

## OFFICIAL-SENSITIVE

RESTRICTED HANDLING

SC(20)11th Conclusions

## SCOTTISH CABINET

MINUTES OF MEETING HELD IN ST ANDREW'S HOUSE, EDINBURGH  
AT 9.30 AM ON TUESDAY, 24 MARCH 2020

<b>Present:</b>	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 ( <i>part of meeting only</i> )
	Michael Matheson MSP	Cabinet Secretary for Transport, Infrastructure and Connectivity (*)
	Michael Russell MSP	Cabinet Secretary for the Constitution, Europe and External Affairs (*) ( <i>part of meeting only</i> )
	Shirley-Anne Somerville MSP	Cabinet Secretary for Social Security and Older People (*)
	Humza Yousaf MSP	Cabinet Secretary for Justice (*)
<b>In Attendance:</b>	Leslie Evans	Permanent Secretary
	LPP	
	Graeme Dey MSP	Minister for Parliamentary Business and Veterans ( <i>part of meeting only</i> )
	Joe FitzPatrick MSP	Minister for Public Health, Sport and Wellbeing
	Ivan McKee MSP	Minister for Trade, Investment and Innovation (*)
	Dr Catherine Calderwood	Chief Medical Officer ( <i>part of meeting only</i> )
	David Rogers	Director of Constitution and Cabinet (*)
	John Somers	First Minister's Principal Private Secretary
	James Hynd	Head of Cabinet Secretariat
	Andrew Bruce	Permanent Secretary's Principal Private Secretary (*)
	Ross Ingebrigtsen	Special Adviser (*)
	Liz Lloyd	Special Adviser
	Stuart Nicolson	Special Adviser
	Aileen Easton	First Minister's Official Spokesperson
	Tabitha Stringer	PS/First Minister (*)
		Cabinet Secretariat (*)
		Cabinet Secretariat (*)

(\*) by tele-conference

**OFFICIAL-SENSITIVE****Apologies**

1. Apologies were received from Ms Hyslop; she was represented by Mr McKee.

**Introductory Remarks**

2. This was the first meeting of the Cabinet since the start of the COVID-19 pandemic to have been held under social distancing rules. It was expected that meetings would be held primarily by tele-conference for the foreseeable future.

**Minutes of Meeting held on 17 March 2020**

3. The minutes of the meeting held on 17 March (SC(20)11th Conclusions) were approved.

**Parliamentary Business (Paper SC(20)38)**

4. Mr Dey outlined the planned business in the Parliament during the weeks commencing 23 and 30 March, 20 and 27 April. Business was expected to change significantly compared with the proposals set out in the tables in Annex A of paper SC(20)38, based on the need to respond to the COVID-19 pandemic.

5. During the two weeks prior to the Easter recess, the Presiding Officer and the Bureau had determined that there should now only be two sitting days: Tuesday, 24 March and Wednesday, 1 April.

6. The following business was proposed for the afternoon of 24 March:

- (a) A statement by the First Minister and Ms Freeman on the COVID-19 pandemic at 1.30 pm would be followed by an extended period of questions to all Cabinet Secretaries, following the successful format adopted the previous week. It was noted in discussion that a separate Health statement later that afternoon would not be required;

- (b) There would then be a Justice Statement, to allow LPP [REDACTED] Mr Yousaf to update MSPs on necessary changes in the justice system as a result of the pandemic;

- (c) Mr Russell would then introduce a debate on the emergency United Kingdom Coronavirus Bill, for which legislative consent would be required that day;

- (d) A debate on a Local Government Finance Order would follow, led by the Minister for Public Finance and Migration: the revisions set out in the draft Order were required in order to protect local authorities' guaranteed revenue funding from the impact of the expected fall in non-domestic rates income resulting from COVID-19;

7. The following business was proposed for Wednesday, 1 April:

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(a) All three stages of emergency COVID-19 legislation would need to complete their passage that day, commencing in the morning with Stage 1, with Stages 2 and 3 in the afternoon;

(b) First Minister's Questions would take place at 12 noon on 1 April;

(c) Should a statement be required on the impact of COVID-19 on the social security programme, it was likely that this would also be able to be accommodated on 1 April.

