

## SCOTTISH CABINET

## MINUTES OF MEETING HELD BY TELE-CONFERENCE IN ST ANDREW'S HOUSE, EDINBURGH AT 9.30 AM ON TUESDAY, 22 SEPTEMBER 2020

|                       |                             |   |
|-----------------------|-----------------------------|---|
| <b>Present:</b>       | Rt Hon Nicola Sturgeon MSP  | First Minister ( <i>part of meeting only</i> )                        |
|                       | 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                                |
|                       | 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                |
|                       | Humza Yousaf MSP            | Cabinet Secretary for Justice ( <i>part of meeting only</i> )         |
| <b>In Attendance:</b> | Leslie Evans                | Permanent Secretary   |
|                       | Rt Hon James Wolfe QC       | Lord Advocate   |
|                       | Graeme Dey MSP              | Minister for Parliamentary Business and Veterans                      |
|                       | Ivan McKee MSP              | Minister for Trade, Investment and Innovation                         |
|                       | Dr Gregor Smith             | Interim Chief Medical Officer ( <i>part of meeting only</i> )         |
|                       | Ken Thomson                 | Director-General, Constitution and External Affairs                   |
|                       | Dominic Munro               | Director, Exit Strategy   |
|                       | David Rogers                | Director of Constitution and Cabinet                                  |
|                       | Shirley Rogers              | Director, Organisational Readiness                                    |
|                       | John Somers                 | First Minister's Principal Private Secretary                          |
|                       | Ian Donaldson               | Deputy Director for Readiness and Transition                          |
|                       | James Hynd                  | Head of Cabinet Secretariat   |
|                       | Alisdair McIntosh           | Strategic Adviser, Outbreak Management                                |
|                       | Colin McAllister            | Special Adviser   |
|                       | Callum McCaig               | Special Adviser   |
|                       | Stuart Nicolson             | Special Adviser   |
|                       | Elise Black                 | Deputy Head, Finance Programme Management Division                    |
|                       | Aileen Easton               | First Minister's Official Spokesperson                                |
|                       | Chris Mackie                | FM COVID Briefing Unit  |
|                       | <b>NR</b>                   | Head of Centralised Recruitment and Attraction                        |
|                       | Sinéad Power                | First Minister's Policy and Delivery Unit                             |

(continued)

Andrew Slorance

NR

NR

Head of Resilience Response and Communications  
PS/First Minister  
Financial Performance Manager  
Cabinet Secretariat  
Cabinet Secretariat

### Apologies

1. Apologies were received from Ms Hyslop, who was represented by Mr McKee.

### Introductory Remarks

2. The Deputy First Minister chaired the meeting until the arrival of the First Minister following her participation in a virtual Cabinet Office Briefing Room (Ministerial) meeting (COBR(M)) at 9.30 a.m. that morning which the Prime Minister had chaired.

### Minutes of Meeting held on 15 September 2020

3. The minutes of the meeting held on 15 September (SC(20)35th Conclusions) were approved.

### Parliamentary Business (Paper SC(20)114)

4. Mr Dey outlined the planned business in the Parliament during the weeks commencing 21 and 28 September, and 5 and 26 October, as set out in the tables in Annex A of paper SC(20)114.

5. In discussion the following points were made:

(a) No Parliamentary business was planned during the October recess, and if any business was required to coincide with the three-week review of national COVID-19 restrictions, then this would be expected to take place virtually;

(b) The Scottish Government debate on legislative consent to the UK Government's Internal Market Bill, currently scheduled to take place on 7 October, might need to be moved to the following day.

6. **Cabinet agreed** the planned business in the Parliament for the week commencing 5 October, subject to any changes that might be required.

**(Action: Minister for Parliamentary Business and Veterans)**

### SCANCE (Paper SC(20)115)

7. The Deputy First Minister introduced the SCANCE paper (SC(20)115). In discussion of current issues, Cabinet's attention was drawn to the following matters:

***National Qualifications 2021***

8. Mr Swinney referred to the item in paper SC(20)115 concerning the approach to assessing national qualifications in 2021 in light of the COVID-19 pandemic. The Scottish Qualifications Authority and the Education Recovery Group were each looking at contingency arrangements, which would be informed by the independent review into the handling of the examination results for 2020 which was being prepared by Professor Mark Priestley of Stirling University.

