

Applying the new alert level restrictions in Wales

Context

A review of the Coronavirus Restrictions (No. 4) regulations is required by Thursday 17 December at the latest. These can take place at any time this week. The intention for this review was to confirm the need to revise the regulations to introduce a new set of regulations to provide for the new alert levels. There is a related decision required about what level to apply and when.

The new Coronavirus Restrictions (No. 5) regulations are being developed in line with the published alert levels. These regulations will provide for all four alert levels, with the ability to place Wales, or parts of Wales, into different sets of restrictions corresponding to those alert levels as a proportionate response to different levels of public health risk. The temporary regulations for Christmas apply equally to gathering and travel restrictions no matter what Level a place is in.

Further to previous discussions at Cabinet about the sequencing of changes over Christmas, unless there were significant changes it was expected Wales would remain at Level 3 when the regulations first came into force (reflecting recent tightening of restrictions). A move to Level 4 was then anticipated to take place on 28 December (with this being confirmed around 21/22 December). An assessment of the data around 21/22 December would assess the effectiveness of the recent interventions (Level 3 equivalent).

The situation has considerably worsened over the weekend and since Cabinet discussions last week, with no early indications of the restrictions put in place since 4 December having a material impact. Reports following the weekend are that the impact on the NHS is much more severe than expected even last week.

The need to move into Level 4 restrictions is appears to be clear, without the need to wait for a further data by 21/22 December. This date was discussed as the point at which we might know for certain the effect of current restrictions on hospitality, entertainment and tourist attractions. It now seems likely any effect will not be sufficient to reverse the growth in infections as quickly as may be needed.

Ministers have sought to provide notice of any introduction or relaxation of restrictions to help businesses and people plan effectively. This can also lead to risky public behaviour. For example an indication the Boxing Day sales is the last chance to access non-essential retail could lead to crowds and attendant risk of increased transmission. Closing non-essential retail in the run-up to Christmas, however, is particularly difficult, as people will want to access non-essential retail for gifts and other goods. Those on low incomes may not be able to do so until close to the date. The Christmas period is also likely to be a critical time for retail.

UK-wide and international context

Since last week the situation across the UK has changed, as has the international context. Rates of infection in England and Northern Ireland have begun to rise again (England quickly after lifting lockdown and Northern Ireland during a lengthy

lockdown, since lifted). More parts of England were moved into Tier 3 of the highest level of restrictions short of lockdown, including London. Only Scotland appears to have managed to maintain rates so far.

Internationally lockdowns have been announced over the last couple of days despite the proximity to Christmas:

- Germany will go into lockdown from 16 December to 10 January, with a brief relaxation on household gathering rules between 24 to 26 December
- The Netherlands will go into a strict five week lockdown until 18 January, including closure of schools, with a three day period over Christmas when three adult visitors will be permitted

Both lockdowns have been introduced at short notice, with reporting of the Netherlands announcement pointing to crowds and a rush of people heading to the shops before the new rules come into force on Tuesday.

Initial assessment against the levels

If assessing the current situation solely on the latest data and trends (i.e. not anticipating a decline as a result of recent restrictions) Wales as a whole would be firmly at Level 4 and the recommendation would be likely to be to move there as soon as practicable. For example:

- Confirmed seven-day average case rate is already over 400 cases per 100,000 (indicative threshold for Level 4 is 300 cases per 100,000).
- Confirmed case rates for over 60s suggesting rapid growth. There was an increase of 94.5 cases per 100,000 over the last week (to 10 December), reaching 295.9 per 100,000,
- Projection of future case incidence rates over next two weeks anticipating significant rises to more than 500 cases per 100,000 people. This is estimated as more than 75% likely for 11 of 22 local authorities in Wales (ArmaKuni Dashboard, ICL, 13 December).
- Test positivity for the week to 10 December is over 20%, double the indicative threshold for Level for of above 10% over seven days.
- A broad range of indicators now suggest rapid growth, from case incidence rates through to hospital admissions (which the Chief Executive of NHS Wales indicates are now tracking above the worst case planning scenario). A significant increase in rates might suggest a move to Level 4 even if the above indicative thresholds had not been breached.
- Evidence from the Chief Executive of NHS Wales points to significant pressures on hospital capacity, exacerbated by workforce shortages. Local choices will support some flexibility in critical care capacity in the week ahead but health boards will need to cease some services to be able to continue to

accommodate COVID admissions across Wales to critical care. This again points to escalation to Level 4, and reflects a further deterioration in the picture over the weekend.

- Serious concerns have been raised by a range of local health professionals, who are unable to manage the situations in their local area. This appears to be most acute in the Aneurin Bevan and Swansea Bay health boards, though others are also raising concerns about uncontrolled community transmission and an inability to respond locally.

