

SCOTTISH CABINET

**MINUTES OF MEETING HELD BY TELECONFERENCE IN ST ANDREW'S
HOUSE, EDINBURGH AT 9.30 AM ON TUESDAY, 19 JANUARY 2021**

Present:	Rt Hon Nicola Sturgeon MSP	First Minister
	John Swinney MSP	Deputy First Minister and Cabinet Secretary for Education and Skills
	Aileen Campbell MSP	Cabinet Secretary for Communities and Local Government
	Roseanna Cunningham MSP	Cabinet Secretary for the Environment, Climate Change and Land Reform
	Fergus Ewing MSP	Cabinet Secretary for Rural Economy and Tourism
	Kate Forbes MSP	Cabinet Secretary for Finance
	Jeane Freeman MSP	Cabinet Secretary for Health and Sport
	Fiona Hyslop MSP	Cabinet Secretary for the Economy, Fair Work and Culture
	Michael Matheson MSP	Cabinet Secretary for Transport, Infrastructure and Connectivity
	Michael Russell MSP	Cabinet Secretary for the Constitution, Europe and External Affairs
	Shirley-Anne Somerville MSP	Cabinet Secretary for Social Security and Older People
In Attendance:	Leslie Evans	Permanent Secretary
	Name Redacted	Lord Advocate
	Ash Denham	Minister for Community Safety
	Graeme Dey MSP	Minister for Parliamentary Business and Veterans
	Ken Thomson	Director-General Constitution and External Affairs
	Dr Gregor Smith	Chief Medical Officer
	Penelope Cooper	Director of Outbreak Management
	Graeme Logan	Director of Learning
	Dominic Munro	Director, Exit Strategy
	David Rogers	Director of Constitution and Cabinet
	Shirley Rogers	Director of Organisational Readiness
	Andrew Watson	Director of Budget and Public Spending
	John Somers	First Minister's Principal Private Secretary
	Sam Anson	Deputy Director, Improvement, Attainment and Wellbeing
	James Hynd	Head of Cabinet Secretariat
	Dougie McLaren	Deputy Director, Public Spending
	Alisdair McIntosh	Strategic Advisor, Outbreak Management
	Liz Lloyd	Special Adviser
	Colin McAllister	Special Adviser
	Callum McCaig	Special Adviser
	Stuart Nicolson	Special Adviser

OFFICIAL-SENSITIVE

Aileen Easton
Sinéad Power

NR

NR

First Minister's Official Spokesperson
First Minister's Policy and Delivery Unit
PS/First Minister
PS/First Minister
Cabinet Secretariat
Cabinet Secretariat
Cabinet Secretariat

Apologies

1. Apologies were received from Mr Yousaf. He was represented by Ms Denham.

Minutes of Meeting held on 12 January 2021

2. The minutes of the meeting held on 12 January (SC(21)2nd Conclusions) were approved.

Parliamentary Business (Paper SC(21)07)

3. Mr Dey outlined the planned business in the Parliament during the weeks commencing 18 and 25 January and 1 and 8 February, as set out in the tables in Annex A of paper SC(21)07. He noted that, in the course of the period under review, the Parliament would for the first time be moving to a system based on virtual voting for all Members.

4. **Cabinet agreed** the planned business in the Parliament for the weeks commencing 25 January and 1 February, subject to any further changes that might be required.

(Action: Minister for Parliamentary Business and Veterans)

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

5. 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.

6. As at 9 a.m. on Tuesday, 19 January, there had been 164,927 confirmed cases of COVID-19 infection in Scotland, an increase of 1,165 compared with the previous day. A further 71 deaths had been registered of people whose deaths had been registered within 28 days of testing positive for COVID-19, bringing the total number since the start of the pandemic to 5,376.

7. The proportion of new tests showing the S-gene dropout, which was thought to indicate the new variant of the virus (VOC 202012/01), now stood at 64.1 per cent of all tests processed through the Lighthouse laboratory in Glasgow, and this figure had remained relatively stable over the previous week, at around two-thirds of test results. While there remained no room for complacency, this provided a measure of reassurance about the efficacy of the range of protective measures currently in force.