9. In order to provide the best chance of allowing Higher and Advanced Higher examinations to go ahead in summer 2021, consideration was being given to a proposal advanced by some stakeholders that the National 5 examinations should be cancelled. This would allow the Higher and Advanced Higher diet to be delayed slightly, with more teaching time. The proposal would also reduce considerably the number of candidates for public examinations (since National 5 had by far the highest numbers), and this should, in turn, reduce the risk of disruption to the diet as a whole. To address the question of consistency at National 5, a system of external moderation would be used to provide independent validation of teachers' estimates.

10. Although final decisions had not yet been made, cancelling public examinations at National 5 was the proposal that had, thus far, attracted most support. Discussions with stakeholders would continue, and Mr Swinney undertook to keep Cabinet informed as plans took shape.

**(Action: Deputy First Minister and Cabinet Secretary for Education and Skills; Learning Directorate)**

**Irrelevant & Sensitive**

(Action: Cabinet Secretary for Economy, Fair Work and Culture; Minister for Trade, Investment and Innovation; Economic Development Directorate)

***Health Statistics***

14. Ms Freeman updated Cabinet on health statistics published that morning. Performance against the four-hour waiting time target for core accident and emergency departments for the week ended 13 September had been 90.5 per cent. In addition, the latest daily management information showed that there were 1,063 delayed discharges for any reason or duration as at 17 September (nine fewer than the previous week and 549 (34 per cent) below the 4 March baseline).

***COVID-19 Testing Capacity***

15. Ms Freeman provided Cabinet with an update on COVID-19 testing capacity in Scotland. A number of new 'walk through' testing facilities were due to open in the coming weeks, including a second site in Glasgow on 26 September. Further sites would follow in Aberdeen, Dundee, Edinburgh, Inverness and St Andrews, and consideration was being given to the establishment of additional sites in Argyll and Bute, Dumbarton and Inverclyde.

16. Testing of Scottish samples at the UK Government-operated Lighthouse Laboratory in Glasgow had run smoothly the previous week, and the UK Government had guaranteed that Scotland would continue to receive testing capacity commensurate with its share of the UK population.

17. The provision of three or four regional hubs for sample testing would allow additional tests to be processed through the NHS, thereby providing greater resilience in Scotland's testing system. Work was also under way to move the processing of tests for care home staff and residents from the Lighthouse Lab to the NHS. Scaling up NHS testing capacity should provide the Scottish Government with more control over processing time, which was critical to ensuring that contract tracing was undertaken as swiftly as possible.

**Irrelevant & Sensitive**

# Irrelevant & Sensitive

## ***2021 Scottish Parliament Election***

23. Mr Russell noted that there were no current plans to postpone the May 2021 Scottish Parliament elections as a result of the COVID-19 pandemic. Matters would, however, be kept under review, in consultation with opposition parties, as the situation evolved over coming months, and contingency options would be put in place as required.

## ***Scottish Parliament Virtual Voting System***

24. Mr Dey noted that the Scottish Parliament was due to implement a new virtual voting system. It would also be reviewing its procedures for physical attendance of MSPs at Holyrood in light of any new COVID-19 restrictions, in order to ensure that the risks posed to MSPs and Parliament staff were minimised.

## **COVID-19: Budget 2020-21 – Update (Paper SC(20)116)**

25. Ms Forbes introduced paper SC(20)116 which provided an update on the in-year budget position for 2020-21 and invited Cabinet to take decisions on actions to mitigate the risk of a budget shortfall at the year end. The context for the paper was extremely challenging, since risks from a number of issues were crystallising simultaneously, including COVID-19 (particularly as winter approached), EU Exit, staff resourcing, and the risk of overspending the budget.