8. In discussion the following points were made:

(a) Although there was no current intention for Parliament to meet during the scheduled two week Easter recess period, normal recall arrangements would apply in case of need;

(b) Business after the Easter recess would need to be considered further in due course.

9. **Cabinet provisionally agreed** the planned business in the Parliament for the weeks commencing 23 and 30 March and 20 April, subject to the likelihood that significant changes might be required in the meantime depending on the progress of the COVID-19 outbreak and its impact on the conduct of Parliamentary business.

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

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

10. The First Minister invited the Chief Medical Officer to provide Cabinet with an update on the latest situation regarding the COVID-19 coronavirus pandemic.

11. There were now 584 confirmed cases in Scotland, and two further deaths had occurred overnight bringing the total number of deaths in Scotland to 16. Some 23 patients were currently under treatment in Intensive Care Units. It was probable that around 1,000 times the number of cases of the virus were circulating in the community as the number of confirmed cases. Overall, there was likely to be a significant underestimate in the number of reported cases, especially where people were currently asymptomatic or had only mild symptoms. The programme of testing was being stepped up in order to improve the accuracy of community surveillance. The proportion of the population infected was still behind the infection rate in London, but numbers in Scotland were likely to increase very rapidly over coming weeks.

12. A sharp increase in case numbers could place considerable pressure on the available capacity in Intensive Care Units (ICUs), particularly if the suppliers of ventilators were not able to meet demand. Work continued to increase the number of ICU beds, but this was not a straightforward task. In addition, although NHSScotland's orders for ventilators had been accelerated (*SC(20)10th Conclusions refers*), there was still doubt that the necessary numbers of machines could be brought into use rapidly enough.

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13. As a result of ICU and ventilator capacity issues, as well as likely NHS staff absences resulting directly or indirectly from the COVID-19 outbreak, it was likely that clinicians would be faced with some very difficult decisions concerning the application of admissions criteria over coming weeks.

14. Under these circumstances, the vital importance of social distancing in reducing pressure on the NHS could not be emphasised enough. The end of the initial three-week review period for the suite of UK-wide social distancing measures might not result in any relaxation of current restrictions, but it would be essential to carefully communicate these difficult messages to the people of Scotland in way that preserved some degree of public optimism.

15. Modelling based on the best available data suggested that the strict application of social restrictions for a minimum of 13 to 16 weeks should have a measurable impact on the spread of the virus. Over a longer period of perhaps 18 to 24 months, variable restrictions were still likely to be necessary: it would be instructive to observe what happened in Wuhan, , China, the centre of the original outbreak, as restrictions there were partially lifted over coming weeks and, in particular, whether there was a renewed rise in the number of cases.

16. In the longer term, it would be critical both to find effective anti-viral drugs and, ultimately, a vaccine, which meant that it was logical, in the meantime, to suppress the outbreak as far as possible. Social distancing remained the most effective means of reducing the spread of the outbreak and of reducing the peak number of infections across the population ('flattening the curve'), so that the NHS could cope with demand. Although restrictions were currently voluntary, UK legislation that would be passed later that week would place restrictions on a statutory footing and allow for enforcement action to be taken, if required.

17. In discussion the following points were made:

(a) It was not yet sufficiently clear to sections of the business community or to the public at large exactly which industrial or business activities were to be considered essential. Further guidance would be helpful on this point, setting out the criteria to be followed and the activities that would still be permitted. Too many people had, at least initially, assumed that their work constituted an exception to the rule, whereas in fact a precautionary approach was required, starting from the opposite assumption;

(b) While essential services (the fundamental services that underpinned daily life and ensured the country could function) must be allowed to continue, this would not mean that all staff employed in organisations providing essential services would need to come to work as normal;

(c) Rather, the primary assumption should be that arrangements must be made for all staff to work from home, unless their particular role was deemed essential in the national interest or the nature of their work made this impossible (at which point the employer must decide whether the activity was essential and should continue, or whether it should be suspended for the duration);

