

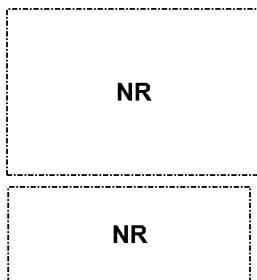
RESTRICTED HANDLING

SCN(21)28th Conclusions

SCOTTISH CABINET

MINUTES OF MEETING HELD BY VIDEO-CONFERENCE AT 9.30 AM ON
TUESDAY, 21 DECEMBER 2021

Present:	Rt Hon Nicola Sturgeon MSP John Swinney MSP	First Minister Deputy First Minister and Cabinet Secretary for Covid Recovery
	Keith Brown MSP Mairi Gougeon MSP Michael Matheson MSP	Cabinet Secretary for Justice and Veterans Cabinet Secretary for Rural Affairs and Islands Cabinet Secretary for Net Zero, Energy and Transport
	Rt Hon Angus Robertson MSP	Cabinet Secretary for the Constitution, External Affairs and Culture
	Shirley-Anne Somerville MSP Humza Yousaf MSP	Cabinet Secretary for Education and Skills Cabinet Secretary for Health and Social Care
In Attendance:	Leslie Evans NR	Permanent Secretary Lord Advocate
	George Adam MSP Ivan McKee MSP	Minister for Parliamentary Business Minister for Business, Trade, Tourism and Enterprise
	Ben Macpherson MSP	Minister for Social Security and Local Government
	Dr Gregor Smith Ken Thomson Penelope Cooper	Chief Medical Officer DG Constitution and External Affairs Director of Culture, Major Events and Covid Co- ordination
	James Hynd Jason Leitch Dominic Munro David Rogers Reuben Aitken	Director for Cabinet National Clinical Director Director, Exit Strategy Director, Constitution Interim Director for Covid Business Resilience and Support
	Dr Colin Troup Alan Johnston Alison Irvine Lisa McGuinness	Legal Secretary to the Lord Advocate Deputy Director, Covid Co-ordination Head of Cabinet Secretariat Permanent Secretary's Principal Private Secretary
	Michelle Rennie Leanne Dobson David Livey Colin McAllister Callum McCaig Stuart Nicolson Chris Mackie Julie Grant	First Minister's Principal Private Secretary Special Adviser Special Adviser Special Adviser Special Adviser Special Adviser
	NR	First Minister's Official Spokesperson Assistant Head of News FM Covid Briefing Unit First Minister's Policy and Delivery Unit



Head of Briefing and Evidence, Covid Co-ordination
PS/First Minister
PS/Deputy First Minister and Cabinet Secretary for Covid Recovery
Cabinet Secretariat
Cabinet Secretariat
Cabinet Secretariat

Apologies

1. Apologies were received from Ms Forbes and Ms Robison. They were represented by Mr McKee and Mr Macpherson, respectively.

Introductory Remarks

2. The First Minister led Cabinet in paying tribute to the Permanent Secretary in what was scheduled to be her last Cabinet meeting before she retired from the Civil Service.

3. Cabinet offered its sincerest gratitude to the Permanent Secretary for her sterling and tireless service to the Scottish Government, both in her current role and in her previous leadership positions within the organisation.

4. Ministers were extremely grateful to the Permanent Secretary for her advice and support over many years, including over the past two very challenging years as the country responded to the global COVID-19 pandemic.

5. The Permanent Secretary would be much missed and Cabinet wished her every success for the next phase of her career.

Minutes of Meeting held on 14 December 2021

6. The minutes of the meeting held on 14 December (SCN(21)27th Conclusions) were approved.

Parliamentary Business (Paper SCN(21)93)

7. Mr Adam outlined the planned business in the Parliament during the weeks commencing 20 December 2021 and 10, 17 and 24 January 2022, as set out in the tables in Annex A of paper SCN(21)93. He noted that the Parliamentary Bureau would be meeting later that day to discuss the contingency arrangements in place for Parliament's recall during its period of recess between 24 December and 9 January, should that be required as a result of developments with the pandemic.

8. **Cabinet agreed** the planned business in the Parliament for the week commencing 17 January, subject to any further changes that might be required.

(Action: Minister for Parliamentary Business)

COVID-19: Coronavirus Update (*oral update*)

9. The First Minister invited the Chief Medical Officer to provide Cabinet with an update on the progress of the COVID-19 pandemic and the work under way to counter its effects.

10. As at 9.30 a.m. on Tuesday, 21 December, there had been 811,927 confirmed cases of COVID-19 infection in Scotland (compared with 772,738 on the same day the previous week). There had been a net increase of 5,242 cases compared with the previous day, which corresponded to 14.9 per cent of those tested (compared with a positivity rate of 11.3 per cent on the same day the previous week).

