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RESTRICTED HANDLING

SC(21)11th Conclusions

SCOTTISH CABINET

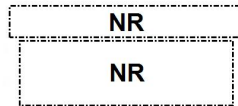
MINUTES OF MEETING HELD BY TELECONFERENCE IN ST ANDREW'S
HOUSE, EDINBURGH AT 9.30 AM ON TUESDAY, 16 MARCH 2021

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
	Humza Yousaf MSP	Cabinet Secretary for Justice
In Attendance:	Leslie Evans	Permanent Secretary
	LPP	LPP
	Graeme Dey MSP	Minister for Parliamentary Business and Veterans
	Dr Gregor Smith	Chief Medical Officer
	Ken Thomson	Director-General, Constitution and External Affairs
	Katrina Williams	Director-General, External Affairs
	Penelope Cooper	Director, Outbreak Management
	Dominic Munro	Director, Exit Strategy
	David Rogers	Director, Constitution and Cabinet
	John Somers	First Minister's Principal Private Secretary
	Amanda Gordon	Deputy Director, Outbreak Management Policy
	Alan Johnston	Deputy Director, Government Relations
	NR	Deputy Director, Marine Planning and Policy
	Kate Higgins	Special Adviser
	Liz Lloyd	Special Adviser
	Callum McCaig	Special Adviser
	Stuart Nicolson	Special Adviser
	NR	PS/First Minister
	Julie Grant	PS/First Minister
	Chris Mackie	First Minister's Official Spokesperson
	Sinéad Power	FM Covid Briefing Unit
		First Minister's Policy and Delivery Unit

SC(21)11th Conclusions

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Public Spending Division
Cabinet Secretariat
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Minutes of Meeting held on 9 March 2021

1. The minutes of the meeting held on 9 March (SC(21)10th Conclusions) were approved.

Parliamentary Business (Paper SC(21)37)

2. Mr Dey outlined the planned business in the Parliament during the weeks commencing 15 and 22 March, as set out in the tables in Annex A of paper SC(21)37.

3. **Cabinet noted** the planned business in the Parliament over the two remaining weeks before the pre-election recess.

(Action: Minister for Parliamentary Business and Veterans)**COVID-19: Coronavirus Update** *(oral update)*

4. The First Minister invited the Chief Medical Officer (CMO) to provide Cabinet with an update on the progress of the COVID-19 pandemic and the work under way to counter its effects. As at 9 a.m. on Tuesday, 16 March, there had been 210,605 confirmed cases of COVID-19 infection in Scotland, an increase of 597 compared with the previous day, with new cases still concentrated particularly in the Central Belt. A further seven deaths had been registered within 28 days of a positive test for COVID-19, bringing the total number since the start of the pandemic to 7,517. Of the newly registered deaths, five were aged 60 to 79 and two were over 80 years old.

5. For people tested between 6 and 12 March, there were now seven local authorities in Scotland where seven-day positive cases stood at over 100 per 100,000 population, ten with 50 to 100 cases per 100,000, eight with 20 to 50 cases per 100,000, and seven with fewer than 20 cases per 100,000 (the comparative figures for the previous week were six, nine, 12 and five).

6. CMO noted that, over the previous week, there had been a slight uptick in new cases, but the substantial reduction in numbers of people requiring hospitalisation had continued, with 228 new admissions compared with the previous week's figure of 337. Numbers requiring treatment in Intensive Care Units (ICUs) were falling more slowly, with 34 new admissions compared with 43 the previous week. It was possible the return to face-to-face schooling had had some impact (whether direct or indirect) on transmission of the virus.

7. According to the latest estimates, the ratio of people who had COVID-19 was one in 320 in Scotland, compared with one in 365 in Wales, one in 310 in Northern Ireland, and one in 270 in England.

OFFICIAL-SENSITIVE**Timetable for Easing Coronavirus Restrictions: COVID-19 Scotland's Strategic Framework (Paper SC(21)38)**

8. The First Minister and Mr Swinney introduced paper SC(21)38 which invited Cabinet to agree to a timetable for easing coronavirus restrictions, as well as shorter term easings for the further and higher education sectors (described in paragraphs 23 to 33). The paper also set out proposed changes to collective decision-making arrangements that would apply during the pre-election period from 25 March until polling day (paragraphs 41 to 43).