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(d) It would be essential for all four UK administrations to adopt a consistent approach, with closely aligned public messaging, but if local circumstances demanded that certain measures be introduced earlier, then such local variation should be tolerated. For example, the Scottish Government had recently taken a stricter line than the UK Government on stopping construction work. If the Chief Medical Officer for Scotland subsequently took a different view, then the position might change, but currently a precautionary approach seemed advisable;

(e) There had been, thus far, a low uptake of educational facilities for key workers in Scotland, but the option would need to remain open, particularly in view of the need for healthcare staff to benefit from adequate childcare cover in order to remain available for work;

(f) Consideration would need to be given to how best to ensure that those volunteering to help older or vulnerable people in local communities would be able to work safely, without either contributing to the spread of the virus or exposing themselves to unnecessary risk of infection;

(g) It would be important to bear in mind the effects of geography on the spread of the infection, and the different challenges that were faced in providing healthcare services in remote areas. For example, sustained community transmission on sparsely populated islands (such as Shetland) could raise very serious issues of capacity and transport. Air transport provision was in place to allow very ill people to leave the islands, but this was a scarce resource (exceptionally, the Royal Air Force had been used the previous week). Work was ongoing with the NHS Boards concerned to ensure that all parts of Scotland were adequately covered and that there were routes for patients to get the treatment they might need;

(h) More generally, work was under way to ensure the resilience of the NHS across the whole country, including if any so-called 'hotspots' arose with a higher local proportion of COVID-19 infections. The mutual aid system would continue to function across all parts of the health service, including between Scotland and England; the same principles would apply, for example, to centrally procured orders of ventilators, so that supply could be matched to assessed clinical need;

(i) In case of a major increase in case numbers requiring hospital treatment, there was also the possibility of establishing a field hospital with the help of the armed forces (a major new temporary facility was, for example, currently being assembled at the Excel Centre in London). NHSScotland had also procured the use of the country's relatively small private hospital capacity (of around 200 beds), and it had been proposed that some private hotels might in due course be used as 'step-down' facilities for patients in recovery;

(j) Work also continued, in conjunction with the UK Cabinet Office, to speed up the procurement of ventilators, including discussions with UK-based manufacturers, which it was hoped might be able to produce respiratory equipment instead of their usual products;

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(k) The Chief Medical Officer was also in discussion with NHS England about other respiratory equipment, such as Continuous Positive Air Pressure machines. Although these machines did not replace ventilators, they could be used as part of the treatment cycle for COVID-19, so as to protect ventilator capacity for when it was most needed.

*[The Chief Medical Officer left the meeting.]*

**SCANCE (Paper SC(20)39)**

18. The First Minister introduced the SCANCE paper (SC(20)39). In discussion of current issues, Cabinet's attention was drawn to the following matters:

***University Admissions***

19. Mr Swinney said that discussions continued with Scotland's universities about admissions requirements (*SC(20)10th Conclusions refers*), following the previous day's announcement by the UK Government that English universities should refrain from changing offers made to candidates for admission for the following two weeks in order to allow time for further consideration of the implications of COVID-19 and the cancellation of public examinations.

***Coursework for S5 and S6 Pupils***

20. Mr Swinney informed Cabinet that, on Sunday 22 March, the First Minister had announced that, for public health reasons, no pupil with coursework to complete for Scottish Qualifications Authority (SQA) examinations should attend school to do so.

21. Subsequently, the SQA had made clear that, for reasons of equity, no coursework was to be submitted to the SQA for marking, although work already completed could still be used as part of the evidence teachers could draw upon in considering estimated grades.

***COVID-19 and Manufacturing***

22. Mr McKee said that discussions continued with NHSScotland, the enterprise agencies and the National Manufacturing Institute Scotland about the procurement of essential equipment, such as ventilators, personal protective equipment and hand sanitiser.

23. Some promising options were being pursued, taking advantage of the global engineering capabilities of companies active in Scotland, some of which also had strong links with overseas manufacturers which could arrange for the rapid import of components such as facemasks.

24. In addition, discussions were under way with HMRC to ensure that the excise duty regime would not prevent distilleries from offering to manufacture hand sanitisers containing alcohol, as some had already proposed.

