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FROM: FIRST MINISTER & DEPUTY FIRST MINISTER

To: EXECUTIVE

DATE: 22 DECEMBER 2021

Introduction

1. At the Executive's meeting on 16 December it was agreed that ECT would provide a positional paper providing Interventions that we as an Executive could consider implementing.

Approach

2. From the outset of the pandemic the Executive's approach to decision making has been predicated upon our three strategic priorities.
 - The health and well-being of our citizens;
 - Our economic well-being and revitalizing the economy; and
 - Our societal and community well-being.
3. Any decisions we have taken in relation to restrictions, both imposition and relaxation, have been guided by four over-arching principles.
 - Necessary – a specific restriction or requirement should be retained only as long as it is considered necessary to prevent, protect against, control, or provide a public health response to the incidence or spread of COVID-19;
 - Proportionate – the detrimental impacts on health, education, society and the economy that can reasonably be attributed to the restriction or requirement should be tolerated only as long as the risks associated with withdrawal or modification are assessed to be more severe;
 - Evidenced – proposals for change or for the retention of a restriction or requirement should be informed by the best available evidence and analysis; and
 - Sustainable – we need to build our communities and economy back up in a way that build resilience, is long term focused, and sustainable.
4. In terms of approach, we have considered the measures which have been applied by other Nations across the Common Travel Area (**Annex A**) and the proposed package of measures is broadly comparable with steps being taken elsewhere.

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5. In the absence of significant funding from Treasury, affordability of the measures is also a factor and both Wales and Scotland have said that the absence of funding is a constraint in public health decision making. Department of Finance has identified £195m which is available in the current financial year and could be directed towards restrictions support. This is a combination of some new money announced by Treasury together with monies identified through the January monitoring round.
6. In the following sections we set out the proposed package of measures; Health advice in relation to these; and input from other Departments in relation to the direct financial cost together with wider economic and societal impacts. Where relevant we have also included feedback from the sectors.

The proposed package of measures

7. *Significant additional interventions* have been outlined as the optimal health approach, with restrictions based on previous lockdown measures, however in light of current constraints on funding and availability of additional financial support from the Treasury, the package of measures in this paper does not seek to return to the 2020 post-Christmas restrictions.
8. It is anticipated that any measures agreed by the Executive on Wednesday will be subject to regular review and discussion in light of emerging health data around case numbers and hospital pressures as well as a deeper understanding of the severity of the Omicron variant. We will also continue to monitor developments across the CTA and, in particular, decisions by UKG which may have a direct impact on the issue of funding.
9. The proposed package of measures is summarised below –

Reduced household mixing

- No more than 3 households to meet indoors in domestic settings

Reduced workplace mixing

- Mandate working from home wherever possible
- Mandate Social distancing in offices
- Promote and encourage workplace testing

Strengthening the face covering regulations**Creating a legal duty on retail and hospitality businesses to take reasonable steps to reduce transmission****Hospitality**

- Requirement to be seated
- Rule of 6
- Prohibit dancing

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- Close nightclubs

Events

- Introduce a capacity cap for indoor and outdoor events

Enhanced messaging

- LFD tests
- Ventilation
- Promote face coverings
- Avoid car sharing

10. Each of the proposed interventions is set out in more detail below.

Reduced household mixing

- **To place a limit on meeting indoors in domestic settings to not more than 3 households.** *It is not proposed to incorporate a specific number of individuals at this time given the number of students etc who will have travelled home for the festive period which could make a very low number challenging.*

Reduced workplace mixing

- **To give statutory effect to the current guidance on working from home wherever possible.** The intention here is not to restore the position as it was at the start of the pandemic. That is not practicable given that society and business are not in the same position. However, placing the requirement in Regulations may underscore the importance of this message.
- **Mandate 2m social distancing in offices.** Many office-based businesses continue to work remotely or flexibly, however an increased number of staff have partly or fully returned to the office. Under current guidance businesses should have carried out risk assessments however reinstating the legal requirement for 2m social distancing will achieve greater consistency and mitigate transmission. Where 2m social distancing cannot be achieved this would only be acceptable if alternative mitigations such as physical barriers are in place.
- **Promote and encourage workplace testing, particularly in cases where full social distancing cannot be maintained.** Again, this measure is aimed at giving greater protection to any workers who cannot work remotely to reduce the risk of transmission.

