RESTRICTED HANDLING **SCN(21)12th Conclusions**

SCOTTISH CABINET

MINUTES OF MEETING HELD IN ST ANDREW'S HOUSE, EDINBURGH AT 9.30 AM ON TUESDAY, 31 AUGUST 2021

Present:	Rt Hon Nicola Sturgeon MSP	First Minister
	John Swinney MSP	Deputy First Minister and Cabinet Secretary for Covid Recovery
	Keith Brown MSP	Cabinet Secretary for Justice and Veterans
	Mairi Gougeon MSP	Cabinet Secretary for Rural Affairs and Islands
	Michael Matheson MSP	Cabinet Secretary for Net Zero, Energy and Transport
	Rt Hon Angus Robertson MSP	Cabinet Secretary for the Constitution, External Affairs and Culture
	Shona Robison MSP	Cabinet Secretary for Social Justice, Housing and Local Government *(part of meeting only)*
	Shirley-Anne Somerville MSP	Cabinet Secretary for Education and Skills
	Humza Yousaf MSP	Cabinet Secretary for Health and Social Care (*)
In Attendance:	Leslie Evans	Permanent Secretary
	[Redacted]	[Redacted]
	George Adam MSP	Minister for Parliamentary Business
	Richard Lochhead MSP	Minister for Just Transition, Employment and Fair Work
	Dr Gregor Smith	Chief Medical Officer
	Penelope Cooper	Director, Covid Co-ordination (*)
	James Hynd	Director for Cabinet
	[Redacted]	[Redacted]
	Dominic Munro	Director, Exit Strategy (*)
	David Rogers	Director, Constitution
	Michelle Rennie	First Minister's Principal Private Secretary
	Anne Aitken	Head of Portfolio Management Division (*)
	Tim Ellis	Head of Performance and Outcomes (*)
	Marion McCormack	Deputy Director, Covid Ready Society (*)
	Lisa Mcguinness	Permanent Secretary's Principal Private Secretary (*)
	Miranda McIntosh	Deputy Director, Exit Strategy (*)
	NR	Head of Performance and Delivery Unit (*)
	Leanne Dobson	Special Adviser (*)
	Liz Lloyd	Special Adviser (*)
	Colin McAllister	Special Adviser
	Callum McCaig	Special Adviser (*)
	Stuart Nicolson	Special Adviser (*)
	NR	PS/First Minister (*)
	Julie Grant	Assistant Head of News (*)
	Name Redacted	Unit Head, Non-Clinical Public Health (*)
	NR	FM Covid Briefing Unit (*)
	Sinéad Power	Head of the First Minister's Policy and Delivery Unit (*)
	NR	PS/Cabinet Secretary for the Constitution, External Affairs and Culture (*)

NR	Cabinet Secretariat (*) Cabinet Secretariat (*) Cabinet Secretariat (*) Cabinet Secretariat

(*) *by tele-conference*

Apologies

1. Apologies were received from Ms Forbes, who was represented by Mr Lochhead.

Minutes of Meeting held on 24 August 2021

2. The minutes of the meeting held on 24 August (SCN(21)11th Conclusions) were approved.

[Removed]

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

5. The First Minister invited the Chief Medical Officer to provide Cabinet with an update on the progress of the COVID-19 pandemic and the work under way to counter its effects.

6. As at 9 a.m. on Tuesday, 31 August, there had been 430,525 confirmed cases of COVID-19 infection in Scotland (compared with 390,908 on the same day the previous week). There had been a net increase of 6,029 cases compared with the previous day; this corresponded to 14.9 per cent of those tested (compared with a positivity rate of 14.5 per cent on the same day the previous week).

7. Case numbers continued to rise on a steep upward trajectory. Seven-day case rates continued to escalate to 688 per 100,000 Scotland-wide as at 27 August by specimen date, compared with 367 per 100,000 on the same day the previous week, and there were four local authorities (in west central Scotland) with over 1,000 cases per 100,000.

8. National average figures masked considerable variations among different age groups, with highest rates of increase seen among 16 to 19 year olds, followed by 12 to 15 year olds and 20 to 39 year olds. Cases were also rising elsewhere in the UK, with the highest rates of increase seen in Northern Ireland and Scotland.

9. Seven further deaths had been registered since the previous day within 28 days of a positive test for COVID-19, and the total number of deaths since the start of the pandemic, using this measure, now stood at 8,118 (compared with the previous week's figure of 8,080).