26. The approach described in the paper would rely on effective prioritisation, ensuring that there would be sufficient capacity – both financially and in terms of staff resources – to manage the risks facing the organisation, and also to enable the most appropriate decisions to be made at speed and implemented successfully without creating pressure on interlinked areas of risk. The budget needed move into balance – and if possible beyond – in order to create some additional headroom. However, the resource budget position continued to be extremely challenging, and the expected outlook appeared just as difficult for 2021-22.

27. The proposal to set formal milestones on the way to a balanced budget, as described more fully in paragraphs 34 and 35 of the paper, was intended to avert a budget overspend. Further reviews of the latest financial position would therefore be undertaken as at 31 October, 30 November and 31 January, taking into account any further consequentials, but also implementing any further reprioritisation measures that might be required.

28. Following the previous discussion of the 2020-21 budget position at Cabinet on 29 July (*SC(20)29th Conclusions refers*), Ms Forbes had corresponded with Cabinet colleagues to re-assess staffing requirements and to confirm which of the potential budget contingency reprioritisation options should be considered for implementation. The results of this review exercise were reflected in the figures shown in the paper.

29. Extensive work had been undertaken with each portfolio, resulting in an updated resource shortfall position of around £410 million (as illustrated in paragraph 9 of the paper), which was over £100 million less than the shortfall presented to Cabinet on 29 July. Reprioritisation options proposed in the paper considered by Cabinet in July, and further savings to be approved by Cabinet as set out in the current paper and totalling £266.1 million (see *below*), would contribute to this reduction.

30. A number of new pressures had, however, emerged since the previous financial update, notably with regard to potentially significant shortfalls in devolved taxes. Latest estimates suggested that this might amount to as much as £159 million, although the final tax position would depend on corresponding changes in the equivalent Block Grant Adjustments, which were as yet unknown. In addition, there remained a risk of further COVID-19-related forecast fluctuations (for example, in Land and Buildings Transaction Tax revenues).

31. The recent review had also identified that between £4 million and £7.5 million would still be needed to fund additional staffing requirements for essential activities in 2020-21, including responding to the pandemic, as outlined further in paragraph 7 of the paper, and this pressure was now reflected in the revised shortfall.

32. To reduce the resource deficit, Finance officials had worked with portfolios to interrogate forecasts and expenditure: together, they had identified further reprioritisation options totalling £266.1 million, which were detailed in Annex B of the paper. These options, which were judged operationally feasible, largely reflected updates to forecasts made using a more realistic and/or risk-based view, as well as some resource-to-capital switches (including £87.3 million in the Health portfolio,

which was intended to be funded by a transfer from the additional capital budget set aside to assist the resource position). Agreeing these options would reduce the resource shortfall to the £410 million outlined in the paper.

33. Although there had been reports of possible additional consequential funding arising in portfolios such as Transport, HM Treasury had re-iterated that any funding announced to date would form part of the £800 million of pre-allocated consequential funding provided in July (*SC(20)29th Conclusions refers*), which had already been set against the Scottish Government's revised resource shortfall.

34. In discussion the following points were made:

(a) It would be helpful to have further clarity about the contingency reprioritisation options (shown at Annex C of the paper) which involved deferring some spend into 2021-22 – in particular, whether additional funding would be made available in that year, or whether portfolios would need to absorb the costs from within their resource budget allocations, which was likely to be challenging;

(b) There would need to be a constant focus on the jobs impact of any proposals. Care must also be taken to ensure that funding for skills, training and employability was properly synchronised with wider, COVID-19 related support for economic activity;

(c) Efforts should also be made to reduce the risk of capital underspend towards the end of the year, when it would be too late to use it for projects that could create jobs. This risk would be heightened should the UK Government continue to refuse to allow switching from capital to revenue budgets, despite Scottish Ministers' repeated representations;

(d) Should any Financial Transaction (FT) underspends arise later in the year, it would be helpful to investigate whether they could be used to provide further support for companies which had applied to the Early Stage Growth Challenge Fund run by Scottish Enterprise but for which there had been insufficient FT funding;

(e) FT funding to support vulnerable communities and the third sector was welcome, but there remained concerns about sufficiency of funds to tackle pressures arising from homelessness, which were growing as a result of the pandemic;

