulnerable children and young people already have lower educational attainment. For example:

- 8% of children with an Education, Health and Care Plan (EHCP) achieve the expected standard of reading, writing, and maths at the end of key stage 2 (KS2), compared to 59% of all pupils.¹⁵
- 28% of pupils with a Child Protection Plan, 31% of Looked After Children and 29% of those with Child in Need Plans achieve the expected standard of reading, writing and maths at the end of KS2.¹⁶
- 22.5% of pupils with special educational needs (SEN) support achieved grades 5 or above in English and mathematics GCSEs, compared to 55.8% of pupils with no identified SEN.¹⁷

¹⁴ Based on further analysis of attendance data published at <https://www.gov.uk/government/publications/school-closures-during-the-2023-teacher-strike> and [Pupil attendance in schools, Week 29 2023 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#) Attendance of EHCP children compared to attendance of all children.

¹⁵ [Key stage 2 attainment, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

¹⁶ [Outcomes for children in need, including children looked after by local authorities in England, Reporting year 2022 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

¹⁷ [Special educational needs and disability: an analysis and summary of data sources \(publishing.service.gov.uk\)](#)

34. An MSL prioritising these groups would help ensure that vulnerable children and young people are not disproportionately impacted by missing education due to strike action.

35. The government proposes using established definitions for this cohort:

- a) Children who have a child in need plan;
- b) Children on a child protection plan;
- c) Children who are looked after by the local authority;
- d) Children and young people who have an EHCP aged 0- 25; and
- e) Children or young people who receive SEN support.

Q: Do you agree with the vulnerable children and young people groups identified?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *No preference*

Q: What impacts on a) welfare and wellbeing and b) attainment does missing a day or more of school or college due to strike action have on vulnerable children and young people?

Exam groups

36. Exams and assessments are critical points in a young person's education. In many cases, these are necessary to unlock opportunities for further study or entry into the labour market. Children and students due to take exams and formal or statutory assessments should be prioritised for attendance, to support them to achieve their full potential. Missing education can affect children's performance in exams and assessments they are taking that year. Missing school for even a day can mean a child is less likely to achieve good grades, which can have a damaging effect on their life chances. The more days missed, the greater the impact.
37. The government proposes that the MSL would focus on protecting students taking nationally timetabled assessments, as published by the Standards and Testing Agency (STA) or awarding organisations. These exams or formal assessments must take place on the date and at the time shown on the timetable (or during a specified period of time). In some instances, opportunities to reschedule or resit these exams or formal assessments in the event of disruption are limited.¹⁸
38. The MSL would apply for all individuals with the relevant exams or formal assessments due in the same academic year, regardless of when in the academic year the strike, or the exam, falls. For example, under this proposal, a year 11 student with GCSE exams in May would be prioritised to attend school on a strike day in October.
39. In primary education, the government proposes the following pupils are in scope:
- year 6 pupils undertaking end of KS2 national curriculum assessments; and
 - pupils participating in statutory KS2 trials, such as the anchor trial.
40. These assessments are vital in ensuring that a child is working at the age-related expectations in the National Curriculum, or in informing whether they need further support to secure key skills in English and maths to prepare them for secondary school.
41. The government proposes that pupils taking other primary assessments, such as the reception baseline assessment, end of key stage 1 (KS1) assessments, phonics screening check and multiplication tables check are out of scope. End of KS1 tests are no longer statutory and the other assessments listed do not have to be delivered on a given day, meaning that schools have the flexibility to arrange or rearrange them around strike days. Furthermore, these assessments are administered and marked by school staff rather than external assessors. We therefore consider it unlikely that these assessments will be significantly impacted by strike action.

¹⁸ In the case of KS2, there are some circumstances that allow rescheduling for a limited number of reasons, such as pupil absence, but still on day as approved by the STA

42. In secondary and further education, the government proposes the following students are in scope:

- Students taking GCSEs, AS and A levels and Vocational and Technical Qualifications (VTQs), including T Levels, and other national qualifications;
- Year 11 students participating in the National Reference Test.