8. The seven-day cumulative incidence for Scotland as a whole was still over 200 cases per 100,000 population, which was less than the rates in other parts of the UK (in England, the rate still stood over 500). There was a downward trend in all parts of Scotland, but the rate of decrease varied, with comparatively slower declines in the Greater Glasgow and Clyde NHS Board area and in North Lanarkshire. The fall in case numbers was currently slower than in England, but incidence in Scotland remained at a lower level.

9. There was no sign that the currently available vaccines would not be effective once they were rolled out across the risk groups. Laboratory work continued in order to assess whether these vaccines were likely to perform as well against new variants of the virus, four of which had thus far been identified: in England, South Africa, and two in Latin America. The new variants all appeared to result in higher transmissibility, but there were as yet no signs of adverse impacts on levels of morbidity or mortality. Once a clearer picture emerged of the relative impact of the new variants and of the effectiveness of the vaccination programme, it ought to be possible to plot a clearer path towards an eventual opening up of society.

10. The First Minister noted that there were some more positive signs in recent statistics than at the end of 2020, despite the high current prevalence in Scotland of the new variant VOC 202012/01. The stable or downward trend in case numbers in nearly all parts of Scotland over recent days suggested that the suite of current lockdown measures, especially the general requirement to stay at home and reduce personal interactions, might be beginning to have some impact. It was, however, too soon to predict a consistent downward trajectory on the basis of recent figures, and case numbers remained at historically high levels, which suggested that it would be premature to consider easing any restrictions at this time, especially at a time when pressures on Scotland's health and social care services remained acute. Maintaining the current regime of restrictions for at least the first fortnight of February would also provide time for a preliminary assessment of the effects that the vaccination programme should begin to have on the state of the pandemic among the most clinically vulnerable groups.

COVID-19: Protective Measures (Paper SC(21)08)

11. Mr Swinney introduced paper SC(21)08 which invited Cabinet to consider whether existing restrictions, including in relation to schools and nurseries, should be maintained beyond the end of January and, separately, whether Barra should be moved to Level 4. The paper also described (in paragraphs 70 and 71) progress in the ongoing review of the Strategic Framework, which was due to be reported to Cabinet in greater detail at its next meeting.

12. The paper set out in some detail the state of the epidemic in Scotland and the factors currently exerting intense pressure on NHS and social care capacity in all parts of the country. Despite signs that case numbers were beginning to fall in most parts of the country, the impacts on the NHS would be subject to a possibly significant time lag, and the ongoing pressures on the health and care systems were likely to continue for some time to come. This alone suggested the maintenance of at least the current level of restrictions until at least mid-February, with schools and early learning delivered using virtual platforms.

13. Paragraphs 19 and 20 of the paper gave details of the ongoing COVID-19 outbreak on Barra, where there were currently some 39 cases and over ten per cent of the population was being required to self-isolate. Given the remoteness of the location, the situation presented particular risks, including the need to sustain public services, and discussions were ongoing with resilience partnerships.

14. The National Incident Management Team had recommended that the Barra and Vatersay postcode area be raised to Level 4, which seemed a prudent and proportionate response at this stage; such a move would be supported by both the local Director of Public Health and the local authority.

15. Work continued to ensure the effectiveness of public messaging and to support the rollout of the vaccination programme; the health and social care sectors were fully mobilised, and facilities such as the NHS Louisa Jordan hospital in Glasgow were being used to support the delivery of what would eventually become the largest mass vaccination programme ever undertaken in Scotland.

16. Education remained a major focus: paragraph 48 of the paper set out the three factors which were to be used to judge whether, and to what extent, a phased return to in-person learning could take place. The three factors could be summarised as: (i) the impact on, and levels of, key indicators, including the rate of community transmission, levels of new infection, and the percentage of positive tests; (ii) evidence regarding any change to risk for specific groups of children and young people as a result of the new variant, or evidence of a changed role in transmission as a result of it or other factors; and (iii) evidence of the impact of loss of access to in-person learning on educational and developmental outcomes.