*[Mr Yousaf left the meeting.]*

(f) Although there remained unspent monies in the Scottish Welfare Fund, as indicated at Annex C of the paper, it might yet be required to fill other gaps in social security spending, and pressures might arise towards the end of the calendar year, especially in light of school holidays. In addition, most social security spending was demand-led, which meant that there was less flexibility than with some other budgets;

(g) Annex C of the paper also showed some Health funds held back from allocation to NHS Boards, but these already represented contingency funding, some of which might be required as the year went on;

(h) Urgent clarity was required in relation to the UK Government's recent proposals for self-isolation payments for people on lower incomes who were required by law to self-isolate; the new scheme was due to be introduced in England from 28 September. Although it was understood that these proposals would generate consequentials for the devolved administrations, self-isolation payments would, by their nature, be granted on a demand-led basis and might therefore not be suitable for allocation on the basis of the Barnett formula. Ms Freeman and her counterparts in Wales and Northern Ireland had made this point to the UK Secretary of State for Health and Social Care, who had undertaken to raise their concerns with HM Treasury;

(i) It was also not yet clear whether any consequential funding for self-isolation payments would be in addition to the £800 million of pre-allocated consequential funding provided in July. Ms Forbes had requested a meeting with the Chief Secretary to the Treasury to discuss this matter;

(j) More generally, there was significant uncertainty about whether any further spending at UK level that might generate Barnett consequentials would be in addition to the £800 million of pre-allocated consequential funding (for example, funding for rail franchises seemed unlikely to form part of this total) or whether it might be assumed to be included. More information was needed in order to plan ahead over coming months. To this end, HM Treasury had stated that it expected to provide a reconciliation of the £800 million of pre-allocated consequentials within the coming fortnight;

(k) In summary, it seemed that the current resource shortfall position, although still very challenging, might – if the proposed approach set out in the paper was implemented as planned – be able to be resolved in time to avoid an overspend, although much work lay ahead to be sure of this outcome. Cabinet Secretaries must therefore examine all expenditure to ensure that any future spending pressures were tempered as far as possible.

35. **Cabinet:**

(a) Noted the crystallisation of a number of concurrent risks arising from COVID-19, EU Exit, staff resourcing and budget which would require urgent and system-wide management;

(b) Noted the latest estimate of the significant deficit in 2020-21 Budget position of £517 million and the remaining risks inherent in the current forecast;

(c) Noted additional estimated pressures, including devolved tax shortfalls (£159 million) and approved forecast savings of £266.1 million (incorporating resource/capital switches of £87.3 million), as set out in Annex B of the paper, which would assist in reducing the budget shortfall position down to circa £410 million;



(d) Agreed to hold £32.2 million of previous savings put forward, as set out in Table 2 in Annex A of the paper, as well as £240.3 million of additional high-risk contingency options as per Annex C;

(e) Agreed the continued need for collective financial restraint and to minimise new financial pressures; and

(f) Agreed 2020-21 milestones for budget updates and decisions on further financial measures, as set out in the paper.

**(Action: Cabinet Secretary for Finance; Financial Management Directorate; Financial Management Directorate; Budget and Public Spending Directorate; People Directorate)**

*[The First Minister and the Interim Chief Medical Officer joined the meeting.]*

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

36. The First Minister updated Cabinet on the outcome of the COBR(M) meeting which had ended a few minutes earlier and which had discussed a 'four nations' approach to further restrictions in order to address the urgent need to bring the growth of COVID-19 infections back under control following the recent sharp increase in numbers of new confirmed cases.

37. It had also been confirmed that a UK Government announcement was imminent in relation to self-isolation payments, for which additional funding might be expected to be provided to the Scottish Government, although the basis of any funding was at yet unclear (see above). Movement on the proposal for a self-isolation payment was welcome, and Social Security Scotland was working at pace to develop a Scottish scheme.

38. There was, however, unlikely to be any new financial support for restaurants, pubs, or the hospitality industry more generally, even though they might be expected to be most seriously affected by any new steps to limit social interaction in an effort to curb transmission of the virus.