10. Hospital admission rates were also rising, with a 'conversion rate' of around two to three per cent of positive cases of COVID-19 infection. This meant that the current surge in case numbers would inevitably translate into higher numbers of admissions over coming days. A broad planning assumption was that admission to hospital with COVID-19 would lead – on average – to a hospital stay of seven days, although this figure might vary considerably depending on age and other factors. In light of the projected number of new hospital admissions, it was likely that the current capacity limit of some 800 dedicated COVID beds would be breached over coming days, which would further eat into capacity for non-COVID interventions.

11. In discussion the following points were made:

(a) The gravity and unpredictability of the current situation meant that it would not at this point be prudent to rule out any given course of action, and a range contingency measures should be kept ready for deployment, although they would, as ever, need to be targeted and proportionate;

(b) In considering whether to implement particular measures, it would be important to focus on those with the highest potential impact, noting that this would not necessarily correspond to the easiest options. In the meantime, it would be vital to ensure compliance to the fullest possible extent with the protective measures that remained in place;

(c) For some, the return to large public events and the removal of other restrictions had given an unwarranted impression of a 'return to normality', and many appeared to have lowered their guard as a consequence, despite the manifest dangers the virus continued to pose, especially among those who were not yet fully vaccinated;

(d) There was, in particular, some feedback from business organisations suggesting a view that the problem lay in the Government's continued emphasis on the dangers of COVID-19 (which might discourage potential customers), rather than in the real rise in case numbers which had been seen over recent weeks (and the consequent risk that significant restrictions would need to be re-imposed).

COVID-19: Next Steps (Paper SCN(21)29)

12. Mr Swinney introduced paper SCN(21)29, which invited Cabinet to agree that maximising the effectiveness of the current set of baseline measures (listed in paragraph 3 of the paper) represented the most appropriate and proportionate approach to take at present, based on the current data. The paper invited Cabinet Secretaries to provide Mr Swinney with a further update, later that week, on their efforts to increase the effectiveness of such measures.

13. The paper also outlined details of contingency planning for the rapid deployment of restrictions should that become necessary, and asked Cabinet to note progress on vaccination (including certification), work to promote and improve ventilation (which recent studies had found to be of considerable importance in preventing transmission), and communications and marketing activities.

14. Paragraph 6 of the paper set out two scenarios: one, under which cases peaked within around a fortnight and subsided without further intervention (through a combination of increasing immunity and positive behavioural change); and the other, under which it became plain that – in the absence of further intervention – case numbers would continue to rise to a point where they risked overwhelming the NHS and causing intolerable (direct and indirect) health harms.

15. In the wake of the European football championships earlier in the summer, there had been a 'spike' in case numbers, but which had subsequently subsided. While it was not yet clear, it seemed likely that the country was now facing a more sustained 'surge' of infection. Contributing to this more acute scenario, the capacity constraints within the NHS were already presenting nationwide problems and would only worsen with the arrival of autumn and winter pressures. The paper therefore took a cautious approach, exploring two possible courses of action against the background of a worst case scenario. As ever, it would be a case of balancing competing harms in the face of considerable uncertainty.

16. The first option was to seek to reinforce the existing baseline measures, as described in Annex C, which summarised stakeholder engagement and further actions already under way across all portfolios. Here, the questions to address were: was the promised work actually happening on the ground, and was there anything more that might be done? The paper recommended this option in the first instance.

17. The second option – which was not yet recommended – was set out in Annex E, which described a further set of targeted and proportionate measures which could be put in place, if this were considered necessary in order to protect the NHS. These measures would have significant consequences elsewhere, in terms of disruption to the economy and to the delivery of public services, and they would inevitably spark requests for financial compensation – for which there was no ready source (and certainly no further funding from the UK Government at this stage). Nevertheless, the paper recommended that these further measures should continue to be developed so that they would be ready if required.

18. The paper also contained some discussion of the possibility of domestic certification (which had been subject to separate detailed advice), whereby entry to some venues would be restricted to people who could demonstrate that they had been fully vaccinated. It was possible that such measures might be able to be implemented in the short term in a limited number of potentially high-risk settings, including parts of the nighttime economy and certain large events and gatherings, and work continued urgently to develop this option further.