17. In turn, paragraph 52 of the paper described the options currently under consideration (in consultation with the COVID-19 Education Recovery Group) to support a phased return to in-person learning as soon as the evidence permitted. It appeared highly likely that phasing would be required to a far greater extent than in August 2020, when the virus was circulating at much lower levels than at present.

18. Consideration was currently being given to whether priority should be given to re-starting early learning and childcare and the early primary years: early intervention at this age had been shown to have lasting impacts on the attainment gap, and long-term lack of access to in-person learning would be likely to have a significant negative impact on personal and social development. In addition, there were concerns about the mental health and wellbeing of young people in the senior phase, and fully remote learning was also unlikely to be consistent with the need to put in place an alternative certification model for national qualifications. Finally, children and young people with additional support needs represented a further group for whom remote learning was likely to pose significant challenges.

19. A further factor to take into account in reaching a balanced set of proposals for the resumption of face-to-face learning was whether key worker groups, including school and childcare staff, might be considered a priority for vaccination once clinically high-risk groups had been vaccinated. Definitive clinical advice was not yet available (as described further in paragraph 57 of the paper), and particularly careful handling would be required.

20. The paper proposed that, subject to significant developments in the data (and changes in local circumstances, such as the situation on Barra), the existing protective measures should remain in place until mid-February at the earliest with a review in two weeks' time.

21. In discussion the following points were made:

(a) An early years focus seemed sensible in any resumption of face-to-face learning; for older groups, blended learning might offer a reasonable solution;

(b) Young people with additional support needs would often also require support from health and care professionals, and planning for resumption of learning would need to be co-ordinated with all parties involved in joint care strategies;

(c) Most businesses welcomed the degree of relative certainty offered by the Strategic Framework, which was an integral part of their planning processes. Given that the Framework was currently being reviewed, the next version would need to cover the steps that would be required to open up society (even if the timing was as yet uncertain), alongside the impact of the vaccination programme in suppressing the virus;

(d) The proposal to place Barra and Vatersay in Level 4 and prevent spread to other island communities seemed an essential precaution. Locally, it was welcome that moves were being made to ensure that there was adequate testing for care at home staff and other health and care staff on Barra. Work was also ongoing to ensure that those who had tested positive and who it was judged might require hospital treatment were being moved to the mainland pre-emptively, in advance of expected poor weather;

(e) While the decision to continue with current protective measures until mid-February was the right one for now, pressures on the NHS meant that it might well be necessary to continue for at least the rest of February;

(f) It would be helpful if the necessary changes to regulations to apply Level 4 restrictions to Barra and Vatersay could be made that day so that they would come into force the following day.

22. **Cabinet:**

(a) Noted the current situation in terms of NHS capacity and social care, as described in the paper;

(b) Agreed the recommendation that, subject to significant developments in the data, the existing protective measures should remain in place until mid-February;

(c) Agreed the recommendation that the Isles of Barra and Vatersay be moved to Level 4;

(d) Noted the current position in relation to infectiousness of the virus and its variants, adherence to restrictions, international travel, testing, and vaccination, as described in the paper;

(e) Agreed the recommendations contained in the paper in respect of education (including the use of the three factors set out in paragraph 48 of the paper to determine this and future reviews), on the basis that the rationale for the current restrictions had not changed, and that it was therefore now appropriate to extend the period of remote learning and of the current restrictions on early learning and childcare until at least 15 February (albeit with the flexibility to remove restrictions earlier if supported by evidence);

(f) Noted the emerging conclusions of the review of the Strategic Framework, as described in the paper, in advance of fuller Cabinet consideration in the near future;

(g) Delegated to the First Minister all other decisions that might be required in advance of her planned statement to the Parliament on the afternoon of Tuesday, 19 January;

(h) Agreed that all protective measures applicable in all parts of Scotland should be kept closely under review and that further changes in the short term should not be ruled out;

(i) Pursuant to (h) above, delegated to the First Minister and Mr Swinney the responsibility for any further decisions that might be required, should there be a material change of circumstances in any local authority area, or nationally, before the next planned review of protective measures; and

(j) Agreed that all necessary actions should be put in hand to ensure that the required changes to regulations, guidance and advice were in place so that the necessary further emergency measures could be announced by the First Minister in the Parliament on Tuesday, 19 January, and publicised, implemented, and enforced from Wednesday, 20 January.