9. Emerging from 'lockdown' measures was more complex and gradual than their initial imposition. In view of the real risk that people would, increasingly, comply less with restrictions the longer they lasted, there was a need to offer people the hope of a clear route out of the current restrictions (which, in turn, might encourage compliance in the short term). It would, however, be imperative to make clear that each step in the journey back towards a form of normality would depend on having demonstrable assurance that the virus remained under sufficient control.

10. The proposals included in the paper and summarised at Annex A assumed that changes would be brought in at a range of dates, from 5 April, through 26 April, 17 May, and on into June and July, the latter timings being more uncertain at this stage. It was proposed, in the paper, to remove the enforceable 'stay at home' rule and replace it with a 'stay local' message on 5 April combined with continuing restrictions on travel between local authority areas.

11. The First Minister invited Cabinet to consider whether it might be possible to repeal the 'stay at home' rule on 2 April instead, in time for the Easter bank holiday weekend.

12. The paper aimed to balance a number of pressures: the imperative to continue to suppress the virus, the need to mitigate broader harms of the pandemic, the positive effects of the vaccination programme, and the need to compile a package of measures that would be capable of commanding and maintaining public confidence over the coming months.

13. During the pre-election period, there would be a need for continuing collective decision-making at Ministerial level in relation to the management of the pandemic. The paper invited Cabinet – provided decisions remained consistent with the *Strategic Framework* and the indicative timetable, as previously agreed – to delegate decision-making to the First Minister, who would be supported, as required, by a 'Gold Group' of key Ministers (to include the First Minister, Mr Swinney, Ms Freeman, Ms Hyslop, and any other Ministers with an interest in a given decision). Appropriate input would also be sought from LPP [REDACTED] the Chief Medical Officer, clinical, LPP [REDACTED] and other advisers and officials.

14. While there were no current plans for Cabinet to meet, the First Minister would – if required by circumstances – be able to convene a virtual meeting of the Cabinet at any time (for example, should there be a sudden deterioration in the state of the pandemic).

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15. CMO said that a relaxation of restrictions would increase transmission; indeed, there was a risk that the current, relatively high levels of infection might be 'baked in'. If the relaxation of protective measures were to go too far, too fast, then there was a possibility of resurgence or even a 'third wave' of viral infection. Cabinet would need to bear in mind that this remained a realistic possibility and be prepared to act accordingly.

16. On the other hand, CMO also noted the positive progress made by the vaccination programme over recent weeks, and the fact that, as a result, hospital and ICU admissions were likely to decline. Currently, some 13.5 per cent of cases resulted in admission to hospital, but this figure might be expected to decline to around ten per cent, according to Public Health Scotland. However, should high transmission rates continue as the vaccination programme proceeded through the age groups, there was a risk that more new variants might emerge (particularly given the time lag between receiving the first dose and developing antibodies). In balancing the competing factors informing decision-making in this area, some difficult judgements undoubtedly still lay ahead.

17. The paper also contained information (at Annex C) about changes to business support over coming weeks. Final payments under the Strategic Business Framework Fund would be made on 22 March, to be followed, on 19 April, with a combined final payment, comprising a further two weeks' closure support and a one-off restart grant. For eligible retail businesses, this would mean a payment of up to £7,500, and for eligible hospitality and leisure businesses, up to £19,500. Overall, the package of support would both be more generous and more flexible than previously envisaged.

18. Ministers had been informed of the likelihood of significant temporary falls in supplies of the Oxford/AstraZeneca vaccine over coming weeks. It was still hoped that the target of offering a first dose of vaccine to all nine priority groups identified by the Joint Committee on Vaccination and Immunisation (JCVI) by mid-April would be able to be achieved. However, fluctuations in projected supplies, which were now becoming apparent, would need to be taken into account in public communications so as to ensure that expectations remained realistic. All three devolved administrations were raising questions with the UK Government in order to ensure a continued 'four nations' approach based the most up-to-date information. It would be vital to gain clarity on these issues, especially as news of likely shortages appeared to be contradicted by the UK Government's own recent public messaging.

