

Testing, Risk Assessment and Vaccine Webinar (as at 31 December 2020) – FAQ

These FAQs are taken from the **ISBA Webinars - Testing, Risk Assessments and Vaccinations** on 23, 30 and 31 December 2020. The main reference document is the Legal Update (as of 23 December 2020) from Farrer & Co – ISBA Document Reference: 2451 (<https://isba-referencelibrary.org.uk/ReferenceLibrary/ViewPolicy?policyID=2451>). These FAQs will be updated as more information is known.

Q: Is the testing programme mandatory?	A: The programme is not mandatory. It is for each school to decide whether or not it wishes to take part, however, “the Government encourages as many as possible to take up the offer”.
Q: If the school decides to participate in the programme, is testing for pupils optional?	A: If the school decides to participate in the Programme, testing for pupils must be optional and pupils should not be required to take a test in order to return to school. The guidance is very clear: “We would encourage schools to encourage testing and ensure pupils and parents are aware of the benefits. Ultimately participation is optional. Schools should use existing relationships to drive take-up wherever possible. It is important to note that testing may not be feasible for some children, particularly some vulnerable children, for reasons of feasibility or consent.”
Q: Are schools able to make testing mandatory for staff?	A: There is nothing in any of the recently published guidance that suggests that schools should make testing mandatory for staff. The DfE recognises that schools will need to gain consent from staff for testing. It has published a template consent form and letter for schools to adapt relating to the testing of staff and pupils.
Q: Are there any parameters for asking consent from pupils?	A: Like adults, young people (aged 16 or 17) are presumed to have sufficient capacity to decide on their own medical treatment, unless there's significant evidence to suggest otherwise. Children under the age of 16 can consent to their own treatment if they're believed to have enough intelligence, competence and understanding to fully appreciate what's involved in their treatment. This is known as being Gillick competent. Otherwise, someone with parental responsibility can consent for them.
Q: Can consent be given verbally, non-verbally or in writing?	A: Medical consent can be given verbally, non-verbally or in writing. A consent form signed and returned by parents on behalf of their child is not strictly required for the purposes of establishing medical consent. Younger children (who lack Gillick competence) must obtain parental consent.
Q: What action is required if consent is withdrawn?	If consent is withdrawn by parents or pupil this should not affect the pupil's education at the school. Testing for pupils is optional and schools must provide full-time on-site education for all pupils from 11 January – unless the government change this date.
Q: Should schools adopt and implement government guidance on a phased return, whether or not the school chooses to participate in the mass-testing programme?	A: If a school were to flout government guidance there is a risk: <ul style="list-style-type: none"> • questions will be raised by the local authority as to reasons for which the school decided to operate outside the clear parameters set in the government's guidance, whether that be by welcoming more pupils back on 4 January than advised or by providing remote education for all pupils beyond 11 January; • parents will complain, based on concerns about the discrepancies between government-issued guidance and the school's chosen approach; and

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	<ul style="list-style-type: none"> there will be adverse publicity which may lead to more serious reputational issues for the school longer-term.
Q: If volunteers or agency staff are used to support the testing programme does the school need to follow KCSiE?	A: Yes, it is important that schools follow KCSiE guidance on safe recruitment in relation to agency staff and volunteers and that such individuals are given appropriate training.
Q: Do schools need to register with CQC?	A: Schools do not need to register with the Care Quality Commission (CQC) - COVID-19 testing is now exempt as a regulated activity under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. However, schools should take care to organise their testing site and arrangements in accordance with the DfE "system of controls".
Q: What if a pupil's test result is positive?	A: If the pupil's test result is positive, the pupil should immediately self-isolate and the school should ask for them to have this result confirmed with a standard Polymerase Chain Reaction (PCR) test. Close contacts within the school should then be identified and tested daily for seven days whilst remaining at the school, subject to one of those tests being positive or the child beginning to display symptoms in which case they should self-isolate and organise a PCR test.
Q: What if a pupil's test result is negative?	A: If the pupil's test result is negative, the pupil should be tested again ideally three to five days later (but no fewer than three days later). If the subsequent test result is positive, they should self-isolate and confirm this with a PCR test.
Q: May the school insist on requesting evidence of a negative test result?	A: The previous guidance on welcoming pupils back after testing remains unchanged: schools should not request evidence of a negative test result or other medical evidence as a prerequisite to re-admitting them after a period of self-isolation.