When to move to Level 4?

The impact on behaviours, trust in Government and compliance with both the planned and future restrictions will need to be considered in the exact timing of moving to Level 4. The risks of socio-economic harms will continue to need to be balanced against the imperative to protect public health.

Giving notice of some restrictions helps people and businesses plan, but can also lead to people rushing to use those services before they close. This may be manageable in some circumstances such as hairdressers, but not in others. We would not expect a rush on pubs and hospitality given alcohol cannot be consumed on the premises and they must close at 6pm. Non-essential retail is likely to see the greatest increase in footfall as people rush to buy presents and goods before they close. This would be particularly true if the closure was after the Boxing Day sales.

The agreed approach over Christmas, which is the same across the four nations, is assumed to remain in place. If households strictly adhere to the exclusive bubbles, and manage risks (e.g. shorter visits, smaller groups), the potential growth could be more limited. Reversing this approach could have some benefit in reducing contacts, but may lead to criminalising other people (potentially further undermining people's willingness to follow the rule of law) and losing some public support. Ideally any change would be made on a four-nation basis.

The removal of travel restrictions as part of the 23-27 December changes also creates difficulties for the options below. While restrictions could be designed so travel during 23-27 December is only allowed for the purposes of visiting a Christmas bubble, in practice that would be unenforceable. This may mean restrictions in Wales could be avoided by travelling to England. It is not clear the degree to which this might take place in reality, and is most likely to occur close to the border with England.

Option 1: Immediate move to Level 4 (any day between 18-21 December)

This option would involve announcing a move to Level 4 this week, and regulations coming into force shortly afterwards (e.g. any day from Friday 18 December onwards). Regulation changes over 23-27 December would remain the same (three households can meet and travel to meet Christmas bubble is permitted), but the remainder of Level 4 restrictions would be in place for people in Wales (i.e. stay at home, closing non-essential retail, etc.).

Benefits:

- This has the benefit of being an immediate response to a rapidly changing situation where growth is higher than anticipated
- The approach is consistent with the recently published alert levels, avoiding any inconsistencies while we wait to see the impact of earlier restrictions
- This responds to calls from health professionals in South Wales in particular for immediate action
- This will be likely to have the greatest health benefits and an emergency set of measures at short notice would clearly signal the urgency of the situation.

Risks:

- There may be a risk of people losing trust in the Government if it is seen as undermining previous commitments. Trust remains high in Wales and is important to engender the right behavioural response (though this could equally be eroded if the Government is seen to have lost control)
- Acting very quickly will not provide notice to businesses and people to prepare accordingly. This may impact those on lower incomes most if they find it more difficult to access goods online or are paid weekly.
- The combination of an urgent move to Level 4, followed very quickly by 'relaxations' for Christmas may be confusing and send mixed messages.
- The travel window created by the Christmas regulations could see people travel to places in England during Level 4 restrictions in Wales to do the same shopping and other activities being prevented in Wales (in particular for the run-up to Christmas Day and for the Boxing Day sales).

A variation on this option would be to move to Level 4 immediately but to leave non-essential retail open. This risks immediately undermining the idea of a consistent and predictable approach to the regulations intended by setting the alert levels. This may be justified by the particular circumstances around Christmas and negative impacts of doing so, though does create a precedent that could be drawn on in future by others lobbying for special treatment. There may be challenges from those areas facing restrictions that non-essential retail is treated differently when their business is low risk, also dependent on trade but better at managing crowds (e.g. gyms, close contact services, etc.). The reintroduction of non-essential retail to the restrictions at some point would add additional complexity of changing rules in a number of areas.

Option 2: Move to Level 4 during the Christmas period (24-26 December)

This option would involve announcing this week that Wales will move to Level 4 restrictions during the Christmas period. This might mean Christmas Eve, Christmas Day, or the very start of Boxing Day (e.g. 12:01). As with Option 1, the temporary changes for Christmas (for a bubble and ability to travel) would remain, but all other Level 4 restrictions would come into force.

Benefits:

- This would allow for sufficient time for business and people to prepare for the new restrictions.
- It would also be a relatively fast response to a quickly changing situation, with the intervening week encouraging people to act as if Level 4 is already in place to protect loved ones over Christmas.
- It would also allow for people to access non-essential retail in the run-up to Christmas, but prevent the Boxing Day sales rush which could exacerbate the health risks.
- If done at 12:01 on Boxing Day would be consistent with previous positions about Cabinet considering restrictions required after Christmas, which may help maintain credibility (important for trust to support behaviour change).