(Action: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; DG Constitution and External Affairs; Chief Medical Officer)

Budget 2021-22: Final Allocations (Paper SC(21)09)

23. Ms Forbes introduced paper SC(21)09 provided an update on the financial position and invited Cabinet to approve final allocations for each portfolio in respect of core Resource, COVID-19 Resource, Capital, and Financial Transactions (FT) budgets for 2021-22. It also provided a proposal for supporting passage of the Budget Bill through the Parliament and described a proposed Local Government Settlement. In addition, the paper recommended an extension of the Retail, Hospitality and Leisure business rates reliefs, described the proposed tax position and key messages for the Budget document, and provided an update on staffing and operating costs across the Scottish Government.

24. The Budget for 2021-22 would be presented to the Parliament in the context of significant uncertainty. This resulted from two principal factors: first, the ongoing pandemic, which demanded an effective and fully funded response; and second, the timing of the UK Budget, which the Chancellor was due to announce on 3 March. Unfortunately, Scotland's ability to respond to COVID-19 was hampered by the need for clarity on the level of consequential funding from the UK Budget.

25. The paper described a strategy to address this challenge pro-actively by pre-empting an element of the expected COVID-19 funding from the UK Government. This approach would allow Ministers to make public the key commitments that the Scottish Government would propose to fund with such consequentials, and a working figure of £500 million has been assumed for this purpose.

26. This represented a key area of judgement, and the paper also set out the associated risks, which would, notably, arise if actual consequential funding were to be significantly less than described in the paper (this might, for example, happen if the UK Government were to decide not to deploy all of its COVID Reserve in the March Budget). There was, therefore, a real risk of having to publicly defend or revise some commitments during Stage 3 of the Budget Bill, in the event that the UK funding position did not reconcile with the Scottish Government's proposed spending commitments.

27. The paper also set out the proposed portfolio allocation of FT funding. Total FT funding was significantly cut in the UK Spending Review announcement on 25 November 2020. This had created significant pressures for the 2021-22 position and, in line with agreed priorities, the Scottish National Investment Bank and Low Carbon Fund had been prioritised for FT allocations.

28. The staffing challenges across the organisation remained very substantial, not least from the continuing pressures arising from COVID-19 and EU Exit. Staffing and resource allocation was therefore being kept under regular, active and pragmatic review as part of the management of both financial and delivery risks.

29. The taxation proposals set out in the paper presented a mostly settled position. In relation to non-domestic rates (NDR), it was proposed to use the funds generated from re-imbursements received from major retailers to extend the Retail, Hospitality and Leisure relief for a further three months, at a cost of £175 million. This should provide a welcome measure of certainty and support to the business community.

30. As detailed further in paragraphs 91 to 93 of the paper, the Local Government Settlement was expected to be a pressure point in negotiations. So as to provide a reasonable starting point, current proposals assumed a one per cent uplift in the Settlement as a whole, and provided up to £90 million of ring-fenced funding for local authorities which chose to freeze council tax. There was also funding to meet cost increases in Early Learning and Childcare and to provide additional resources for ferries.

31. Provisional figures for operating costs suggested that, collectively, the operating cost budget for 2021-22 stood at around £70 million (13 per cent) higher than the level published in the 2020-21, mainly as a result of responding to the pressures resulting from COVID-19 and EU Exit.

32. Concerning Public Sector Pay Policy for 2021-22, a key change put forward in the paper compared with earlier proposals was to return to using the £9.50 Real Living Wage as a floor, instead of the higher, £10 per hour figure provisionally agreed at the meeting of the Cabinet held on 15 December (*SC(20)48th Conclusions refers*), which had not been made public. This change of approach had arisen following Ms Forbes' recent engagement with COSLA and took into account the severe affordability challenges that a £10 wage floor would have represented for a number of public sector employers.

33. The 2020-21 forecast Resource Departmental Expenditure Limit (DEL) underspend was currently £180 million, allowing for the latest spending measures which had already been announced, and it was proposed that the underspend should be used, as a priority, to reduce pressures in, respectively, the Health, Education, and Economy portfolios.