39. The measures which were due to be announced by the Prime Minister later that day for England were expected to include the following:

- ◆ A compulsory ten p.m. closing time for all businesses selling food or drink;
- ◆ A new emphasis on compliance and enforcement (with enhanced powers and penalties), including achieving better compliance with the English 'rule of six' (requiring people to limit private meetings, indoors or outdoors, to six or fewer people – but still with no restriction on the number of households involved);
- ◆ Stricter rules on wearing face coverings in public places;
- ◆ Encouragement for people to work from home where possible (in contrast with earlier UK Government advice for England, which had actively encouraged a return to office working); and
- ◆ A more visible public information campaign to accompany the launch of the free 'NHS COVID-19' contact tracing smartphone app for England and Wales on Thursday, 24 September (similar to the new Protect Scotland app which had been launched on 14 September).

40. Consistent with the advice of the Interim Chief Medical Officer (CMO), the First Minister had concluded that it would be vital to go as far as possible in reducing the reproduction rate of the virus (the 'R' number).

41. The First Minister's proposal was therefore to take action across a similar range of areas as the rest of the UK (in line with a broad 'four nations' strategy), but for the changes proposed to reflect the Scottish Government's existing precautionary approach – which was in some respects already stricter than that adopted by the UK Government for most parts of England.

42. Wales and Northern Ireland already also applied some additional measures compared with England, although all four UK nations had put in place a number of additional restrictions to address local or regional outbreaks, most of which were still in force (including in the West of Scotland).

43. A notable difference between the approach adopted recently in England and Scotland was the Scottish 'rule of six', under which, since 10 September, limits for household gatherings (indoors or outdoors) had been set, under most circumstances, at a maximum of six people drawn from two households, with some exemptions for children and young people (*SC(20)34th Conclusions refers*).

44. It was now proposed to limit still further the opportunities for interactions between different households in Scotland, in order to slow the rate of community transmission with a view to bringing the virus back under control. To achieve this, restrictions would be applied throughout Scotland which would be similar to those already in force across seven local authority areas in the West of Scotland.

45. The First Minister therefore planned to announce a range of measures in the Parliament that afternoon, including new limits on household gatherings. In summary – and subject to Cabinet agreement on the detail as set out below – the new restrictions on gatherings (which would come into force as soon as possible) would be as follows:

(a) No-one in Scotland (including children) should meet anyone from other households in their own home or another person's home socially, with only very limited exceptions for members of extended households, non-cohabiting couples, children with parents from different households, childcare, and tradespeople;

(b) A maximum of six people from two households would be able to meet in private gardens or public outdoor spaces (and people should also be asked to limit as far as possible the number of different households they met in a single day). If Cabinet agreed, it would seem reasonable to continue with the current exemption, whereby under 12s did not count towards the maximum numbers of people or households;

(c) Up to six 12- to 17-year-olds would be able to meet outdoors, with no limit on the number of households, provided physical distancing was observed. There would also be exceptions for school transport;

(d) A maximum of six people from two households would be able to meet in public indoor spaces, such as cafés, pubs and restaurants (with an exemption for both households' children under 12).

46. There was a balance to be struck among the 'four harms' of COVID-19, which included economic harm, but any decision on additional measures must also take into account the limited economic levers available to the Scottish Government.

47. As far as the hospitality industry was concerned, it was apparent that it would not be possible for the Scottish Government to implement any significantly stricter rules than the UK Government proposed for England because – under the current devolution settlement – the Scottish Government would be unable to compensate businesses for additional serious economic hardship, unless Scotland received further financial support from the UK Government. In the meantime, businesses must be allowed to continue to trade, albeit in a manner consistent with public safety.

48. The First Minister therefore planned to announce a variant of the UK Government's plan to introduce a ten p.m. closing time for businesses selling food or drink. Under the proposals for Scotland, pubs, restaurants and all hospitality settings would be required to close at ten p.m. (whether this would be full closure or 'last orders' was still subject to Cabinet's views – see *below*).

49. Other measures were likely to include advice to limit car sharing as much as possible and to continue to work from home wherever practicable. In addition, tailored advice would also be needed for those who had previously been shielding. The First Minister planned to strongly advise people not to book holidays abroad during the October break, in view of the heightened risks this would undoubtedly entail.