19. Given the potential significance of such a move, a full debate and vote in the Parliament would be required in advance of any decision to implement domestic certification, and in line with the commitments in the Bute House Agreement, discussions would take place with representatives of the Scottish Green Party parliamentary group.

[Redacted]

21. As far as pandemic communications and marketing efforts were concerned, the intention was to change the change the tempo and nature of the message in order to instil a greater sense of urgency and of the imperative for action: many were failing to grip the significance of the current situation, which remained precarious, and the public mood must change if further restrictions were to be avoided.

22. The paper also noted that, in order to address what remained a fast-moving situation, the First Minister might be obliged to take decisions over the next few days to address any rapid deterioration. Cabinet was therefore invited to delegate to the First Minister decisions that were broadly consistent with the approach set out in Annex E of the paper (as described further in paragraphs 70 to 72).

23. In discussion the following points were made:

(a) While many of the responses set out in Annex C seemed reasonable, in some cases it was hard to make the connection with the reality on the ground – all organisations, across the public and private sectors, must understand clearly that, where compliance with the basic requirements was lacking, then this would increase the risk that large swathes of activity might need to close again, which would be a catastrophic outcome. It must be emphasised in all communications that this risk was real and growing;

(b) Signage in some public buildings and retailers was lacking (or had been removed following recent changes in restrictions): this would need to be remedied, since normality had not returned, and the pandemic continued;

(c) Large retailers also needed to show a better example to the public: most supermarkets no longer had staff posted at entrances to check that safety requirements were observed, and some even failed to provide hand sanitiser on arrival, although it was helpful to note that customers were generally still willing to comply with the requirement to wear face coverings;

(d) The public sector should be required to show significantly better leadership, and businesses too would need to step up to the mark, so as to make it as straightforward as possible for the general public to comply readily with the remaining baseline measures;

(e) Contacts with COSLA and local government were frequent, and assurance was being sought about the extent of compliance with baseline measures across their areas of responsibility. There had also been extensive contact with the housing sector and with religious organisations (which had particular issues with face coverings);

(f) The cultural sector had shown some positive signs of willingness to promote safe practices, with good systems in place in a number of newly re-opened venues, but Ministers and officials were in contact with various arts organisations in order to inject a greater sense of urgency and to undertake a series of spot checks in selected venues;

(g) Larger events and entertainment venues would naturally be harder to control, and this was also the case for sporting events with many thousands of spectators, which had already been shown to increase the risks of viral transmission. In some sporting venues where there had, until recently, been a requirement to show evidence of a negative test, this was no longer required, which seemed a retrograde step;

(h) Contact had been made with all major transport providers, the British Transport Police and Police Scotland, and consideration was being given to taking targeted enforcement action at major hubs;

(i) Public-facing staff, especially in retail and transport settings, did not wish to be abused for pointing out the need to observe baseline measures such as face coverings. The Chief Constable had indicated in recent discussions that shop assistants should be reassured that it was reasonable to offer polite challenge to those who were not wearing face coverings, and that any staff who felt intimidated should be able to rely on police assistance where required: verbal abuse of staff should not be tolerated under any circumstances;

(j) A visible police presence at transport hubs and supermarkets might be required in order to 'kick start' a greater degree of adherence to the baseline measures than had been seen recently;

(k) Colleges and universities had made plans for the start of the year, and the Minister for Higher Education and Further Education, Youth Employment and Training was due to meet Principals later that day to discuss them: the main message he expected to convey was that the plans would need to be improved and reinforced with more stringent measures to take account of the worsening situation;

(l) Joint letters had been issued together with COSLA to local education authorities, emphasising, among other matters, the importance of contact tracing where cases of COVID-19 had been identified. It was also clear that the level of asymptomatic testing was too low, and schools and local authorities were being encouraged to do more;

(m) In addition, while it was welcome that improvements in ventilation and CO_2 monitoring in schools were under active consideration, pupils had returned to school buildings a fortnight previously, and it was hard to understand why this work had not been carried out in advance of their arrival: progress in this crucial area must be accelerated significantly;

(n) Schools were now major drivers of transmission, and it was therefore vital to be absolutely satisfied that all possible steps were being taken to make them as safe as possible, with particular emphasis on ensuring the adequacy of contact tracing and self-isolation arrangements;