34. In discussion the following points were made:

(a) The fact that a high proportion of the current Resource DEL underspend was likely to have arisen, nominally, in Health budgets meant that it would be reasonable to give priority to Health and Social Care pressures in its redeployment, with Education as the next priority, as proposed;

(b) The pay proposals set out in the paper looked reasonable, including the proposal to adopt a £9.50 Real Living Wage as a floor, rather than the higher figure of £10. It had, however, been clear, in recent meetings with the STUC, that the proposed one per cent basic award would be subject to significant upward pressure in sectoral negotiations, and that public sector pay would remain a major issue for some time to come;

(c) For particular staff groups, such as Agenda for Change staff in Health, it was already clear that a one per cent basic award would be likely to be deemed unrealistic as a basis for the negotiations which, it was hoped, would commence in the late spring or summer. There were other areas, such as the Crown Office and Procurator Fiscal Service, where pay coherence remained a significant and long-standing issue;

(d) Financial performance over the remainder of the current year would need to be very carefully monitored: there was always a risk that HM Treasury limits would not permit the carry forward of some of any underspend, and strenuous efforts would need to be made to redeploy as much spending as possible in the time remaining before the financial year end;

(e) The assumed sum of £500 million additional COVID funding seemed reasonable and, if confirmed, should go a long way to meet existing pressures: as much detail as possible should be placed on the face of the bill;

(f) It would be worth considering further whether the assumed sum of £500 million for additional COVID funding be sufficient, or whether a larger sum should be assumed for planning purposes;

(g) The Welsh Government had recently announced a sum of £40 million to provide student hardship support (especially in view of pressures caused by rent obligations). This figure appeared very high in relative terms (the equivalent annual allocation in Scotland was currently around £11 million), and it was likely to give rise to further pressure from NUS Scotland and Universities Scotland about funding for the university sector more widely;

(h) It might be worth exploring the option of allocating a proportion of the current year underspend to the Scottish Funding Council (SFC) to help alleviate pressures, either in the current or subsequent financial year. The SFC might also be expected to play a helpful role in relation to the Youth Guarantee, which also represented a significant pressure;

(i) The Chancellor of the Exchequer's unexpected and harsh decision to reduce Scotland's FT allocation would also be likely to harm the prospects for economic recovery (especially for the enterprise agencies), and it would be helpful if this point could be considered in deciding how to allocate any underspend;

(j) Alongside the ongoing work of Scottish Enterprise, Highlands and Islands Enterprise and the South of Scotland Enterprise Agency to support businesses in all parts of Scotland, additional central support for economic recovery would also be required from Scottish Government staff, and this would add to general pressures on the organisation's already stretched staffing and operating costs budgets, which would – more generally – need to be focused as closely as possible on the Government's highest priority areas;

(k) The general shortage of FT funding (as noted in paragraph 35 of the paper) was also likely to be highly problematic for a number of specific areas such as house building and the GP loan scheme. In this context, the proposal to continue in-year FT funding to ensure that advance payments to farmers could go ahead would provide welcome relief;

(l) Additional resource funding for the police was welcome; however, capital pressures remained significant, especially if important commitments such as body cameras for police officers were to be honoured;

(m) The Government's statutory commitment to alleviate child poverty remained of vital importance, and it would be helpful for each portfolio to ensure that adequate funding was being set aside to meet this shared goal;

(n) In Social Care, there were a number of projects that could be funded using underspend, and this might be a helpful solution, since they would effectively result in investment in care services whose effects would be spread over a number of years;

(o) The proposals contained in the paper for NDR and council tax were helpful. However, while the proposal to extend Retail, Hospitality and Leisure relief into the first quarter of 2021-22 was very welcome, consideration should be given to whether it might be spread over a longer period, since the recovery of the tourism sector, in particular, was likely to take much longer, especially in the absence of overseas visitors;

(p) The Rural Tourism Infrastructure Fund had been well received, and it would be helpful if a further uplift might be considered, should additional capital funding become available;

(q) It would be helpful for Cabinet to see a final summary the following week, formally setting out the Budget allocations that had been agreed and any late issues that might have arisen in the meantime.