11. Since the previous day, nine further deaths had been registered within 28 days of a positive test for COVID-19, and the total number of deaths using this measure since the start of the pandemic now stood at 9,790 (compared with the previous week's figure of 9,725).

12. Seven-day rolling average case numbers had risen from 3,719 to 5,193 over the course of the previous week. Seven-day cumulative incidence was 665 per 100,000 population on 17 December, with an average positivity of 11.7 per cent.

13. Analysis of S-gene target failure, which provided a good proxy for the Omicron variant, showed that S-gene dropout was detected in some 62.9 per cent of isolates in Scotland. This was up from 58 per cent the previous day and had an estimated doubling time of between 2.6 and 2.7 days. There were currently 24 people in hospital with confirmed cases of Omicron.

14. The current Reproduction (R) number for Omicron had been calculated at between 3.6 and 3.8. It was predicted that the proportion of cases suspected to be Omicron in Scotland would rise to 90 per cent by 24 December, with Omicron replacing rather than adding to Delta cases.

15. Evidence was now conclusive on two points: that the Omicron variant was more transmissible than the Delta variant; and that it was better than previous variants at evading vaccine-induced antibodies. Less was known about the intrinsic or real world severity of Omicron and the impact that booster vaccines had on severity of disease.

16. Omicron showed very high replication rates, particularly in the upper airway cells, reinforcing the importance of physical distancing. There were significantly higher rates of household and secondary transmission than had been seen with the Delta variant.

17. Initial data showed that two vaccine doses provided limited protection against symptomatic infection with the Omicron variant but that a third, booster vaccine increased protection to between 60 and 70 per cent. It was likely to be some time before data was available on the effectiveness of booster vaccines against severe disease. The effect of vaccine waning needed to be taken into account in relation to Omicron given that some people had received their booster jags as early as October. Further data on this would be available soon.

18. Omicron was beginning to impact on hospital admissions. The UK Government's Scientific Advisory Group for Emergencies (SAGE) had been reviewing data from Greater Manchester, where there had been an exponential growth in the hospitalisation of people with Omicron. The doubling time of those admissions was estimated to be 2.9 days.

19. While there were a large number of anomalies in the data emerging from South Africa, it did appear that cases were showing signs of stalling there, particularly in the Gauteng province. There were, however, significant differences in the demography of South Africa compared to the UK, with only 10 per cent of South Africa's population aged over 60, compared to 22 per cent in the UK.

20. In Denmark, which offered a useful case study (*SCN(21)27th Conclusions refer*), cases of Omicron had now risen to over 23,000, with 35 hospitalisations. There was no conclusive data from Denmark on disease severity, however, clinical reports from the country appeared to suggest that patients with Omicron were spending longer in Intensive Care Units than those with the Delta variant, though this was based on a very small sample size.

21. In discussion the following points were made:

(a) While there was likely to be a range of factors influencing why levels of Omicron were not quite as high as had been predicted, including test processing speed and the reduction in the number of people coming forward for tests (reported tests that day were 10,000 lower than the previous day), it was likely that behaviour change was already helping to reduce the rate of growth in Omicron transmission as people sought to reduce their social interactions in the run-up to Christmas. This appeared to be supported by data on, for example, football attendance and hospitality spend;

(b) There would be value in communicating to the public, including through the First Minister's statement to Parliament later that day, that the steps people were already taking to protect themselves and their families were having an impact, and that the rise in Omicron cases would otherwise have been steeper. It was hoped that this fact would encourage people to continue to act cautiously in order to limit the further spread of Omicron, including after Christmas celebrations had concluded.

Covid-19: Review and Response (Paper SCN(21)94)

22. Mr Swinney introduced paper SCN(21)94 which invited Cabinet to consider the need for further protect measures, in addition to those announced and introduced the previous week, given developments with the spread of Omicron.

23. Scotland faced a very challenging situation: Omicron case numbers continued to rise sharply and modelling suggested that they would continue to do so, followed in time by substantial increases in admissions to hospital and Intensive Care Units, and deaths.

24. It was therefore essential for Cabinet to consider again whether or not to take action now (or as soon as possible) to reduce the risk of the most serious of the modelled scenarios unfolding, in the event that Omicron was not much less severe than Delta. In doing so, Ministers would need to take account of the potential impact of a high number of cases on the wider provision of essential services – even if, in health impact terms, Omicron was much less severe.

25. Three options were proposed in the paper: (option A) maintaining and strengthening the existing response without any immediate changes to Regulations, with a further review on 29 December; (option B) as per option A, but with stronger advice and changes to Regulations to pause large-scale events and strengthen protections in hospitality settings for three weeks from 27 December to 16 January inclusive, with review points on 5 and 11 January; and (option C) committing to a time-limited ‘circuit-breaker’ of stringent measures for four weeks from 27 December, with reviews on a weekly basis from 5 January.