Strengthening the face coverings regulations

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- **To adjust the Face Covering Regulations to improve compliance levels.** The Executive has discussed the importance of compliance with this baseline measure and Ministers have noted some structural challenges that are impeding compliance and effective enforcement. A number of options have been identified to respond to the perceived structural issues including –
 - Amending the ‘reasonable excuse’ provision to continue to refer to the Disability Discrimination Act but removing the limb that refers to “or within severe distress” which is regarded as subjective;
 - Where an individual is claiming an exemption, the onus will be on them to prove that they are entitled to rely upon same;

In addition to the above, a further option would be to place a statutory duty on businesses to ensure compliance with the face coverings compliance. It is not envisaged that such a duty would attract penalties but again may assist to raise the importance of the issue. The duty could be supported by guidance emphasising the need for reasonable measures to be in place such as effective signage; audio messaging; spot checks; or the ability to provide face coverings where necessary.

A further option to deliver improvements in this area would be to extend the requirement to areas not currently covered e.g. places of worship; or outdoor gatherings.

Steps to reduce transmission

- **Creating a legal duty on retail and hospitality businesses to take reasonable steps to reduce transmission.** Many business will already be required (either in guidance or in regulations) to carry out risk assessments. However, as we have emerged from restrictions many of the protective measures which were commonplace have been removed. Creating a legal duty on retail and hospitality businesses to take reasonable steps to reduce transmission again underscores the importance of this measure. Given that businesses and settings will vary significantly in terms of size, layout and capacity it would not be appropriate to be prescriptive about the measures which should be used however guidance could signal that in complying with this duty consideration should be given to social distancing; one-way systems; screens and barriers; and capacity management.

Retail and hospitality industry bodies have correctly highlighted the significant amount of guidance and measures already being taken by their members and this proposal should not detract from this vital work.

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Hospitality

A number of measures are proposed to reduce mixing and social contacts in hospitality settings. These include:

- **Reintroducing the requirement to be seated;**
- **Reintroducing the rule of 6 so that no more than 6 persons may be seated together at a table** (not including weddings/civil partnerships);
- **Reintroducing the prohibition on dancing** (not including weddings/civil partnerships).

The sector has engaged very constructively and have highlighted their willingness to continue to play their part, notwithstanding the substantial pressures that they face from a substantial downturn in December trade which is threatening many of their members.

There was a recognition that some measures were inevitable although they queried the effectiveness of measures such as curfews. They also emphasised that restrictions can impact disproportionately on certain types of settings e.g. the requirement to be seated impacts most on the smaller, wet pubs.

Hospitality Ulster felt that the Rule of 6 can have unintended consequences as people move between different tables relating to the one group. However it is clear that the intention behind the measure is that this type of movement should not take place and, when moving around the premises, people should wear face coverings

- **Closure of nightclubs** – Both Wales and Ireland have closed nightclubs given the particular risks that can arise in those settings.

While there is no statutory definition of a nightclub in our Licensing Order 1996, it is estimated that the sector is relatively modest: Hospitality Ulster advise around 50 – most of which are connected to pubs or hotels and a smaller number of which are free-standing that cannot pivot to operate like a pub.

The sector recognises the risk of closure but has suggested that it would be prepared to move to 100% LFD testing combined with a requirement to sell tickets in advance. While this offer is constructive it may be something for consideration as part of relaxations.