35. **Cabinet:**

(a) Noted the updated financial position, the relationship between 2020-21 outturn and 2021-22 allocations, and the approach to the Budget Bill described in the paper;

(b) Agreed the proposed 2021-22 resource, capital and Financial Transactions allocations, subject to any final amendments that might be required;

(c) Agreed the proposed strategy for handling potential COVID-19 funding that might flow from the UK Budget;

(d) Agreed the capital allocations to digital public service reform and road adaptation for the years 2022-23 to 2025-26, as set out in the paper, and that remaining capital should be reserved to the Finance portfolio to cover business cases in preparation and other key priorities;

(e) Noted the latest staffing position and associated risks;

(f) Agreed that the 2021-22 Public Sector Pay Policy should commit to the £9.50 per hour Real Living Wage, rather than a £10 per hour wage floor, and that it should retain the other elements provisionally agreed in December (*SC(20)48th Conclusions refers*), including the one per cent basic award and the £750 underpin for salaries up to £25,000;

(g) Agreed to the Pay Policy's affordability within the funding envelope;

(h) Agreed to the proposed approach to announcing low pay measures described in the paper;

(i) Agreed that each Cabinet Secretary should provide assurance before Thursday, 28 January as to how their portfolio would manage risks of over-commitment and deliver key priorities within proposed allocations (including operating costs), as part of the first stage in the Accountable Officer assurance process;

- (j) Agreed the proposed framing, key messages and structure of the Budget document;
- (k) Agreed to review and provide any comments on the Medium Term Financial Strategy by Thursday, 21 January;
- (l) Noted the proposed tax policy proposals;
- (m) Agreed the proposal to announce a further non-domestic rates relief for the Retail, Hospitality and Leisure sectors as part of the Scottish Budget 2021-22;
- (n) Noted the associated risks for the proposed Local Government Settlement, as set out in the paper, and agreed that this should form a starting point for negotiations; and
- (o) Agreed that a final summary paper should be considered by the Cabinet at its next meeting, formally setting out the Budget allocations that had been agreed and any late issues that might have arisen in the meantime.

(Action: Cabinet Secretary for Finance; Budget and Public Spending Directorate)

SCANCE (Paper SC(21)10)

36. The First Minister introduced the SCANCE paper (SC(21)10). In discussion of current issues, Cabinet's attention was drawn to the following matters:

Celtic Connections 2021

37. Ms Hyslop informed Cabinet that the Celtic Connections 2021 music festival had launched successfully on 15 January and would run until 2 February. This year, the festival was taking place virtually, with a programme of 30 performances available to view online. Cabinet members were encouraged to offer their support by subscribing to one or more concerts.

Mortgage Repossessions

38. Ms Campbell noted that the Scottish Government would that week lay Regulations in Parliament which would ban the enforcement of mortgage repossession orders in areas subject to level 3 and 4 COVID-19 restrictions. The ban would come into effect from 22 January and would last until at least 31 March, with the option of an extension until September. This change would provide home owners who were facing eviction with the same protection from displacement or homelessness as was afforded to those in the private and social rented sector at a time when the prevalence of the virus was still significant.

Irrelevant & Sensitive

(c) The new, disruptive, and bureaucratic trading arrangements which were proving so costly to Scottish businesses should not be allowed to become the 'new normal', and every effort should be made to ensure that the UK Government did not attempt to use the pandemic to hide the negative impacts of EU Exit.

Irrelevant & Sensitive

43. There were already a number of clear examples of serious problems resulting directly from the way in which the UK Government was handling EU Exit. While direct adverse effects were obvious in the seafood and aquaculture sectors, problems were by no means limited to these areas, and the UK Government appeared to be receiving less public criticism that might have been expected (no doubt partly as a result of the understandable dominance of COVID-19 in the news media), and it would be helpful if the general public were better aware of the real problems caused by EU Exit and the way it was being implemented.

Irrelevant & Sensitive

Any Other Business

48. None.

Cabinet Secretariat
January 2021