26. While option C would be the most effective at controlling the spread of Omicron, the paper noted that it was not currently available to Scottish Ministers. This was because the UK Government did not intend to use a similar circuit-breaker and was not as yet prepared to provide the Devolved Administrations with access to mechanisms such as furlough or borrowing, or to provide financial resources of the scale that would be required to support option C. It was also not certain on the evidence currently available that this option met the test for proportionality.

27. In addition to pausing large-scale events, option B would, among other things, see the amendment of Regulations to reintroduce physical distancing and table service in indoor hospitality settings for three weeks; the publication of guidance recommending that non-professional indoor contact sports for adults should be paused for the same period; and Ministers indicating that they intended to consider extending COVID certification to a wider range of indoor public settings once the current booster programme had been delivered.

28. Such measures would clearly have a financial impact on businesses and other organisations and calls for compensation were to be expected.

29. The Devolved Administrations were seeking to do all they could to manage the pandemic despite a lack of leadership from the UK Government. As set out in Annex G of the paper, the First Minister of Wales had announced a set of measures on 17 December intended to strengthen its Regulations and guidance in the run-up to Christmas. This was supplemented on 20 December when the Welsh Government’s Economy Minister announced that sporting events in Wales would be played behind closed doors from Boxing Day.

30. It was extremely disappointing that neither the Prime Minister nor the Chancellor of the Exchequer had attended a COBR meeting on 19 December which had been arranged to discuss a ‘four nations’ approach to the threat posed by Omicron. The UK Government’s lack of engagement and action in response to the new variant was undermining attempts to formulate a coordinated ‘four nations’ approach leaving the Devolved Administrations to press ahead to maximise their mitigation strategies within the financial constraints they faced.

31. While the Treasury had provided notice of an additional £220 million to the Scottish Government to support COVID-19 costs, the Cabinet Secretary for Finance and the Economy had proposed that £45 million of this should be allocated to the Health and Social Care budget to restore a shortfall created by the Treasury's funding announcement of 14 December. This meant that there was an additional £175 million available to mitigate the impact of any additional protective measures, though the Scottish Government was still seeking clarity from the UK Government about the precise status of this funding.

32. In considering the proposals in the paper, Ministers would be mindful of the fact that acting early and decisively was proven to be the most effective way of limiting the health and wider socio-economic harms caused by the virus.

33. In discussion the following points were made:

(a) It was clear that people were minimising their social interactions in the run-up to Christmas in order to protect the celebrations they had planned. There was a risk that people would relax their guard after Christmas and messaging should encourage continued caution, setting out the new imperatives for minimising the spread of Omicron, such as ensuring that schools were able to reopen as planned in January;

(b) Option B in the paper proposed that a pausing of large-scale events would be achieved by limiting attendance at indoor events to 100 standing or 200 seated, and attendance at outdoor events to 500 standing and 1,000 seated, all with one metre physical distancing. These limits recognised the different risks involved and clinical advice but there was room for judgement;

(c) The proposed 1,000 capacity limit for outdoor seated events was too high and a lower limit of 500, whether standing or seated, would be more appropriate;

(d) The attendance capacity limits for major events should come into force on Boxing Day rather than 27 December to ensure that the new rules applied to Scottish Premier League (SPL) football matches scheduled for that day. This would ensure consistency with the overall message and behaviour change sought by the Regulations and would ensure that the Boxing Day matches were not treated differently from the matches scheduled for 29 December. It would also reduce the burden on stretched emergency services during the busy Christmas period;

(e) It would be for the SPL, in consultation with football clubs, to decide whether football matches scheduled during the period covered by the new Regulations should go ahead with very limited numbers of spectators or be deferred until a later date. The scheduled winter break could also be moved to mitigate the impact of any deferral;

(f) It would be important to encourage those who were no longer able to attend football matches or other large professional sporting fixtures to limit

their social contacts as far as possible, including by watching matches at home;

(g) The attendance limit for outdoor events would effectively mean the cancellation of Edinburgh's Hogmanay street party and associated events. As with football matches, it would be important to encourage those no longer able to attend Hogmanay events to celebrate the New Year in as safe a way as possible. The introduction of table service and one metre physical distancing in hospitality settings would help in this regard;

(h) It was incumbent on the companies running large scale Hogmanay events to ensure that they had appropriate event insurance in place to cover the risks posed by the pandemic, rather than simply looking to Government to compensate them when events needed to be cancelled;

(i) In relation to the proposed commitment under option B for Ministers to consider expanding the COVID certification scheme once the initial booster vaccination programme had been 'completed', consideration would need to be given to where exactly the trigger point should lie for this consideration, given that the booster programme was a rolling one and not all adults would take up the offer of a booster jab;

