



Llywodraeth Cymru
Welsh Government

From:

Name Redacted
Contact Tracing, TTP

Cleared by:

Nia Roberts
Deputy Director Contact Tracing

Date:

25 February 2022

MINISTERIAL ADVICE

For decision by: First Minister and Minister for Health and Social Services

Subject	Self-isolation policy and regulations
100 word summary	This advice considers when the legal requirements to self-isolate should be revoked in light of the transition planning across Test, Trace, Protect and Welsh Government.
Timing	By Monday 28 February so that a transition plan can be included in the 21 day review considerations and announced on 4 March.
Recommendation	<p>Officials recommend Ministers agree to:</p> <ol style="list-style-type: none"> 1. Ministers are asked to agree to cease the legal restrictions to self-isolate for positive cases and unvaccinated contacts. 2. Ministers are asked to agree to amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 Regulations to account for these changes. 3. Ministers are asked to agree to introduce regulatory changes commencing 28 March. 4. Ministers are asked to agree the above operational decisions.
Decision report	A Decision Report is not required as the main elements of the approach is expected to be included in wider transition plan for Wales and we will also issue a written statement.
Risks	<ul style="list-style-type: none"> • SPI-M-O estimates a combination of behavioural change (e.g. increased home working, mask wearing) and mitigations (e.g. testing, self-isolation) are currently reducing transmission by 20–45%.

	<ul style="list-style-type: none">• SPI-B also highlight that if legal restrictions to self-isolate were removed, this is likely to lead to further ambiguity among the public about the need for strict adherence, so timeliness and clarity of these changes are key.• SAGE highlight these points and suggest there is significant potential for transmission to increase if behaviours revert rapidly to pre-pandemic norms and mitigations are removed. The faster growth of BA.2 may also increase this risk.• With UK Government removing all legal restrictions to self-isolate from 24 February, Wales becomes the only country within the UK to have legal restrictions to self-isolate. Any difference in policies across the borders of England and Wales is likely to cause some confusion, particularly for those who work and live across borders given the English focus of most media coverage.• It is important to note that it may be possible in future that we may need to reintroduce the requirement for cases and contacts to self-isolate if there are new Variants of Concern / significant local outbreaks with enduring transmission, which require a robust response. Communications will need to emphasise: if the evidence changes the Welsh Government's approach to restrictions will need to adapt – and this could include re-introducing requirements such as self-isolation for cases and contacts. Nevertheless compliance with any reintroduction of restrictions is likely to be challenging.
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ADVICE

Context

- Self-isolation guidance was introduced in Wales at the beginning of the pandemic as a way to limit the spread of the virus in the community by breaking the link in transmission through self-isolation of symptomatic people, those who had tested positive and their close contacts. Ministers subsequently introduced a legislative duty for positive cases and contacts to self-isolate in November 2020.
- UK Government announced and published its 'living with Covid-19' plan on 21 February, which included the removal of all legal duties for positive cases and unvaccinated contacts in England to self-isolate from 24 February. Guidance will change from the existing statutory-style advice to guidance with more longevity, which will set out precautions that positive cases and contacts can take to reduce risk to themselves and other people - and those testing positive for Covid-19 will also be encouraged to inform their close contacts so that they can follow that guidance. Contact tracing will only be retained by local health teams in England to use and provide context-specific advice where they assess this to be necessary as part of their role in managing all infectious diseases.
- This advice considers when the legal duty for positive cases and unvaccinated contacts in Wales to self-isolate should be revoked. Parallel advice in relation to the National Testing Programme has been submitted within MA-EM-0728-22.
- Further advice will follow in relation to the future of contact tracing teams in line with the outputs from the Contact Tracing Transition Planning Task and Finish Group.

Advice

- CMO advice is that community transmission of Covid-19 continues at a high but reducing level and it appears that the Omicron driven wave of infection is receding. Direct harms from the pandemic continue but at a much reduced level compared with previous waves. Furthermore CMO advises cautiously easing protective measures.
- PHW advise that Covid-19 is no longer the leading cause of mortality in Wales and with high levels of vaccination in the population, developments in treatment and fewer hospitalisations and deaths in in the latest wave, our strategy and response moving forward needs to be based on a rounded view of health of the population of Wales.
- As such, Wales is now moving into a transition period which will begin on 4 March when Welsh Government's Transition Plan will be published. The transition period will involve gradually reducing existing regulations and measures until we reach a steady-state, where wide-scale testing and contact tracing will cease and public messaging and guidance will shift to personal responsibility across all sectors.