**OFFICIAL-SENSITIVE*****Insolvency Support***

25. Mr McKee said that the Accountant in Bankruptcy was leading for the Scottish Government on UK emergency legislation relating to corporate insolvency in the context of COVID-19. In terms of financial support more widely, greater clarity was expected from the Chancellor of the Exchequer in terms of support for the self-employed and sick pay, and discussions were ongoing between the Scottish Government and the STUC and business organisations.

***COVID-19 Legislation***

26. Mr Russell said that, while that afternoon would see the consideration by the Scottish Parliament of the United Kingdom Coronavirus Bill, work was also in hand to prepare emergency Scottish legislation to take account of COVID-19, which the Parliament would consider on Wednesday, 1 April (see above). The opposition parties had agreed that the Bill could complete its passage in a single day, and there was likely to be consensus support for its provisions, which would be complex in scope, covering a number of portfolios.

*[Mr Russell left the meeting.]*

***Loganair***

27. Mr Matheson noted that an aircraft owned by Loganair was due to be chartered to maintain cover for essential medical transfer services.

***Disturbance at HMP Addiewell***

28. Mr Yousaf updated Cabinet on a disturbance which had taken place at HMP Addiewell in West Lothian on 23 March involving a small number of prisoners who had barricaded themselves into one section of the prison. The situation had been quickly resolved; in line with standard protocols, a number of prisoners were moved to other prisons in its wake.

29. The unrest had apparently been sparked by prisoners' concerns about the risk of the virus spreading within the prison (prison visits had not at that point been suspended by the Scottish Prison Service). Mr Yousaf was due to make a statement to the Parliament later that day to provide an update on how Scotland's justice system was responding to the pandemic in which he would cover these issues.

***Delayed Discharges***

30. In relation to the item in paper SC(20)39 concerning delayed discharges, Mr FitzPatrick said that there was some concern in parts of the country about care homes not being prepared to accept new admissions, which was increasing the number of delayed discharges. This was partly a funding issue, but urgent work would be required to ensure both that older people received the care they required and that delayed discharges did not become a major factor in compromising hospitals' capacity to cope with COVID-19 patients.

**OFFICIAL-SENSITIVE*****Evictions from Rented Properties***

31. Ms Campbell said that effective legislation to prevent those in rent arrears and others from being evicted from rented properties at this time would be essential (and was included in the provisions of the emergency legislation referred to in paragraph 26 above).

***Social Security Delivery Timetable***

32. In relation to the item in paper SC(20)39 concerning changes to the delivery timetable for the introduction of new social security arrangements in Scotland, Ms Somerville said that the delivery of a number of new payments would need to be postponed as a result of the COVID-19 pandemic. The length of the delay would depend on when it would be possible to resume the large-scale recruitment that would be required to deliver the new devolved benefits.

33. In discussion the following points were made:

(a) It was right that Ms Somerville and officials should continue to focus their efforts on supporting Social Security Scotland to maintain delivery of its current seven benefits in the face of the unprecedented challenges presented by COVID-19;

(b) While it might not be possible at this time to establish the preferred 'gold standard' approaches for assessing eligibility for welfare support or for identifying vulnerable individuals, it would be possible to utilise existing criteria as a proxy in some cases, which could allow those in need to receive help more rapidly;

(c) With delays in the launch of the Scottish Child Payment, it might, for example, be possible to use different ways to identify families in need. Local authorities already held data on families in receipt of some existing benefits which might be re-used in other ways to target the additional support that would be required during the pandemic;

(d) For example, City of Edinburgh Council already used data collected to establish eligibility for school clothing grants to speed up the provision of free school meals, and Glasgow City Council had implemented an automated award system for free school meals using a voucher-based approach;

(e) Although such imaginative approaches might be less precisely targeted than would be desired in normal circumstances, they might enable support to reach a higher proportion of people in need much sooner than would otherwise be possible. Mr Swinney, Ms Somerville and Ms Campbell undertook to consider urgently the scope for further such work;

(f) More generally, it would increasingly be the case that many aspects of the Programme for Government would need to be reprioritised as a result of the re-focusing of resources onto measures to tackle the effects of the pandemic. In many instances this would be unavoidable. However, Ministers and officials should be ready to challenge this on a case-by-case basis;



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(g) Each portfolio must therefore make it a priority to consider the extent to which changes in delivery methods might still allow work to continue across a wide range of Government responsibilities, albeit with adaptations to ensure consistency with the response to the pandemic;

(h) Although it would not be possible for all activities to continue as normal (and some re-prioritisation would be essential), this exercise should help to ensure that work was not unnecessarily paused when it could in fact proceed in modified form.