(j) The Scottish Government had the previous week announced £100 million of financial support for sectors affected by new protective measures aimed at limiting the spread of Omicron. There was now an additional £175 million available following the recent Treasury funding announcement, though this was money that would have come to the Scottish Government at a later date and was already mostly accounted for so its use would cause shortfalls elsewhere in the Scottish Budget;

(k) The First Minister had asked the Cabinet Secretary for Finance and the Economy to allocate a further £100 million for business support, beyond what had already been allocated, taking the total package to £375 million. Given the new protective measures that were proposed to come into force on 26 and 27 December, it would be necessary to make all of this funding available to support businesses at the earliest opportunity;

(l) It was imperative that every effort was made to protect the safe reopening of schools in January. With rising case numbers, it was likely that the number of partial school closures would increase in January. The new measures proposed under option B would help to minimise the impact on children's education. Advice from the Joint Committee on Vaccination and Immunisation was still awaited on the vaccination of five to 11 year olds;

(m) In finalising the Regulations it would be important to ensure that there was clarity of definition in terms of the types of indoor settings covered. Businesses and the public would need to be clear about what rules applied in each type of venue, including licensed premises, places serving food or drink for consumption on the premises, cinemas, theatres and places of worship;

(n) The First Minister indicated that, as Cabinet was content with the strategic direction proposed, she would shortly leave the meeting to discuss the specific definitions in the Regulations with officials, before agreeing the final terms of her statement to Parliament later that day. She invited the Deputy First Minister and Cabinet Secretary for Covid Recovery to chair the remainder of the Cabinet meeting.

34. **Cabinet:**

- (a) **Noted** the updates set out in the paper and its Annexes;
- (b) **Agreed** that the protective measures already in place should be extended for up to a further three weeks;
- (c) **Agreed** that the Health Protection (Local Authority Directions) Regulations should be extended for up to a further six weeks;
- (d) **Agreed** that the measures set out at paragraph 21 of the paper (option B) should be put into effect from 27 December, with the exception of the provisions pertaining to attendance capacity limits for major events, which should come into effect on Boxing Day;
- (e) **Agreed** that the attendance limit for outdoor events should be reduced to 500, whether standing or seated;
- (f) **Agreed** the proposed parliamentary procedure;
- (g) **Agreed** to the adjustments to contact tracing and self-isolation arrangements set out at paragraph 44 of the paper;
- (h) **Agreed** to continue to delegate to the First Minister decisions that were broadly consistent with the strategic approach as already approved by Cabinet, with support from colleagues and advisers;
- (i) **Agreed** to hold dates for Cabinet on 29 December and 5 January;
- (j) **Noted** the likelihood of demands for a recall of Parliament during recess; and
- (k) **Agreed** to delegate to the First Minister the finalisation of the terms of her statement to Parliament later that day.

(Action: First Minister; Deputy First Minister and Cabinet Secretary for Covid Recovery; DG Constitution and External Affairs)

[The First Minister left the meeting and the Deputy First Minister and Cabinet Secretary for Covid Recovery assumed the chair]

Winter Preparedness (Paper SCN(21)95)

35. Mr Swinney introduced paper SCN(21)95, which provided Cabinet with an update on immediate or emerging concurrent risks and issues over the winter months.

36. Mr Swinney noted that the growing case numbers of the Omicron variant and the HPAI H5N1 strain of Avian Influenza were of most pressing concern at the current time. There was no particular threat from severe weather forecast in the coming days.

SCANCE (Paper SCN(21)96)

37. The First Minister introduced the SCANCE paper (SCN(21)96). In discussion of current issues, Cabinet's attention was drawn to the following matters:

Irrelevant & Sensitive

Health Statistics

40. Further to the item in paper SCN(21)96 concerning Health Statistics, Mr Yousaf noted that the work being done to reduce delayed discharges from hospitals was being negated by high levels of demand on the health service.

41. Mr Yousaf undertook to provide the First Minister with a paper later that week setting out the contingency measures that the Scottish Government was proposing to put in place in response to the risk of hospital bed occupancy limits being breached due to rising cases of Omicron. Modelling had suggested that such a breach was likely in the coming weeks.

(Action: Cabinet Secretary for Health and Social Care; Health Performance and Delivery Directorate)

Support for Low Income Families

42. Mr Macpherson noted that advice had been issued that morning to the First Minister, the Deputy First Minister and Cabinet Secretary for Covid Recovery, and the Cabinet Secretary for Finance and the Economy regarding further support for low income families in response to the latest developments with the pandemic.

Irrelevant & Sensitive

Any Other Business

45. None.

Cabinet Secretariat
December 2021