

OFFICIAL-SENSITIVE

THIS PAPER IS FOR DECISION

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RESTRICTED HANDLING

SCOTTISH CABINET**COVID-19: WEEKLY REVIEW OF PROTECTION LEVELS****PAPER BY THE DEPUTY FIRST MINISTER AND CABINET SECRETARY FOR
EDUCATION AND SKILLS****Purpose**

1. Cabinet is invited to consider this paper and its annexes to inform discussion and decisions on the application of protection levels from 27 November.

Timing

2. This paper will be considered at Cabinet on **Tuesday 24 November**, prior to announcement of decisions later that day.

Scotland's Strategic Framework

3. *Scotland's Strategic Framework*, published on Friday 23 October, affirmed our strategic intent to work determinedly, energetically, and collaboratively to suppress the virus to the lowest possible level and keep it there, while we strive to return to a more normal life for as many people as possible. The levels-based approach to protective measures set out there applies justified, necessary and proportionate restrictions across Scotland to achieve that strategic intent.

4. The initial allocation of local authority areas to levels was announced on Thursday 29 October. The outcome of the first weekly review was announced on Tuesday 10 November; and the outcome of the second on Tuesday 17 November.

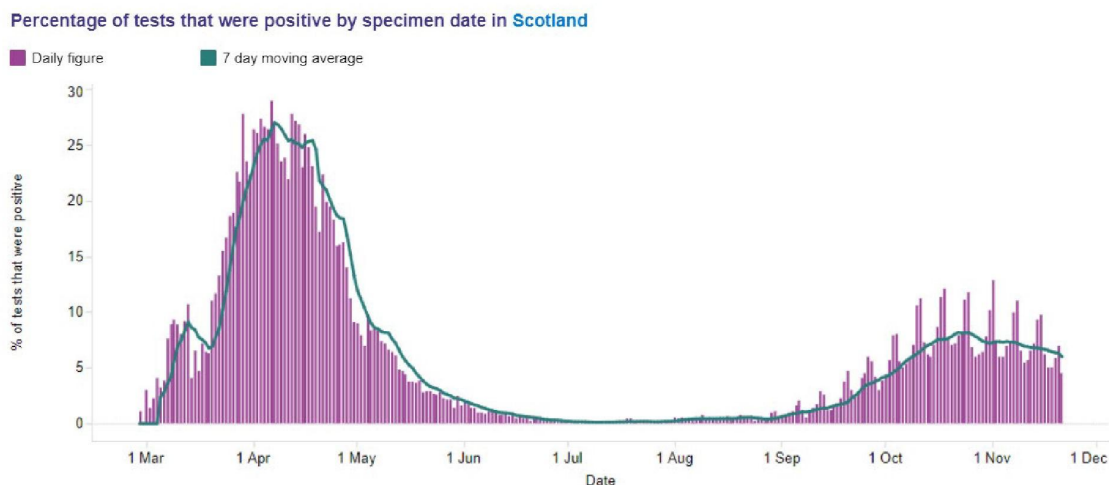
Engagement and Decision-Taking

5. The *Strategic Framework* commits us to review levels on the basis of advice from the National Incident Management Team and assessment from our own senior advisers against the "four harms": the morbidity and mortality caused by the virus, and harms to wider health and care, society, and the economy. We are also committed to engagement with local authorities and other partners prior to making decisions. That process has informed the latest review and recommendations set out here.

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National Trends in Key Indicators

6. The measures applied put into force on 9 October, and subsequently developed and applied through the Strategic Framework, responded to increases in key indicators of the incidence and prevalence of the virus. These indicators, and forecasts of their future values, inform decisions on the application of levels to local authority areas. The charts below and in **Annex A**, taken from the Public Health Scotland dashboard on 23 November, show the national trends in these key indicators.



Figures for the most recent dates are likely to be incomplete due to the time required to process tests and submit records.

7. It should be remembered that these data lag the application of suppression measures by at least 2-3 weeks, and longer for deaths. The measures first introduced on 9 October clearly slowed or halted earlier upward trends: but it remains unclear whether the interventions on 29 October and 10 November – both within four weeks of the latest data in the charts – will result in further falls or plateauing.

8. Alongside hospital bed use, Covid-confirmed deaths have the longest lag from new positive tests. As Annex A confirms, deaths have continued to rise. The seven-day rolling average of deaths by reporting date was 31 on 23 November, more than 12 times higher than the value on 9 October (2.6): a reminder of the potential of a novel virus, for which there remains neither a vaccine nor a cure, to cause mortality and morbidity, at unprecedented levels if not suppressed.