19. In discussion the following points were made:

(a) In explaining the proposed changes, it would be important to set out the practical effect of the changes in what people are allowed to do, rather than technical details of the levels system. The general public's store of patience was not unlimited, and a tone of guarded optimism would be appropriate;

(b) The decisions to be taken were difficult and must be seen against the background of a decline in compliance among a minority, and falls in patience among those who were doing their best to comply: both these factors would be important in judging the appropriate tone of public messaging;

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(c) While the paper did not deal comprehensively with the need for continued restrictions on intra-UK and international travel, these remained vital. Given the known serious risks of importation of cases and, in particular, of new variants, it would be important for the First Minister, in her statement to the Parliament that afternoon, to emphasise the need for extreme caution in this regard. Although the paper only ruled out permitting non-essential international travel until 17 May, this should not be taken to imply that changes would occur at all quickly after that: any relaxation of restrictions would only be permissible once the data had improved considerably, and Ministers should give this point due emphasis in any public pronouncements;

(d) The proposals would need to continue to reflect people's legally protected fundamental rights. This was relevant, for example, for places of worship, to which caps on numbers currently applied, in contrast with other indoor premises, such as cinemas or bingo halls. Questions had been raised, including in the courts, about the proportionality and necessity of setting attendance caps based on types of settings, as distinct from, say, limiting attendance by the available size of a venue. Further legal challenges were a possibility, and the evolution of the pandemic, especially now that mass vaccination was reducing morbidity and mortality, meant that any differential approaches for different settings would require careful justification (the legal issues were explored further in paragraphs 37 and 38 of the paper);

(e) On the issue of caps on numbers, the First Minister and Mr Swinney proposed – in the light of additional advice received from the Director, Exit Strategy after the paper had been issued to Cabinet – that the specific proposals for caps on numbers in different settings, as summarised in Annex A of the paper, should be replaced – for the purposes of the First Minister's statement to the Parliament and any accompanying publication – with an announcement that attendance caps would only be set until 26 April (which would mean that, subject to physical distancing, up to 50 people could attend a place of worship from that date) and that, for later dates, appropriate numbers for event venues and places of worship and other relevant settings would be determined following a process of stakeholder engagement;

(f) The changes proposed for the tourism and hospitality industries were likely to be seen by many as a significant step forward, although they were unlikely to provide the degree of certainty that many wished for, given the severe damage that the pandemic had resulted in for a number of businesses. Representations had been received to the effect that even a date far in the future for non-essential international travel would be better than no date at all, for planning purposes;

(g) Unfortunately, however, while the situation in Scotland might, in general, be improving, the state of the pandemic in the rest of Europe and more widely was not, which limited significantly the scope for opening up Scotland's tourist economy. The risk of importation, including of new COVID-19 variants, and more general risks associated with the gradual re-opening of society combined to make it impossible to set a 'long date' for any future changes at this stage;

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- (h) It would be important to be clear to the public about the persistent uncertainty of the situation, however hard a message this was to convey to stakeholders, and it would also be important to underline the increased risks that the more transmissible B.1.1.7 variant had introduced;
- (i) Some in the self-catering industry had complained that England was opening up around two weeks before Scotland and had questioned the reasons for this. The date chosen for the change that would permit leisure travel and tourism within Scotland, at the end of April, had been set, deliberately, some time after the target date for offering vaccination to JCVI priority groups 1 to 9 (*see above*), by when the most at risk groups ought to have built up a significant degree of antibody protection;
- (j) More broadly, it was important to have confidence in the processes that Scottish Ministers used for decision-making, which would always be based on the fullest and most recent available data. While comparisons with the rest of the UK and other countries were inevitable, and sometimes helpful, it would be important to make a positive case for the choices made in Scotland. The need for a tailored approach, specific to the Scottish context, had remained an important and worthwhile principle throughout the year that had now passed since the beginning of the emergency;
- (k) The paper proposed that garden centres should re-open in Level 4 areas from 5 April. However, although their premises were relatively spacious, not all operated to the same standards, so continued caution would be required to ensure adequate measures were in place in all such premises after re-opening;
- (l) The suggestion that the 'stay at home' rule might be replaced by a 'stay local' message on 2 April, before the Easter weekend, while reasonable, would need to be presented with care, so that people did not interpret it as a licence to relax their guard. As other controls would be maintained, its impact would be limited in comparison, for example, with the re-opening of garden centres, which would only take effect on 5 April along with all the other changes planned for early April;
- (m) COSLA, and local government more widely, would need to be consulted appropriately on any decisions over the pre-election period, along with other stakeholders;
- (n) In addition, Police Scotland would need to be informed in good time of any planned changes affecting regulations which police officers would be required to enforce;
- (o) Although all moves to relax restrictions would involve some degree of risk, and with it, upward pressure on the reproduction number (R) of the virus, it remained a priority to re-open the education system for as many children and young people as possible;