Cases and contacts who are required to self-isolate by law

- Self-isolation of close contacts began with guidance at the beginning of the pandemic, and progressed to a legislative requirement in November 2020.
- Since 28 January 2022, individuals who test positive are required to isolate for a minimum of 5 full days, with strong advice that self-isolation should continue until they receive 2 negative lateral flow test results. Our change in approach was based on UKHSA and PHW modelling that indicates after 5 full days of isolation and with 2 negative test results 2% of people leave isolation infectious (between 20% and 30% without testing)¹.
- Since August 2021 our policy for self-isolation of Covid-19 close contacts has differentiated between individuals who are vaccinated and unvaccinated. The requirement for fully vaccinated adults and children and young people under 18 years of age to self-isolate if identified as a contact of a positive case was then removed. Exempt contacts are advised to take lateral flow tests for 7 days. Public health advice is that this is a pragmatic approach which should identify most people who are likely to go on to develop the virus. Since the introduction of the self-isolation regulations, the legal requirements for unvaccinated contacts has remained unchanged – they must self-isolate for 10 days. Advice to test on day 2 and 8 of their self-isolation period has since been introduced. Even if they test negative, they must stay in self-isolation until their 10 days is complete.

Considerations

- Our approach in Wales to containing Coronavirus throughout the pandemic has been based on the principles of caution and proportionality. The easing of restrictions, as outlined in our Framework for Recovery, has been implemented through a phased approach, based on the best scientific, public health and expert evidence available at the time.
- In responding to the pandemic, we have always tried to balance Covid-19 and non-Covid-19 harms and we have acted swiftly in response to the latest scientific and medical advice. The harms of self-isolation and interference with people's liberties have been well documented throughout the pandemic and have included negative impacts on physical and mental health²; incomes and business³ and children and young people⁴.
- The rationale for the decisions taken has been communicated clearly and publically through multiple facets – written and oral statements, daily and weekly conferences and updates within the Senedd. As a result, the public are now extremely familiar with the risks of Covid-19, and the scientific and public health rationale of how to mitigate against them. During the course of the pandemic, the

¹ MA/EM/0130/22

² [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30460-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30460-8/fulltext)

³ <https://phw.nhs.wales/news/staying-at-home-policy-has-reduced-spread-of-coronavirus-but-has-also-had-other-positive-and-negative-impacts-on-the-well-being-of-welsh-society/a-health-impact-assessment-of-the-staying-at-home-and-social-distancing-policy-in-wales-in-response-to-th/>

⁴ https://www.childcomwales.org.uk/wp-content/uploads/2020/06/FINAL_formattedCVRep_EN.pdf

public's understanding of the requirement to isolate has increased and compliance with domestic self-isolation has remained high. Communications and digital approaches have developed to help this.

- The evidence around the infectious period for people who test positive remains, however the wider context has now changed. The effectiveness and take-up of vaccines, and the development and accessibility of antiviral treatments have fundamentally altered the link between case rates and serious harms, as well as the reduced severity of Omicron.
- As part of the on-going transition planning across Test, Trace, Protect, advice within MA-EM-0728-22 details the specific recommendations for the National Testing Programme, given the UK Government's accelerated timeline for the wind-down of test and trace and the decisions on UK Government providing no additional funding to devolved governments. It is expected that during the transition period wide-scale asymptomatic testing will significantly reduce and eventually cease for the majority of use-cases.
- SPI-B⁵ highlight that removal of free access to testing will make it more difficult for people experiencing Covid-19 symptoms to confirm infection and take actions (including self-isolation) to reduce transmission to others. For Wales, this is likely to be from 27 May (MA-EM-0728-22).
- The current context calls into question the proportionality of having a legal requirement for positive cases to self-isolate.
- Ministers have already agreed to continue with the Self-Isolation Support Scheme during the transition period, which will continue to financially support individuals who follow the guidance to self-isolate once the legal duty has expired.
- Officials consulted the Self-isolation Support Steering Group regarding the transition period, and options for changing the eligibility and/or payment rate. The Steering Group recommended retaining the eligibility but suggested that the rate could be reduced to £300 per claim. However, officials recommend continuing with the £500 payment which is in line with Scottish Government and provides some continuity of support throughout this transition period.