9. Updated summary indicators and trends for each local authority area are circulated with this paper for ease of reference. A version of this document, with minor changes, will once again be published at the time the review of levels is announced.

Health Protection Advice

10. Against this background, the National Incident Management Team (NIMT) met on 20 and 23 November to consider the progress of each local authority area, using the indicators referred to above and shown in the accompanying paper; PHS data; and local intelligence. It observed that there had been a continued slow reduction in prevalence and test positivity across Scotland, but some variation between health

boards and local authorities. For most areas, the NIMT considered that there appeared to be a flattening of the effect of existing protective measures: but it noted that increases of protection level for eleven areas only took effect on 20 November, and would take some time to be seen in the figures. The NIMT also observed that the data on hospitalisation and ICU occupation also showed a levelling off, while noting that the lag between detection and presentation limits the scope for interpretation of these data.

11. The NIMT's specific advice for each area was as follows:

- ♦ **Glasgow City, East and West Dunbartonshire, East Renfrewshire and Renfrewshire, North and South Lanarkshire, East and South Ayrshire, Stirling, West Lothian** – maintain at Level 4;
- ♦ **Clackmannanshire** – in view of increasing incidence and test positivity over recent days – from 159/100,00 to 169/100,000 and from 5.2% to 6.2% respectively between 16 and 19 November – **consider a move to Level 4**. The NIMT did, however, recognise that given the small size of the area, limited increases in absolute numbers could make a significant difference; and that the recent move of Stirling to Level 4 and the strengthening of travel restrictions (see below) might be expected to have a beneficial impact on the position in Clackmannanshire;
- ♦ **Inverclyde, North Ayrshire, Angus, Dundee City, Falkirk, Fife, Perth and Kinross, Edinburgh City** – maintain at Level 3;
- ♦ **Midlothian** – in view of recent increases both in incidence and in test positivity over recent days – from 75/100,000 to 101/100,000 and from 4% to 5.8% respectively between 16 and 19 November – **maintain at Level 3**, rather than move down to Level 2 from 24 November, as had provisionally been indicated following the last weekly review;
- ♦ **East Lothian** – in the light of recent progress, **move from Level 3 to Level 2**. This change will come into force at 6.00 a.m. on 24 November;
- ♦ **Aberdeen Aberdeenshire, Argyll and Bute, Dumfries and Galloway, Scottish Borders** – maintain at Level 2;
- ♦ **Highland, Moray, Orkney, Shetland, Western Isles** – maintain at Level 1.

“Four Harms” consideration

12. Both the levels-based approach set out in *Scotland's Strategic Framework* and the content of the levels reflect consideration by the Scottish Government's Chief Advisors and lead officials of the “four harms” caused by the virus. In addition, at each review of levels, the same group considers the NIMT's advice, feedback from engagement with local government and businesses, and the proposed levels. The question of the social and economic harms (harms 3 and 4) caused by possible tightening of restrictions is a particularly important factor in consideration of areas where the public health advice is less clear-cut.

Direct health impacts ("harm 1")

13. The direct health impacts of the virus are considered within the NIMT's advice. The Four Harms consideration supports the application of levels as proposed above in order to continue to suppress the virus, and thus reduce and prevent the mortality and morbidity it causes. While there have been advances in treatment of serious cases, improving outcomes, COVID-19 remains a novel, infectious and potentially fatal virus for which there is neither yet an approved and widely available vaccine nor a cure. It remains a serious threat to public health, and should continue to be suppressed through justified, necessary and proportionate measures to that end.

Broader Health Impacts ("harm 2")

14. Arrangements are already in place to mitigate the impact of restrictions on wider health and care, and to remobilise NHS and other care services. Two of the five key indicators considered as part of the levels review process reflect broader health impacts, in their consideration of forecast levels of hospital and ICU admissions, allowing assessment of the risk that NHS services become overwhelmed by rising numbers of cases of COVID-19. While that remains a concern and must continue to be kept under close review, sufficient reserve capacity is in place at this review point to mitigate the forecast impacts of the virus on harm 2.

15. The NHS indicators for beds and ICU are predicated on capacity to the end of the calendar year. Forecasts for the busiest time of the year, January and February, show that Covid-available capacity reduces by about 1,000 beds as the NHS deals with additional medical admissions. This increases the probability of NHS capacity being breached in the early part of next year without further tightening of restrictions in the highest risk areas.