50. The intention was that the new set of restrictions which would form the object of the First Minister's announcement that afternoon would come into force as soon as possible, and the whole package would be subject to a new statutory three-week review period in order to ensure adequate opportunities for continuing Parliamentary scrutiny.

51. Over recent days, there had been significant media speculation, both at UK level and in Scotland, about a so-called 'circuit breaker' (a form of temporary lockdown, involving very stringent measures over a period of around a fortnight) to reduce or halt the acceleration in the current transmission rate of the virus – perhaps coinciding with schools' autumn half term break. No formal consideration had yet been given as to whether such a measure should be implemented, but all feasible ways of controlling the pandemic would be kept under review.

52. The First Minister invited the Interim CMO to offer any views on the progress of the COVID-19 pandemic and the work under way to counter its effects. As at 9 a.m. on 22 September, there had been 25,009 confirmed cases of COVID-19 infection in Scotland, compared with the previous week's cumulative total of 23,016 (SC(20)35th Conclusions refers). The total number of confirmed deaths in hospital as a result of COVID-19 stood at 2,506, an increase of six since the previous week.

53. CMO informed Cabinet that there had been 383 new confirmed cases overnight (which was among the highest daily totals recorded since the start of the pandemic) and one further death, and there had also been increases in the numbers of patients undergoing treatment for COVID-19 in hospitals and Intensive Care Units.

54. However, preliminary data suggested that the tighter regional restrictions currently in place across west central Scotland might be starting to slow the rate of increase in new cases, which now appeared linear rather than exponential. By extending household restrictions nationwide, by means of an early package of preventative measures, it seemed reasonable to hope that the rate of increase in new cases might also begin to decline nationally. The aim must be to bring the 'R' number once more below one, but it was as yet unclear how long this might take.

55. The package of urgent measures which the First Minister had described was intended to provide the best, and earliest, hope of stopping the virus running out of control in the near term. If compliance with restrictions also rose, this should offer breathing space to prepare the NHS for the winter months (with their concurrent risks of influenza and other infections) and to increase the efficacy and speed of the testing and tracing process. Work was also in train to ensure that care home residents and other vulnerable groups and individuals were protected to the maximum extent possible. All four UK CMOs were of the view that swift and serious new measures were required in order to be prepared for the coming winter months.

56. The First Minister invited Cabinet to offer any views before the new package (as outlined above) was announced in the Parliament that afternoon. In discussion the following points were made:

(a) The First Minister's intention to encourage Scots not to plan to travel during the October break, and certainly not to go away on holiday abroad, was a welcome and sensible one. The more this message could be reinforced the better: travel overseas should only be contemplated if it was for essential purposes, and the same should be true for overseas visitors to Scotland;

(b) This said, Scotland's hospitality industry was already facing an unprecedented crisis, and it would be regrettable if messaging resulted in increasing numbers of cancellations at hotels and bed and breakfast accommodation, since this sector was struggling. It would perhaps be more appropriate to encourage tourism within Scotland, in compliance with all distancing rules and taking account of the good work done by the sector to operate in a managed and safe environment;

(c) In view of recent outbreaks in student residences, further and more strenuous efforts must be made in conjunction with the Further and Higher Education (HE) sectors, in order to ensure that they were doing their best to fulfil their obligations to maximise compliance with restrictions, especially given the risks that attached to the arrival of large numbers of students at the start of term;

(d) The HE sector, in particular, had shown some reluctance in accepting the terms of the tough guidance that was now in place, and in taking ongoing responsibility for compliance, and more dialogue with HE representatives would be required so as to strengthen pressure in this key area (in view of the urgency of the situation, further discussions with the HE sector were planned to take place later that day);

(e) Many Scottish students lived at home, rather than in residences, and therefore had continuing contact with parents and other members of their households while attending FE or HE institutions. They were also likely to travel to reach their places of study. The varying circumstances of the student body, which were not uniform, would need to be taken into account in any new advice;

(f) If the UK Government chose to impose a ten p.m. 'curfew' on pubs, restaurants and other places serving food and drink, it would be difficult to justify a more lenient 'last orders at ten' rule, with doors closing later at, say, 11 p.m. (despite the risk that a 'curfew' arrangement might lead to larger numbers in the streets at the same time);