**(Action: Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet Secretary for Social Security and Older People; Cabinet Secretary for Communities and Local Government; Children and Families Directorate; Social Security Directorate)**

***Support for Remote and Island Areas***

34. Mr Ewing said that there were growing concerns about security of supply to remote and island shops, and work was under way with retail businesses to ensure equity of supply across the country. Separately, a package of support for inshore fishermen and the shellfish sector was in preparation.

35. A number of queries had been received from employers across rural areas about how to protect their key workers: there was a lack of clarity from the UK Government on the wage subsidy system that the Chancellor of the Exchequer had announced recently, and it would be important to press urgently for further details.

***Social Distancing in the Scottish Parliament Chamber***

36. Mr Dey said that social distancing measures in the Chamber of the Scottish Parliament were now in place. This would mean rather fewer desks in the Chamber than normal in order to accommodate greater spacing between Members.

37. The impact of the measures to combat the pandemic on the legislative programme was still under consideration, although the general principle was that non-essential business would be paused until further notice.

*[Mr Dey left the meeting.]*

***The Justice System and COVID-19***

38. **LPP** Mr Yousaf were due to give a statement to the Parliament that afternoon on the impact of COVID-19 on the justice system.

39. On 17 March, the Lord President had announced that no new jury trials should commence until further notice, and on 19 March, the Crown, in co-operation with the Courts, had been taking steps to adjourn the majority of summary trials until at least June. Civil proceedings were being taken forward in writing.

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40. The only business in criminal courts at this time would be essential custody business. It was important that people retained confidence in the criminal justice system, and prosecutions would still be initiated: the key change was custody, and the police would shortly be issued with new guidelines to ensure public safety.

*[Mr Matheson left the meeting. Ms Freeman joined the meeting.]*

# Irrelevant & Sensitive

**COVID-19: Budget Position (Paper SC(20)37)**

42. Ms Forbes introduced paper SC(20)37, which invited Cabinet to note the initial effects of COVID-19 outbreak on the Scottish Budget position for 2020-21. The paper also sought Cabinet's endorsement for a range of financial actions to support the Government's response to the outbreak and to maintain effective control over public finances.

43. The current exceptional circumstances meant that the Scottish Government now needed to reprioritise its spending plans for 2020-21 to a significant extent. The paper provided a snapshot of the current situation and the proposed next steps. The situation was, however, rapidly evolving: the Scottish Government would therefore need to remain both flexible and responsive if it was to ensure the necessary level of budgetary support remained in place to respond to the unprecedented economic challenges with which the country would be faced over coming months.

44. Currently, just over £2.7 billion in Barnett consequentials were expected (mostly for Resource spending) following the Chancellor of the Exchequer's recent announcements about spending to respond to COVID-19 (as set out in paragraph 4 of the paper). The UK Budget had already confirmed £640 million of consequentials unrelated to COVID-19, which was in line with what had been assumed and was already built into the Scottish Budget for 2020-21. In response to COVID-19, the Scottish Government had thus far announced a £2.2 billion support package for business, comprising non-domestic rates reliefs and grants plus £350 million of support for communities.

45. Before the COVID-19 outbreak, it had already been clear that the Scottish Budget for 2020-21 would bring with it considerable in-year challenges, particularly for Resource spending; all portfolios had already been charged with managing out a substantial over-commitment in the course of the year.

46. The pandemic was, however, likely to place very significant additional pressure on the Scottish Budget and, given the large number of calls for additional financial support across all portfolios, careful tracking and management of budgets would be vital. Suitable governance processes were being put in place for the approval of COVID-19-related spending.