Societal Impacts ("harm 3")

16. The harm caused by the virus to wider society, beyond harms 1 and 2, is substantial. This is particularly felt as a consequence of measures to reduce social contact. While these are necessary in order to reduce transmission of the virus, they increase isolation and anxiety. These impacts are not equally felt across society, and fall particularly on those who live alone, or whose lives are already subject to stress as a result of socio-economic and other inequalities. These impacts were taken into account in designing the measures which make up the levels approach; and in the Strategic Framework, we committed to a range of actions to address inequalities, to prioritise protection and support for disadvantaged and vulnerable groups, and to keep schools and childcare safely open.

17. However, regardless of our efforts to mitigate social harms, we recognise that for many people isolation and loneliness are a daily occurrence, with over 50% of 18-44 year olds feeling lonely at least some of the time, a figure that is slowly rising. Happiness levels are slowly falling, although anxiety is fairly stable. As people spend longer in higher levels, they risk becoming more cut off from family, friends and community; and they may become more nervous about resuming a wider range of activities.

18. Against that background, a package of further measures to alleviate the social harms caused particularly by moves to level 4 was set out in the Winter Social Protection Plan announced on 17 November: it will provide resources to support families on low incomes, children and young people, and deal with food and fuel poverty, including a Flexible Fund for local authorities moving into Level 4.

19. Clearly, societal impacts are more severe at higher levels of restriction, and increase as restrictions remain in place. They should continue to be kept under close review, with close attention paid to indicators of social distress such domestic abuse and family breakdown. It remains the case, however, that the direct impact of the virus (harm 1), particularly if it was not effectively suppressed, would also have a significant societal impact (harm 3), through loss and bereavement caused by deaths and loss of quality of life for those whose health is worsened.

Economic Impacts (“harm 4”)

20. Similarly, the impact on economic activity of the virus and the measures necessary to suppress it is severe, both for areas subject to restrictions and for the Scottish economy as a whole. Again, these effects are significantly exacerbated at higher levels, and are likely to be non-linear. There is a particular impact of Level 4 restrictions on non-essential retail in the weeks running up to Christmas, which account for a disproportionate amount of that sector’s activity.

21. Ministers and officials continue to engage closely with business interests and economic partners. This engagement, and the levels-based approach provides some additional, though limited, ability for business to assess and plan for possible restrictions. It remains the case, however, that any restriction on the ability of businesses to work and trade causes economic harm, and the severity of these impacts increases at higher levels and for longer durations.

22. While these effects were taken into account in the design of the levels, it remains essential to monitor the impact of their application, and to draw on experience in order to ensure that measures are targeted as closely as possible on achieving sufficient impact on harm 1 at each level, while mitigating harm 4 to the greatest extent possible.

23. It should be noted that a regional levels-based approach offers the opportunity to ensure that measures are applied proportionate to the threat posed by levels of infection in each area. This creates the opportunity to ensure that economic and other harms are mitigated more proportionately, by avoiding blanket national restrictions where these are not justified, necessary and proportionate.

24. Against that background, and given the scale of the impact on businesses of many areas moving to Level 4, a new package of financial support was announced on 17 November. We should, however, be clear that it will not be sufficient to tackle the full extent of the likely damage, particularly if it proves necessary either to move other areas into Level 4 or to keep existing areas in Level 4 beyond the three-week period we announced.

25. It should nevertheless be borne in mind that substantial additional economic harm would be caused by failure to suppress the virus, which would have significant

impacts on the economy, public finances, the behaviour of firms and consumers, and on national and household incomes. Measures to suppress the virus therefore remain justified to avoid and reduce as much as possible of the economic harm caused by the virus. This harm is real and significant and will continue to affect both the economy and society long after we can expect a vaccine or other developments to remove the immediate public health threat.

Recommendations of the “Four Harms Group”

26. Senior advisors and lead officials met on 23 November to discuss the NIMT advice against the considerations set out above. Their recommendations were as follows:

- ◆ For **Midlothian**, they noted that the worsening trend in the data meant that going ahead with the move down to Level 2 risked the necessity of a rapid move the other way, with possibly deleterious effects on public understanding and compliance. Accordingly they recommended **maintaining the area at Level 3** for now and continuing to monitor the position and work together with the council on its plans for ensuring that a move down is sustainable when the data permit it;
- ◆ For **Clackmannanshire**, they considered that the position was more evenly balanced. While the position had certainly deteriorated, the data did not yet show a clear trend; the case numbers and contribution to the overall picture was relatively small; and Level 4 was now in place for Stirling, which should help the overall Forth Valley picture. Accordingly they recommended that Clackmannanshire should be kept under close review, in close partnership with the local authority, but that it should **remain at Level 3** this week;
- ◆ For **all other areas**, they agreed with the NIMT advice that **no change** was required at this week’s review.