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(p) While all parts of society would naturally wish to move as fast as possible back to some degree of normality, there must be a recognition of the continued need for extreme caution, in the face of the still very substantial risk of a 'third wave' of new infections – as already seen in parts of Europe. As CMO had made clear, every proposal to relax individual restrictions would need to be weighed up carefully against its projected 'cost' in terms of the R number and in line with rigorous analysis of the 'Four Harms'.

20. Cabinet agreed:

(a) The timetable for easing restrictions summarised in the paper at Annex A, including provisional dates for the release of lockdown, subject to the following changes:

- (i) The 'stay at home' rule should be replaced with a 'stay local' message (with continued travel controls) on 2 April, rather than 5 April; and
- (ii) Attendance caps on numbers in different settings should only be set until 26 April: for later dates, appropriate numbers for event venues and places of worship should be determined following a process of stakeholder engagement;

(b) The proposed shorter-term easings for the further and higher education sectors set out at paragraph 31 of the paper;

(c) The arrangements proposed at paragraph 44 of the paper for handling any necessary decisions on COVID-19 during the pre-election period, which was due to last from 25 March until polling day (planned for 6 May);

(d) To note the report on the 'State of the Epidemic', as published on Friday, 12 March (reproduced in the paper at Annex B), and an update on progress with the wider response to the epidemic (Annex C);

(e) That the changes described in (a) and (b) above should be announced by the First Minister in her planned statement to the Parliament on the afternoon of Tuesday, 16 March;

(f) That there should be no further change in current lockdown arrangements at this time;

(g) To delegate to the First Minister all other decisions that might be required in advance of her planned statement to the Parliament later that day;

(h) 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; and

(i) Pursuant to (h) above, to delegate 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.