43. These exams and formal assessments bring greater risks for students not being able to progress to further study, higher education, or the labour market if they are disrupted. The National Reference Test measures the performance of year 11 students in English language and maths and compares their performance against students in previous years. It provides a valuable additional source of evidence that exam boards use when setting grade boundaries in GCSE English and maths.

44. It is common for young people and adults to sit exams or undertake assessments simultaneously in the same setting. This is particularly the case in some general FE colleges. There is no age limit for students in scope of an MSL. Adult students may therefore be covered by an MSL, so long as they are studying one of the above qualifications in one of the eligible settings. Adults undertaking exams and assessments in adult education settings outside of the statutory FE sector are not in scope, as there is no evidence of a substantial risk of disruption due to strikes.

45. The government proposes that apprentices are out of scope. Again, we consider there is limited risk to the delivery of End Point Assessments (EPA) in the event of industrial action. The flexibility in this system to work around foreseen and unforeseen delays, for example rearranging EPAs, allows for any risks to be mitigated.

46. As part of an MSL, we would expect schools and college to support students' preparation for exams. This includes but is not limited to:

- assessment-related activity such as revision classes and mock exams;
- ensuring they have been taught the whole course for the exam or assessment.

Q: What impacts have strikes had on exam delivery and/or students' preparation for exams and assessments?

Q: Do you agree with the proposal for exam groups?

- *Agree*
- *Disagree (Please provide further detail if you disagree)*
- *No preference*

Q: Which exam year students should be prioritised for attendance on strike days?

Please tick all that apply:

- *Those with exams or assessments within a month of strike action*

- *Those with exams or assessments within the same academic year as strike action*
- *Other (please specify)*
- *Unsure*

Children of critical workers

47. On strike days currently, the government recommends that children of critical workers are prioritised for school attendance. An MSL for this group would seek to ensure that parents, carers, and guardians employed in certain sectors can continue to work. It would aim to protect and maintain the running of specified services in the Strikes (Minimum Service Levels) Act 2023 and minimise the impacts of industrial action on those who rely on these services.
48. Critical workers are currently defined in the government's emergency planning guidance for education settings.¹⁹ This list was designed during the pandemic to protect against sustained disruption to the economy. It was produced at a time when parents, carers, and guardians faced additional difficulties in making alternative childcare arrangements because of social distancing rules, which is no longer the case. For these reasons, we consider that the current critical worker list is too broad for the purposes of an MSL.
49. The government proposes redefining the list to focus on workers in the specified services listed in the Strikes (Minimum Service Levels) Act 2023, as well as people in workforces that are unable to strike. This covers:
- those in health services, fire and rescue services, education services, transport services, border security and the decommissioning of nuclear installations; and
 - those unable to strike, such as police officers, members of the armed forces and prison officers.
50. We propose that the MSL would only apply to pupils and students where both parents, carers or guardians are critical workers, or for critical workers in a single parent household.
51. We also propose that the MSL would only apply where children are not old enough to look after themselves. There is no legal age by which a child is considered old enough to be left alone. [Guidance](#) from the National Society for the Prevention of Cruelty to Children (NSPCC) states that 'children under 12 are rarely mature enough to be left alone for a long period of time'. We therefore suggest that children up to and including year 7 should be in scope.

Q: Do you agree with the proposed list of critical workers?

- *Agree*
 - *Disagree (please explain why)*
 - *No preference*
-

¹⁹ <https://www.gov.uk/government/publications/emergency-planning-and-response-for-education-childcare-and-childrens-social-care-settings/vulnerable-children-and-young-people-and-critical-workers>

Q: Do you agree that, in two-parent households, both parents should be critical workers in order for a child to be in scope?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *No preference*

Q: Do you agree that children of critical workers up to, and including, year 7 only should be in scope?

- *Agree*
- *Disagree (please provide detail to support your response, should you wish)*
- *No preference*

Q: [For critical worker respondents only] How easy is it to arrange alternative childcare on school strike days?