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47. Scotland's COVID-19 health costs alone were predicted to exceed the health consequentials that were currently expected by a significant margin (estimated to amount to an unfunded pressure of some £200 million). The Scottish and UK Governments were working closely together to ensure that all additional costs for health and social care would remain fully funded, in line with the commitment made by the Chancellor of the Exchequer.

48. Given the scale of the likely spending requirements in the coming period, it would also be necessary to pare back all non-essential activity to free up resources for the COVID-19 response in Scotland, while ensuring that core statutory obligations were met and critical functions were maintained.

49. Leaving aside the impact of COVID-19, the Block Grant Adjustments (BGAs) announced alongside the UK Budget for 2020-21 presented a further potentially significant risk to the Scottish Budget. The updated position meant that Scotland was around £231 million worse off than when compared with the provisional BGAs that had been used to draw up the 2020-21 Scottish Budget.

50. The option of continuing to use the provisional BGAs (as agreed with HM Treasury) would protect the Scottish Budget in the short term, but would generate risks associated with managing larger reconciliations in future. Additional details were provided in paragraphs 23 to 31 of the paper, but Ms Forbes recommended to Cabinet that provisional BGAs continue to be used, in order to prevent the need to commit to spending cuts now, pending discussions with the UK Government about further flexibilities.

51. Given the extremely challenging circumstances, all Cabinet Secretaries would need to identify options for re-prioritising planned expenditure in their portfolios in 2020-21, as agreed at the previous week's meeting of the Cabinet (*SC(20)10th Conclusions refers*). This would be taken forward along with the additional work commissioned on the priorities of government more generally. Ms Forbes invited Cabinet Secretaries to work closely with her in framing the most appropriate requests of the UK Government on key spending and policy issues.

52. In discussion the following points were made:

(a) Immediate levels of Scottish Government spending would need to be determined by the need to respond appropriately to the developing emergency, which was unprecedented in its scale and complexity. Spending would, however, still be subject to the usual robust financial management processes, which would be particularly vital given the need to reprioritise spending rapidly across all portfolios;

(b) The 2019-20 budget period (which only had a week to run) was under control. As noted at the previous week's meeting of the Cabinet, the UK Government had confirmed that the Barnett consequentials which would flow from its COVID-19 spending announcements could be spent immediately, and there were currently no concerns about Scottish Government's cashflow requirements;

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(c) Money within the Health budget was being redirected to support the emergency response to COVID-19, including funds originally intended to support action to reduce hospital waiting times. Although the pandemic was a health emergency, all portfolios would need to contribute to the response;

(d) To ensure a rapid response, decisions should not be slowed down unnecessarily by deliberations about which budget should cover which particular items of expenditure, as this could be determined once the immediate resource need had been met;

(e) The pandemic would have a significant impact on the NHS over the long term, because even when the first phase of the crisis had passed, there would be a backlog of patients whose non-COVID-19-related treatment plans had been suspended for the duration. It was likely that the health of these patients would have deteriorated in the meantime, which meant that achieving a 'steady state' within the NHS after the emergency would take some time;

(f) It would be desirable if improvements in working methods made in direct response to the crisis could be sustained in the longer term. This would apply across the range of public service delivery. Changes in working practices which might, under normal circumstances, have taken a considerable time to implement would need to be delivered in short order by staff galvanised to act together in response to the national emergency;

(g) It would be helpful if officials could track the introduction of new, improved practices, both in the health and social care sectors and more widely, to make sure that, where appropriate, they were adopted as standard practice once the crisis was over.

**53. Cabinet:**

(a) Noted the update provided on the Scottish Government's overall financial position, including the intention to apply provisional Block Grant Adjustments and seek further fiscal flexibilities from the UK Government; and

(b) Agreed that all portfolios should work together with Ms Forbes and officials to identify options for reprioritising planned expenditure at scale in 2020-21, building on the Permanent Secretary's recent commission (referred to in paragraph 36 of the paper) – either through pro-active policy decisions or as a result of an assessment that planned activity must change as a result of COVID-19.

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

**Any Other Business**

54. None.

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