27. **In view of the requirement to make regulations ahead of the changes due on 24 November, officials submitted separate, accelerated advice to the First Minister and me on the position of Midlothian, and it was agreed that Midlothian should remain at Level 3.**

Engagement with local government

28. Local government is engaged in the levels review process through observer status for COSLA and SOLACE at the NIMT and in the Scottish Government’s “Four Harms” consideration. In addition, officials have engaged bilaterally with individual local authorities, particularly those for which a change of level looked to be in prospect.

29. I spoke today to the leader of Midlothian about the deteriorating position there. He expressed some concern about aspects of the data underlying the discussion - these have since been clarified - and noted that, with a small population, small numbers of cases could change the figures quite significantly. He also noted that a late change in direction would have a negative impact on businesses in particular. However, he did accept that the First Minister had made clear on 17 November that the move to Level 2 would only be confirmed if the position did not deteriorate significantly.

28. If it is decided that Clackmannanshire should move to Level 4, I will speak to the leader there before the decision is announced. I understand, however, that at chief executive level Clackmannanshire has indicated that, while they would be disappointed with such a decision, they would understand the reasoning.

Travel restrictions

30. At last week's review, it was agreed that because the first use of Level 4, and with it the closure of non-essential retail in parts of the country, was likely to increase the risk of non-essential travel to other areas, and with it avoidable importation of infections, travel restrictions should be strengthened. Regulations were therefore made to put existing guidance on travel restrictions into law from 20 November.

31. As part of their wider engagement on compliance and enforcement (see below), officials have had discussions with local authorities and the police about compliance and enforcement aspects of the travel restrictions. It may be worth noting that Police Scotland issued 4 Fixed Penalty Notices for breach of those restrictions.

32. From this week, Transport Scotland will be producing a daily dashboard of monitoring data showing movement between areas, and between Scotland and England and Northern Ireland, to help assess the impact of the restrictions in terms of travel patterns.

In-home socialising rules in island communities

33. When announcing the Strategic Framework, the First Minister indicated that the rules on in-home socialising would be kept under close review, especially for remote and rural communities where other alternatives for social interaction are more limited, with a correspondingly greater impact on social harm. As a consequence, at the review on 10 November, the guidance was amended to allow in-home socialising in the island authorities at Level 1, in recognition of the particular social isolation issues in those communities.

34. Currently, Highland is also in Level 1 and the data suggest that Argyll and Bute is on track to enter Level 1 soon. This will require close attention at next week's review point. Both of these local authorities include islands which will face the same social isolation issues. So work is in hand to consider whether the guidance should include a differentiated approach for island and mainland communities. It is proposed that this issue should come to Cabinet on 31 November.

Public opinion, compliance and enforcement

35. At a national level, polling data on compliance remain strong across the areas of self-reported compliance, trust in government, clarity of message, support, self-isolation, enforcement and household contacts. However, a minority consistently report little support for the handling of situation. While the majority (65%) support the way restrictions in Scotland are being handled, a fifth (21%) disagree. The majority (71%) trust the Scottish Government to work in Scotland's best interests during the pandemic, although one quarter (24%) do not (YouGov, 17-18 Nov).

36. Knowledge of the protection levels is good, with 76% correctly identifying their current level, however this has declined from 84% last week, reflecting those in Level 3 thinking that they have moved to Level 4 (YouGov 17-18 Nov). Support for the introduction of protection levels is fairly stable, with 65% supporting it, and there has been an increase this week in the proportion who feel clear on what is required under the levels system, from 69% to 78% (YouGov 17-18 Nov).

37. Self-reported compliance with self-isolation is relatively high. Of respondents who had to self-isolate at some point during the last 7 months (n=196), almost three quarters (72%) said they didn't leave home at all during the isolation period, although a quarter (26%) left home at least once (YouGov, 27-28 Oct).