- *Very easy*
- *Easy*
- *Difficult*
- *Very difficult*
- *Not applicable*

General questions on proposal 1

Q: Do you agree with the three priority cohorts proposed?

- *Agree*
- *Disagree (if you disagree, or believe other cohorts should be included, please state which ones and why)*
- *No preference*

Q: What would need to be in place to deliver this proposal? Please consider the number of pupils and students that would be covered by this MSL proposal, how many members of staff you would need and any other delivery considerations when answering this question.

Proposal 2: a hybrid approach (all pupils in primary and priority cohorts in secondary and FE settings)

52. Given the critical role that education plays for children's development, the government recognises there is a strong case to support a larger group of children, particularly younger pupils aged between 4 and 11, through an MSL. We are therefore seeking views on an approach which would allow all primary school pupils to attend school on strike days, as well as the priority cohorts outlined in proposal 1 in secondary schools and colleges.²⁰
53. This approach would focus on younger children who are more likely to be impacted by missing school when a school is closed because of strike action. Younger children are generally less able to study independently²¹ and are more likely to be impacted by disruption to their routine and absence from their normal educational environment. Proportionally, younger people are also more impacted by missed school days because they are losing a greater proportion of their education than older pupils.
54. Reports from Rising Star Assessments, and the Education Endowment Foundation have all shown that younger children were more affected by missing school as a result of the pandemic.²² For example, achievement in KS2 reading assessments returned to above pre-pandemic levels in 2021/22, whereas achievement for reading at KS1 remains well below these levels (68% met the standard this year, compared to 75% pre-pandemic).
55. We also know that the foundational skills learnt in primary education are key for future attainment. Children who are behind in language development at age five are six times less likely to reach the expected standard in English at age eleven, and about eleven times less likely to achieve the expected level in maths at that age.²³
56. This option would involve support for secondary schools and colleges to prioritise attendance for the three priority cohorts set out in proposal 1.

Q: What is your experience of the impacts of strikes on children aged 4-7 (KS1)? If not applicable, please specify 'not applicable' in the box.

Q: What is your experience of the impacts of strikes on children aged 7-11 (KS2)? If not applicable, please specify 'not applicable' in the box.

²⁰ This refers to pupils in primary school settings, rather than at primary school age.

²¹ [Coronavirus and homeschooling in Great Britain - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

²² [RS Assessment from Hodder Education - Primary Assessments \(risingstars-uk.com\)](https://risingstars-uk.com); [NEW: Pandemic adversely affected young children's development... | EEF \(educationendowmentfoundation.org.uk\)](https://educationendowmentfoundation.org.uk)

²³ [Early language development: time to change the story \(savethechildren.org.uk\)](https://savethechildren.org.uk)

Q: What would need to be in place to deliver this proposal? (Please consider the number of pupils that would be covered by this MSL proposal, how many members of staff you would need, and any other delivery considerations when answering this question)

Q: Do you prefer proposal 1 or proposal 2?

- *Proposal 1*
- *Proposal 2*
- *Neither*

Use of rotas for extended periods of strike action in proposal 1 and proposal 2

57. For extended periods of strike action (five consecutive school days or more), the government proposes that schools and colleges should use rotas to ensure that all children and young people receive some face-to-face and on-site education. This would be in addition to any remote education processes schools would have in place.

58. We think the use of rotas, whether in the context of proposal 1 or proposal 2 above, should be used by schools and colleges for strike action lasting five consecutive school days or more. This would help make sure that during extended periods of strike action all children receive some face-to-face education and that no child has a sustained period out of school in the event of extended periods of strike action. The use of rotas would be *in addition* to provision for the priority cohorts in proposal 1, and all those covered by proposal 2.

Q: Do you agree with the use of rotas in schools and colleges during prolonged strike action?

- Yes
- No (please provide detail to support your response, should you wish)
- Not applicable

Q: In relation to the use of rotas, do you think that five consecutive days of strike action is the right period of time at which to implement rotas?