Events

- **Introducing a capacity cap for indoor and outdoor events.**

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"Event" refers to performances and rehearsals and so covers a range of settings from big music and sporting events through to theatre performances.

The introduction of capacity caps is a measure that has been implemented in by number of CTA jurisdictions. Some (Scotland and Wales) are based on fixed numbers where others specify a percentage of the overall capacity for the venue or stadium or use a blended approach (Ireland).

The sector has advised that a percentage reduction would be more equitable however it has noted that many events need a minimum capacity of 70% to be viable. They have also noted the challenge of implementing such a change at pace e.g. for sporting, music and other events which are already sold out between Christmas and New Year it is likely that they would be cancelled as there would be insufficient time to cancel and resell tickets at a reduced capacity.

Wales has announced that spectators will be banned from all indoor, outdoor, professional and community sports events.

The main issues for consideration in relation to this measure are –

- The percentage at which any cap should be set;
- The timing of implementation.

CMO CSA Comments

11. CMO and CSA have commented on the proposals and this is set out below.

General comments

12. *At this time while there remain significant uncertainties it is inevitable that Northern Ireland will experience a very significant wave of community infections over the next 2 months with omicron becoming the dominant variant before Christmas. The scale and rate of growth of this wave of infection is likely to be significantly larger than previous waves if current doubling times continue. While we cannot be certain as previously advised the current wave will most likely reach a peak in middle third of January. Any hospitals pressures will follow with a lag of 10-14 days.*
13. *The lag times between infection, severe illness, and adverse outcomes means that some degree of harm to individuals and pressures on health and social care systems are already inevitable.*
14. *Without significant additional interventions it would be unwise to plan on the assumption that this wave will peak before we see very large numbers. This will result in significant workforce challenges across all sectors including health*

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and social care and critical infrastructure with staff unwell, self-isolating or caring for others.

15. *The speed of onset of this wave will present different challenges to previous waves and the impacts on society, the economy and the health and social care service including mortality is likely to be over a much more concentrated period.*
16. *Continued actions by individuals and society which reduce community transmission remain important as a way to limit the degree to which these harms will impact our communities over a very concentrated time period. Maximising the number of people who receive a booster or first, second or third dose remains a key mitigation against hospitalisation and serious harm and should continue to be expedited and prioritised.*
17. *Given the speed of transmission and likely simultaneous infection of many people, intervention by the Executive needs to be urgently considered if the policy aim remains to avert the health service potentially being overwhelmed. Unfortunately any decision by Ministers will inevitably have to be in advance of full information given the current observed doubling times.*
18. *Previous advice from ourselves and SAGE about the relative effectiveness of interventions remains largely valid and the brief comments below should be considered alongside this. In this context the most recent SAGE minutes and the SPI-M consensus statement are particularly relevant.*
19. *Earlier and stronger intervention will be more effective in protecting hospital capacity. The lowest risk would be achieved by full lockdown in the near future, although we recognize that this would also carry the largest likelihood of harmful consequences in terms of family life, societal impacts and economic impacts, and that all of these factors need to be balanced in coming to policy decisions.*
20. *Considerable uncertainty remains about the severity of omicron infection. Lower levels of intervention may turn out to be sufficient if severity is significantly lower than delta; however, by the time this is clear from real world data from elsewhere in the UK it is likely that even a strong intervention would be too late to prevent hospital pressures associated with previous waves being exceeded.*
21. *Therefore, in terms purely of the COVID epidemic strong early intervention will carry the lowest risk, while less stringent or delayed interventions will carry greater levels of risk.*

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22. *We will continue to keep data and emerging evidence under review and advise accordingly. Lockdown with schools closed would provide maximum chance of reducing Rt for omicron to less than 1.*