(g) Despite the economic advantage a 'last orders at ten' rule might have offered for restaurants in particular (which might otherwise be prevented from offering two sittings each evening), any new restrictions would be ineffective if they did not reduce the amount of social interaction;

(h) The hard truth was that a 'curfew' at ten p.m. would be more likely to reduce the number of people in circulation, as well as being easier to understand (both for residents and for visitors from the rest of the UK). A ten p.m. 'curfew' should therefore be included in the First Minister's announcement (consistent with the new approach for England);

(i) It was highly regrettable that more financial support did not appear likely to be forthcoming from the UK Government to compensate the hospitality industry, which meant that it would be impossible, economically and financially, for the Scottish Government to go significantly further than England in imposing new restrictions, even though it might be preferable (purely on public health grounds) to impose stricter new limits (provided compensation was available). It must, however, be recognised that the hospitality industry was already in a very fragile state, with many redundancies and closures likely over coming months;

(j) While the proposed rules for 12- to 17-year-olds meeting outdoors seemed reasonable, it would be useful to investigate whether more might be done to ensure that this group had suitable opportunities for adequate social interaction, on both physical and mental health grounds, despite the need to ensure that risks from the virus were minimised. On the other hand, it was clear that compliance levels among this group were already variable, and any restrictions needed to be credible;

(k) It would seem reasonable to continue with the current exemptions whereby children under 12 did not count towards the maximum numbers of people or households for meetings in indoor or outdoor public spaces;

(l) It also seemed a sensible and humane approach to ensure that non-cohabiting couples, and children whose parents did not live in the same household, would still be allowed to meet, and that there should be exceptions for childcare arrangements, despite the new restrictions on household gatherings;

(m) It might be helpful to consider further whether the 'rule of six' limit for people meeting in public indoor spaces such as restaurants should also be limited to a single household (in the same way as for private indoor spaces), rather than two households, as currently proposed. However, the likely negative impact of such a restriction on the hospitality industry would need to be assessed fully before deciding to implement this sort of measure;

(n) In the First Minister's announcement later that day, it would be helpful if mention could be made of the particular anxieties experienced by those who had previously been shielding: while the new measures did not require a return to shielding, they should be reassured that collective efforts would reduce risk for all, including the most vulnerable, who had not been forgotten. The former shielding group should be offered bespoke advice, so that they could take their own decisions based on an assessment of individual risk;

(o) Some might argue that additional restrictions should apply only on the Scottish mainland, given the lower prevalence of the virus in island communities. However, many island dwellers would take the opposite view, and would prefer to see a more prudent set of limits imposed on a national basis. In addition, there were some indications that existing restrictions were less well observed in more remote areas, which would argue against setting less stringent measures for those areas;

(p) In recommending that, wherever possible, people should continue to work from home, it might also be helpful to emphasise the importance of ensuring adequate breaks, remaining active, taking outdoor exercise, and staying in contact with others, in order to ensure mental and physical health;

(q) Despite the fact that many might see inconsistencies between different restrictions in varying contexts, they should better be seen as trade-offs allowing essential activities – such as education, economic activity, and employment – to be preserved as far as possible, even as restrictions applied to many other activities.

57. **Cabinet:**

(a) Noted the proposed new restrictions outlined by the First Minister and described in paragraphs 45 and 48 to 50 above;

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- (b) Agreed that the package of measures was necessary to address the recent significant increase in the prevalence of COVID-19 in Scotland;
- (c) Delegated to the First Minister the responsibility for finalising the package of measures, taking into account any final changes that might be required to take into account points made in discussion by Cabinet members;
- (d) Noted the First Minister's intention to announce the new package of measures in the Parliament that afternoon; and
- (e) Agreed that all necessary actions should be put in hand to ensure that the necessary changes to regulations, guidance, and advice were in place, so that the package of new measures could be announced, publicised, implemented and enforced as soon as possible.

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

**Any Other Business**

58. None.

Cabinet Secretariat  
September 2020