- Yes, it's the right period of time
- No, it should be shorter (please specify)
- No, it should be longer (please specify)
- Other (please specify)
- Not applicable

Workforce implications for schools and colleges

59. Each school and college operates differently and there will naturally be variation in staff to student ratios across schools and colleges. It will be up to schools and colleges to determine their specific workforce requirements to deliver an MSL. However, workforce requirements are clearly a key consideration in defining the right MSL – recognising the balance with the right of workforces to take strike action. We would therefore welcome evidence on the number and breakdown of staff you believe would be required to deliver the MSL across each proposal.

Q: [For employer respondents] What number or proportion of your workforce would be required in your setting to deliver these options? Please provide information on the types of staff and roles required. Please indicate 'Not applicable' if you are not an employer.

A priority cohorts approach (Proposal 1):

[Free text]

A hybrid approach (Proposal 2):

[Free text]

The Case for an MSL in higher education

60. Students and taxpayers invest significantly in the higher education system and deserve to see a return on this investment. Students have a right to a full educational experience, which includes lectures delivered as scheduled, and access to all relevant facilities.
61. Ongoing strike action within the higher education (HE) sector has caused unacceptable disruption to the provision of education in many universities. The government is aware of a range of impacts across universities, including:
- some lectures being cancelled with no attempt to make up this lost teaching for students;
 - particular concerns about how the delivery of courses with minimum contact hours has been jeopardised by strike action; and
 - the impact of strike action by non-academic staff on research-driven activity, as well as science and engineering subjects.
62. We also know that a number of students were not awarded their degree classification when expected. This led to problems for some students being accepted onto postgraduate courses, entering employment and, for some international students, securing visas.
63. It is important to ensure that current and prospective students can be confident that they will receive the teaching they expect and have paid for, when they enter our higher education system.
64. The government's objective is to understand in more detail the impact of strike action on students, on our universities, and on society. We are particularly interested in the impact of the marking and assessment boycott; understanding whether a *minimum service level (MSL)* for higher education would be effective in mitigating the impact of strike action; and gathering views on what an MSL should cover.

An MSL in higher education

65. We are seeking views to form a better understanding of the impact of industrial action in the last academic year on universities, students, and the wider community. For now, we are interested in views on what form an MSL could take in the higher education sector. If we pursue plans to lay regulations for higher education, we will consider whether to undertake further consultation on detailed MSL proposals for HE.

Strike action

Q: Which groups of staff went on strike in your university? Please mark all that apply

- *Academic staff*
- *Technical staff*
- *Professional staff*
- *Administrative staff*
- *Other (please specify)*

Q: What was the impact in your university?

- *No impact*
- *Minimal impact*
- *Moderate impact*
- *High impact*
- *Unsure*

Q: What impact did strike action have on your university?

- *Cancelled lectures or seminars*
- *Lectures or seminars moved online*
- *Unable to access the university (e.g. campus was closed)*
- *Other (please specify)*

Q: Did industrial action impact people outside of your university (e.g. suppliers, sub-contractors, local businesses)?

- *Yes (please specify which groups)*
- *No*
- *Other groups (please specify)*
- *Unsure*

Students' experience

Q: Did the strike action impact some students more than others? If so, which students and why was this?

- *Yes (please specify)*
- *No*
- *Unsure*

Q: Did this strike action lead to recruitment issues for local employers, particularly the recruitment of critical workers?

- *Yes*
- *No*
- *Unsure*

Teaching and exams

Q: Are there any exams and assessments which must take place on specific days and cannot be moved?

- *Yes*
- *No*
- *Unsure*

Q: How were these affected by strikes and what was the impact on students and providers?

Q: Were there any attempts by striking staff to make up learning lost because of strike action?

- *No*
- *Yes, through online learning or during office hours*
- *Yes, through independent learning*
- *Yes, other (please specify)*

Q: Are there subjects which have particular requirements which were more affected than others by strike action, e.g. medicine which requires minimum contact hours? If so, which subjects and why were they more affected?