Comments on package

23. Would have some impact on reducing transmission of the virus, at most moderate if there was a high level of adherence / compliance. Rt would not be reduced to less than 1 so the epidemic would continue to grow.
24. Size of epidemic peak likely to be reduced modestly if significant increase in booster uptake occurs.
25. Uncertainty remains around extent of disease severity and risk of hospital admission. Most recent estimates from Imperial immunological modelling suggest that protection against severe disease will be 80 – 85% following booster for omicron, vs 95 – 97.5 for delta (<https://www.imperial.ac.uk/mrc-global-infectious-disease-analysis/covid-19/report-48-global-omicron/>)
26. These values are closest to those which underpin our pessimistic scenario, and based on this analysis it is unlikely that this intervention would be sufficient to prevent hospital capacity being exceeded. However, it will take 3-4 weeks for sufficient real world data to emerge from elsewhere in the CTA to refine estimates of likely hospital impact and confirm if immunological modelling is accurate.

Financial, economic and societal impacts

27. As noted at paragraph 5, the Department of Finance has advised that there is approximately £195m available to support Covid restrictions until the end of the current financial year.
28. In allocating this money we need to strike a balance between the desire to support businesses that have been adversely impacted as a result of changed public behaviour due to Omicron or those that may be required to close as a result of restrictions, against the reality that this finite pot of money may be required to respond to future interventions over the remaining months.
29. The ability to develop schemes that can allocate money quickly to businesses it also an important consideration although, for some, the message that financial support will be made available may provide some measure of comfort and assurance.
30. We also need to recognise that the absence of a furlough scheme funded by Treasury will also constrain the Executive's ability to respond as fully as it may wish.

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31. In terms of hospitality and leisure sector businesses, we have data from the administration of the Localised Restrictions Support Scheme. We have:
 - 3,279 hospitality businesses (pubs, restaurants, cafes, and social clubs); and
 - 1,049 leisure businesses (a diverse mix of cinemas, bowling alleys, soft play areas, gyms, visitor attractions, amusements, museums, snooker halls, etc).
32. A scheme could be delivered quickly to the hospitality and leisure sectors if we base eligibility on previous receipt of the LRSS. In terms of steps to deliver, it would need:
 - Executive agreement to run a financial support scheme for these sectors on the basis of previous receipt of funding;
 - A formal determination by the FM and DFM that financial assistance should be provided under the Financial Assistance Act of 2007;
 - The designation of a department to deliver the scheme by the FM and dFM; and
 - Regulations made by the designated department to govern the scheme. Since we are in the Christmas recess, rapid delivery will require the normal processes to be set aside and the regulations to be made without prior consideration by the relevant Assembly Committee and in contravention of the 21 day rule (which the Examiner usually accepts in these circumstances)
33. Alongside that, preparation work would be needed to:
 - check the dataset for any businesses that have ceased trading since LRSS payments ceased in April or May;
 - decide whether we need businesses to submit a declaration of some kind to trigger the payment to ensure that we are helping those who have genuinely been affected by the downturn;
 - create an application process for any new business that has started trading since May (numbers should be small but there will be some and we will need to be able to respond to them).
34. It is conceivable that if everything went smoothly a scheme could be in place during January. Increasing the levels of complexity of any scheme would almost certainly delay the delivery of any scheme
35. We would also need to consider supply chain businesses. These were funded through the CRBSS scheme run by DfE. There were 1,200 business supported by this scheme, but the range of business types was very wide – everything from suppliers to the hospitality trade to wedding photographers.
36. We will continue to work with neighbouring jurisdictions to assess the approach to financial supports there, in particular in relation to businesses required to close, so that we can benchmark levels of support.

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37. The table attached (**at Annex B**) summarises broader economic and societal impacts that have been identify by other Departments through the Cross-Departmental Working Group.

Recommendation

38. The Executive is invited to:
- discuss the update Autumn/Winter Planning (Omicron) paper;
 - agree what if any Interventions should be implemented and the date that these restrictions should come in to force; and
 - agree to review the COVID position on 30 December subject to any substantive change to health data or the financial situation.

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