38. However, it is essential that we maintain a sharp focus on compliance and enforcement alongside our approach to protection levels. The Covid Safety and Compliance programme has been established to prioritise compliance activity and consider what additional interventions could enhance adherence to the current measures. Current priority projects include:

- ◆ Improving national and sectoral guidance;
- ◆ Ensuring accelerated and improved delivery of the support package for self-isolation;
- ◆ Engaging with businesses on new self-assessment approaches to compliance building on successful work from Food Standards Scotland;
- ◆ Building on local data to allow better targeting of local compliance activity;
- ◆ Developing options for a tailored approach to compliance over the festive period; and
- ◆ Working on compliance and enforcement of regulatory travel restrictions, in partnership with Police Scotland and others.

39. Police Scotland continue to enforce the regulations governing the protective measures, with last weekend seeing enforcement activity covering a number of large house gatherings across Scotland, including a number with over 25 attendees – over 300 Fixed Penalty Notices were issued.

Legal considerations

[Redacted]

Future Reviews

42. Reviews of levels will continue for the rest of this calendar year, with regular opportunities for Cabinet to consider the outcomes.

43. I invite Cabinet to note that, as well as considering the application of levels to local authority areas, I intend to continue to engage with Cabinet colleagues on:

- ◆ Planning for the end of the three week period of Level 4 restrictions on 11 December. It is proposed that Cabinet should discuss an exit strategy for those areas at the next weekly review on 1 December;
- ◆ The interaction of the levels process with other aspects of winter planning, including particularly the Cabinet Secretary for Health's work on winter pressures in the NHS and our preparations for the end of the EU exit transition period on 1 January 2020; and
- ◆ Our strategy for the period between the start of 2021 and the possible availability of a vaccine.

Parliamentary Handling

44. The regulations to confirm the move of East Lothian to Level 2 announced on 17 November were made on Monday 23 November and will come into force on Tuesday 24 November. The First Minister intends to announce the outcome of this week's review in a statement to Parliament on Tuesday 24 November. The Parliament's COVID-19 Committee will have an opportunity to consider this on Thursday 26 November.

Communications

45. The introduction of the *Strategic Framework* created opportunities for greater continuity and consistency of messaging on protection levels. Communications and marketing support is in place for the announcement of the review of levels, building on that undertaken for the first review, announced on Tuesday 10 November.

Conclusion

46. **Cabinet is invited to:**

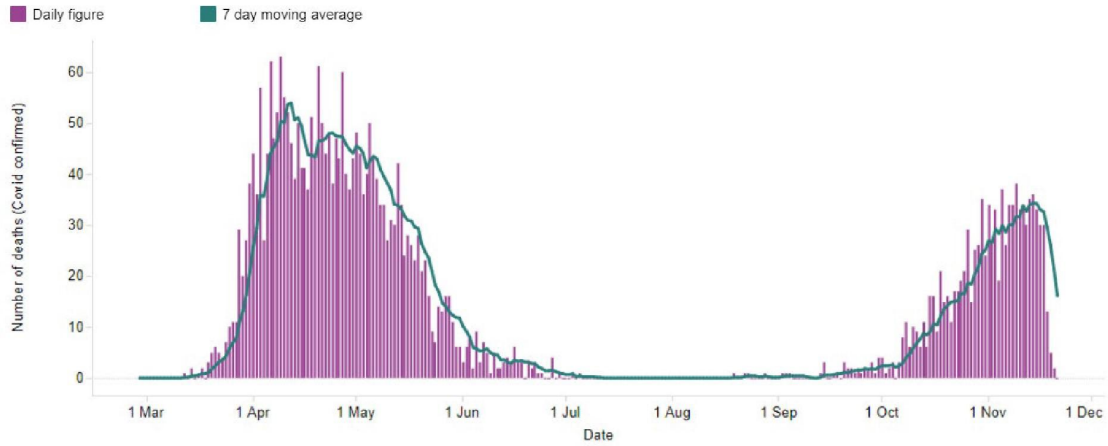
- (a) Note the First Minister's decision to maintain Midlothian at Level 3 for another week;**
- (b) Consider the protection levels for other local authority areas to apply from Friday 27 November;**
- (c) Delegate final decisions to the First Minister for announcement in the course of Tuesday 24 November;**
- (d) Note that future reviews will also consider the Level 4 exit strategy, the content of the levels and the strategic approach to the period between the start of 2021 and the availability of a vaccine.**

JS

November 2020

COVID-19: WEEKLY REVIEW OF PROTECTION LEVELS

Deaths (Covid confirmed) by date of death in Scotland



Figures for the most recent dates are likely to be incomplete due to the time required to process tests and submit records.