Risks:

- The closure of hospitality over Christmas may affect those who rely on such places for their Christmas meal, such as those that live alone. This could potentially be mitigated if keeping hospitality open on Christmas Day (e.g. coming into force at 6pm Christmas Day or 12:01 Boxing Day).
- The combination of the 'relaxations' for Christmas at the same time as (or immediately before) moving into Level 4 may be confusing and send mixed messages.
- Communicating these changes will be challenging during Christmas itself and could add to confusion if not communicated clearly well in advance.
- The travel window created by the Christmas regulations could see people travel to places in England during Level 4 restrictions in Wales on 26 or 27 December.

Option 3: Move to Level 4 immediately after Christmas (28 December)

This option is the one previously endorsed by Cabinet, subject to the data continuing to support the approach. This would see Level 4 applied immediately after the 5 day period in which the Christmas regulations would apply allowing a Christmas bubble and travel. The expectation was the data next week (21/22 December) could well indicate a continued need to move to Level 4. However, the worsening of the situation over the weekend makes this option the riskiest of the above in terms of the health impact given increasing pressures on the NHS.

Benefits

- In line with business and public expectations about the sequencing of restrictions.
- Economic benefits from allowing Christmas trade and Boxing Day sales in stores to take place.
- Avoids confusion between the Christmas rules and the subsequent tightening of restrictions under Level 4.

Risks

- Current trajectory, if sustained, will lead to worse health outcomes than acting earlier and could see additional stresses on the NHS over the period up to 28 December and for the period after that (as cases work their way through to admissions).
- Any subsequent overwhelming of the NHS could erode the public trust that adopting this approach might protect.
- The move to online learning for schools and the cancelling of some NHS services may be difficult to justify if it appears shops and other premises have been kept open to benefit from Christmas trade and Boxing Day sales.
- Does not address the immediate concerns from health professionals and stakeholders in most hard hit areas calling for Level 4 restrictions as soon as possible.

National versus regional approach

There is some variation in Wales that appears greater now that rates have moved so quickly in South Wales. However, compared to the previous week there is still an increase in rates per 100,000 in all health boards and 21 out of 22 local authorities (week ending 10 December). Isle of Anglesey is the exception, though it can be subject to significant fluctuations because of a small population.

There are two health boards with rates significantly lower than others:

- Betsi Cadwaladr health board has a seven day average of 140.7 cases per 100,000 for the week ending 10 December (and rising). This is an increase from 76.6 on 24 November. Test positivity has risen over the same period from around 6% to over 10%.
- Powys health board has a seven day average of 129.9 cases per 100,000 for the week ending 10 December (and rising). This is an increase from 74.8 on 25 November. Test positivity has risen over the same period from around 6% to nearly 12%.

The Level 3 restrictions recently introduced may be sufficient in these areas to halt the rising number of cases, albeit higher rates in Flintshire and Wrexham could spill over into nearby areas (though this is not yet clear). The direction of travel in both areas describes a worsening situation, but at much slower growth rates seen in the rest of Wales.

While all-Wales restrictions would be beneficial to address the rising rates in these areas and reverse the pattern of growth, there remains the option to adopt a more regional or local approach to restrictions. At this stage, however, doing so could add to the confusion of messaging alongside the Christmas rules and other changes. Level 4 may, however, be argued to be disproportionate for those areas (at least compared to South Wales). This can be mitigated somewhat by revisiting the data in January, with the option to move to a regional approach if those differences are sustained (and those areas stabilise) during the Level 4 restrictions. Those areas might therefore be de-escalated into Level 3 before other parts of Wales.

Conclusion

The review of the regulations this week (on or before 17 December) offers the opportunity to make a decision on moving to Level 4 restrictions. The data appears sufficiently clear to justify a decision being made to move Wales into Level 4 restrictions in the regulations at the most practicable opportunity.

Wales would be in Level 4 restrictions if assessed under the recently published framework of restrictions. One confounding factor is that additional restrictions implemented in Wales may not yet have taken effect. That said, they have now been in place for 10 days (since 4 December) and there is not yet any signal of a decline or slowing down of rises in case rates or other indicators.

The other complexity in determining when to move to Level 4 is the nature of the Christmas holiday season and the behavioural response. This makes the timing much more difficult to suggest given expectations, plans already in place, and the risks of different behavioural responses.

There is therefore a clear rationale for moving Wales to Level 4 restrictions at any point within the next two weeks. The point at which those restrictions come into force will need to balance the health implications of a delay with the economic and potential behavioural implications.

There is no ideal option, but a move to Level 4 during the Christmas window, if supported by the scientific and health advice, could offer the best opportunity in giving people and businesses notice (around a week). It would enable equity of access to goods and services in that time, as well as limiting the potential for a surge in activity post-Christmas (e.g. Boxing Day sales) but before restrictions come into force.