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

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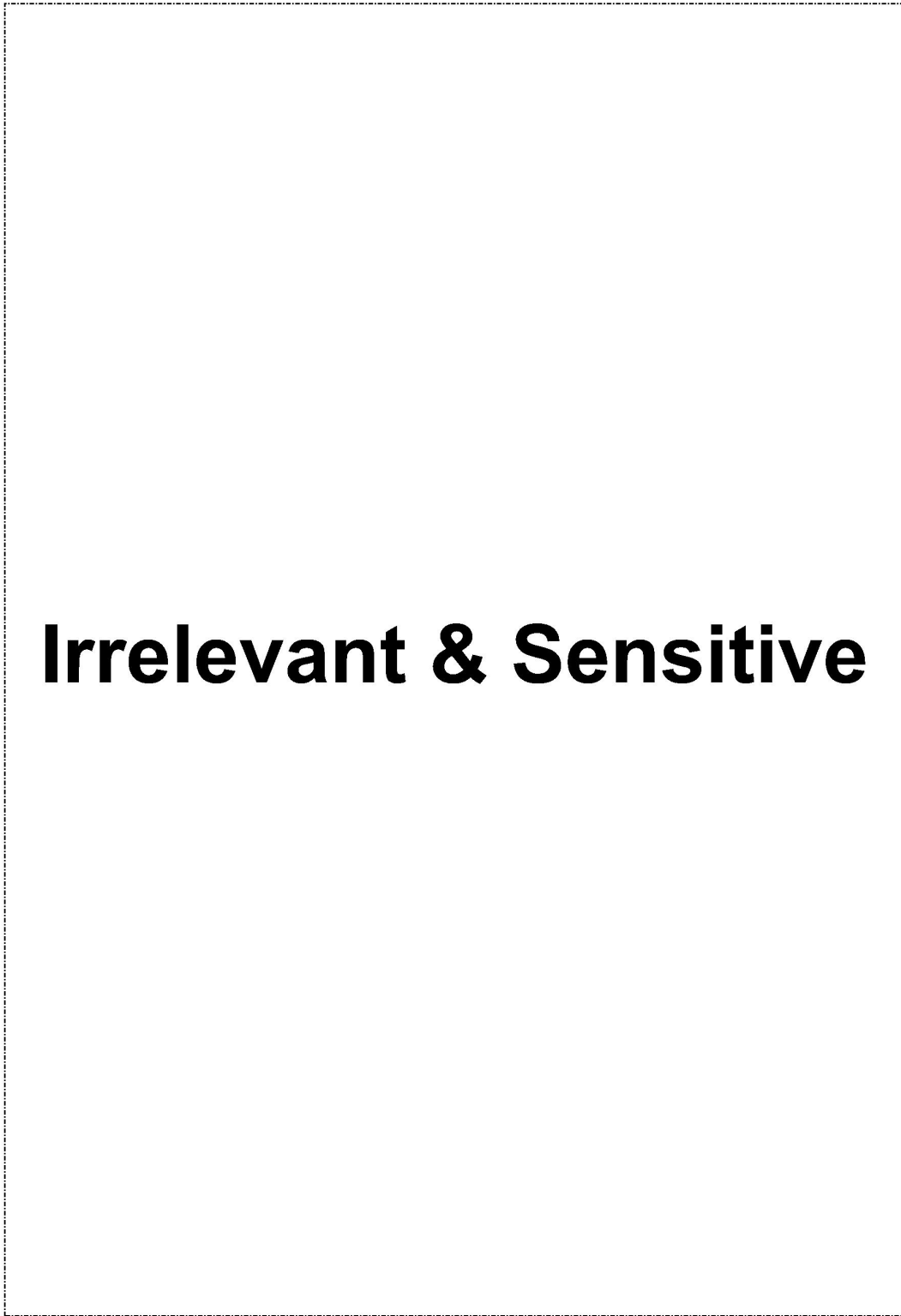
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Engagement with Football Clubs

51. Mr Yousaf updated Cabinet on engagement with football clubs following the mass gatherings of supporters of Rangers Football Club (FC) at Ibrox Stadium, George Square and elsewhere the previous weekend, which had seen a number of breaches of the COVID-19 restrictions (*SC(21)10th Conclusions refers*). There were concerns that fans might gather again when a final 'Old Firm' match between Celtic FC and Rangers FC on 21 March Celtic FC were due to play Rangers FC on Sunday, 21 March. Ministers and officials had undertaken extensive engagement with all key stakeholders over recent days. Both clubs had responded positively and issued a number of messages over their respective social media channels.

52. In addition, Police Scotland had engaged with supporters' groups and had not reported any intelligence to suggest that significant gatherings were planned. Police Scotland also had a robust and visible policing plan in place should the 'Old Firm' match go ahead. Final approval would, however, be contingent on whether the Europa League match in which Rangers FC was due to take part on Thursday, 18 March passed without incident.

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Periodic Review of the Coronavirus Acts

54. In relation to the item in paper SC(21)41 concerning the periodic review of the operation of Part 1 of the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No.2) Act 2020, Mr Russell noted that suitable arrangements had been put in place to ensure that the reports which would become due during the pre-election recess, on 31 March 2021, would be able to be published on 14 April and laid at the first opportunity following the return of Parliament following the elections planned for 6 May. Mr Russell had written to the Presiding Officer to inform him of this approach.

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Cabinet Secretariat
March 2021