Q: What was your experience of the marking and assessment boycott?

- *No disruption to me/my university*
- *Minimal disruption to me/my university*
- *Moderate disruption to me/my university*
- *Severe disruption to me/my university*

Q: What impact did the marking and assessment boycott have on you and your university?

- *Results weren't received on time but I/students were able to progress in education/employment as planned*
- *Results weren't received on time and I/students were unable to progress in education/employment as planned.*
- *Results were slightly later than usual but still on time*
- *No disruption*
- *Other (please specify)*

Q: What impact did the marking and assessment boycott have on the reputation of the UK's higher education offer domestically and internationally?

- *A very negative impact.*
- *A negative impact.*
- *No impact.*
- *Other (please specify).*
- *Unsure*

Q: Did the marking and assessment boycott impact people outside your university e.g. suppliers, sub-contractors, local businesses?

- *Yes (please specify which groups)*
- *No*
- *Other groups (please specify)*
- *Unsure*

Q: If people outside of your university were affected by the marking and assessment boycott, please provide further information (e.g. local businesses unable to recruit when they usually would, or unable to honour an employment offer that was subject to graduation).

Q: Did the marking and assessment boycott lead to recruitment issues for local employers, particularly the recruitment of critical workers?

- *Yes*
- *No*
- *Unsure*

Mitigations

Q: What sort of minimum service level do you think would have the most impact in mitigating the most adverse effects of strike action in higher education? For example should this focus on:

- *exam year*
- *final year students*
- *students studying subjects which have minimum contact hours*
- *students which are studying subjects that lead to critical worker professions*
- *Other (please specify)*

Q: For universities, what actions do you take to help mitigate the impact of strike action on students, your university and more widely where you consider relevant? How effective have the actions that you have taken been?

- *Online teaching*
- *Hiring additional external resource to cover temporary gaps*

- *Other (please specify)*
- *Not applicable*

	<i>Very effective</i>	<i>Effective</i>	<i>Unsure</i>	<i>Not very effective</i>	<i>Very ineffective</i>
<i>Online teaching</i>					
<i>Hiring additional external resource to cover temporary gaps</i>					
<i>Other</i>					

Q: Other than an MSL, what other options could the government consider to mitigate the impact of strike action in higher education? Please provide details.

Consultation Questions

Respondent information

Q: Are you responding to this consultation as an:

Organisation, for example, a school, college, university, union or local authority

or

Individual

[If responding as an individual]

Q: If you are responding as an organisation, would you prefer your response to remain confidential?

Yes

No

Not applicable

Q: If you are responding as an organisation, are you responding as:

A primary school

A secondary school

A college or further education provider

An academy trust

A local authority

A union

A charity

A higher education Provider

Other, please specify

Not applicable

Q: Are you responding to the consultation with an interest in:

Please tick all that apply

Early years education

- Primary phase education (5-11)
- Secondary phase education (11-16)
- Special Schools
- Statutory FE sector
- Higher education sector
- Independent schools
- Independent special schools
- Specialist post-16 institutions
- Other FE providers (please specify)

Q: If you are responding as an individual, are you responding as:

- A parent or carer
- A teacher
- A student
- A school or college leader
- A school or college governor
- A university lecturer
- A member of the public
- Other, please specify
- Not applicable

Q: If you are responding as an employer (i.e. a higher education provider, school or college), how many employees does your organisation or trust have:

- 1-25
- 26-100
- 101-250
- 250 - 500
- 500+

I don't know

Not applicable

Q: If you are responding as an organisation, where is your organisation based?

London

North East

North West

Yorkshire and Humber

East Midlands

West Midlands

South East

East of England

South West

Scotland

Wales

Impact of the policy

Q: Are there groups of people, such as (but not limited to) those with particular protected characteristics, who would particularly benefit from the proposed minimum service levels for education services?

Q: Are there particular groups of people, such as those with protected particular characteristics, who would be particularly negatively affected by the proposed minimum service levels for education services?



Department
for Education

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