(o) The Joint Committee on Vaccination and Immunisation (JCVI) had recently authorised the vaccination of 16- and 17-year olds, and four NHS Board areas (including Lothian, Greater Glasgow and Clyde and Tayside) had already put in place arrangements to do so, with the first results expected later that week. However, a number of NHS Boards had indicated that – on grounds of efficiency – they would not propose to visit each school, given the small numbers concerned in some cases. This was completely unacceptable, and an instruction should be given to all NHS Boards that they needed to send vaccinators into every school at the earliest opportunity;

(p) However resource-intensive it might appear to visit each school, it must be recognised that young people were the largest vaccinated pool in the whole population, and efforts to reduce transmission of COVID-19 within this group must therefore be given the highest priority, so as to provide the best chance of stemming the rising tide of community transmission before the winter. To date, fewer than half of 16- and 17-year olds had received a dose of vaccine, and this situation must be addressed;

(q) It was hoped that the JCVI would follow its decision to recommend vaccination of 16- and 17-year olds with a further recommendation covering 12- to 15-year olds: the slow pace of JCVI decision-making was regrettable in light of the growing number of infections among younger people;

[Ms Robison left the meeting.]

(r) It would be important to take all possible steps to ensure that people and organisations throughout Scotland gained an up-to-date appreciation of the gravity of the situation: any degree of complacency would be dangerous and, if widespread, could herald the return of further restrictions. The public message must therefore be strong and emphatic – while some people were still, understandably, highly cautious, others were behaving in a manner that was not consistent with the situation on the ground;

(s) Should none of the above actions prove successful in reversing the current upward trend in case numbers, it seemed inevitable that more active consideration might need to be given to the return of legal restrictions. Recent rises in case numbers would inevitably lead to higher hospital admissions over coming weeks, and it was not yet clear how much capacity would remain once this was taken into account;

(t) Stakeholders (and especially business representative organisations) must be led to the realisation that it was the virus – not government restrictions or talking about the virus – which was harming the economy, and that all possible efforts must now be made to prevent further harm over the winter months;

[Redacted]

[Redacted]

(w) Although it was acknowledged that excessive restrictions impacted on people's fundamental rights [Redacted]
[Redacted] it was also important to recognise that the virus itself – especially insofar as its spread impacted upon NHS capacity in non-COVID areas – significantly affected people's fundamental right to NHS treatment for life-threatening conditions such as heart attacks, strokes and cancer;

(x) The health service was perhaps a few weeks away from capacity constraints which would serious affect general healthcare, and this must be the central message in any public communications and in further talks with stakeholders about the need to implement and, where possible, reinforce existing protective measures.

24. **Cabinet**:

(a) Agreed to give further consideration to the developing situation, as the epidemic progressed, and to the approach that should now be taken;

(b) Agreed that, at this stage, it remained proportionate to maximise existing and planned interventions, as set out in the paper, short of re-imposing further restrictions;

(c) Agreed that all Cabinet Secretaries and Ministers should continue to engage vigorously and pro-actively with their respective sectors to maximise the impact of baseline measures and report back on further progress by close of business on Thursday, 2 September, so as to enable consideration of further action at the following meeting of the Cabinet, which was planned for Tuesday, 7 September;

(d) Noted the heightened communications and marketing material set out in the paper at Annex D, and agreed to seek to reinforce such messages through each Cabinet Secretary's respective portfolio channels;

(e) Noted the latest position on vaccinations and the preparation under way to implement rollout rapidly should advice from the JCVI widen eligibility for the vaccination programme;

(f) Noted the proposed position on certification, as set out in paragraphs 44 to 47 of the paper, including the commitment to secure Parliamentary approval for any proposals in this regard;

(g) Noted the contingency planning arrangements for the deployment of targeted restrictions (for which options were set out at Annex E), should the state of the epidemic deteriorate to such an extent that this would be necessary, justified and proportionate;

(h) Delegated to the First Minister any relevant final decision-making ahead of her statement to the Parliament on COVID-19 the following afternoon (Wednesday, 1 September); and

(i) Agreed to continue to delegate to the First Minister any further urgent decisions which might be required prior to the following week's meeting of the Cabinet (provided they were consistent with the *Strategic Framework*), supported as required by the Gold Group structure of key Ministers and by any other Ministers with an interest, with input from [Redacted] , chief advisers and senior lead officials.

(Action: First Minister; Deputy First Minister and Cabinet Secretary for Covid Recovery; DG Constitution and External Affairs)

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Cabinet Secretariat
September 2021