Approaches in other devolved nations

- All 4 nations agree the need to scale back Test and Trace to ensure it is proportionate to the public health situation. There is agreement that the focus should shift to protecting the most vulnerable, diagnosing for treatment, maintaining surveillance and maintaining capacity to respond to newly emerging threats. However the pace at which this is achieved is the point of difference.

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054362/S1514_SPI-B_note_on_lifting_restrictions.pdf

- Scotland and Northern Ireland have never had legal requirements to self-isolate, instead they have relied upon strong public health guidance and the public's willingness to 'do the right thing'.
- Scotland published their high-level update on transition planning on 23 February⁶, which sets out a new approach to Test and Protect - shifting to protecting the most vulnerable and targeted use of testing and outbreak management. The more detailed plan is expected to be published in March, however Scotland's high level update states that in the transition period they will continue with contact tracing, providing advice and support to positive cases and their contacts, as they do now. However after the conclusion of the transition period, their contact tracing and isolation are likely to focus on high-risk settings, enabling local Health Protection teams to take locally-based decisions on how to reduce risks to the vulnerable. Isolation guidance will focus on encouraging people with symptoms of respiratory illness to remain at home whilst unwell.
- Northern Ireland have reflected on being historically aligned with UK Government on their self-isolation policy. However they are waiting to see the full plans at UK Government, including the underlying planning assumptions, rationale and evidence, given they are experiencing the highest case rates in the UK. Northern Ireland have also recently extended the contracts of their contact tracers until the end of June.

Health, social care and special school staff

- As outlined in the MA-EM-0728-22, if agreed, the intention is that testing will be focussed on specific cohorts and the most vulnerable and in the interim period, strong advice to self-isolate will remain in guidance and advice for staff and employers will be they should continue with their current arrangements and sector-specific guidance.
- Social services colleagues have raised concerns about removing the legal duty to self-isolate given the vulnerabilities of those accessing social care and the pressures currently facing the social care workforce. Social services colleagues have requested that where possible, alignment with the approaches taken with healthcare staff would be preferable. Prior to implementation, officials will work closely with the sector in relation to their concerns and work together to strengthen the messaging and guidance.

Recommendations

- Cabinet discussed self-isolation as part of the latest 21 day review consideration of remaining restrictions and concluded the legal requirement to self-isolate would possibly no longer be legally required (but still recommended) from 28 March.
- Advice from focus groups is also that policy changes should (where possible) happen together rather than a 'drip-feed', as this makes it easier for people to understand. Given the upcoming changes to the testing regimes in Wales, it

⁶ <https://www.gov.scot/publications/coronavirus-covid-19-scotlands-strategic-framework-update-february-2022/pages/6/>

would be beneficial to make the changes to self-isolation regulations at the same time that widespread asymptomatic and workplace testing ceases (MA-EM-0684-22). This would provide reassurance to the public with wider Government messaging about living with Covid-19.

- It is therefore recommended regulatory change to remove the legal duty to self-isolate is enacted for 28 March 2022.
- This timescale would allow for transition planning to continue and for sufficient engagement with stakeholders, for example giving at least two weeks' notice for education and childcare sectors, as requested by stakeholders during the pandemic.
- If Ministers wish to introduce the policy and regulatory changes above, a number of changes are required to our existing guidance and operating procedures. These include:
 - Customer service management platform (digital) developments;
 - Regulatory changes;
 - Operational changes such as revising the contact tracer scripts and public guidance.
- In order to mitigate against the risks SPI-B highlighted⁷, a two-step process will be taken with updating guidance in line with transition planning. Step 1 would involve retaining existing guidance during the transition period, but language adjusted to move away from regulatory requirements (indicating what people “must” do) to strong advice about what actions individuals “should” take. Additional information on protective behaviours would be strengthened. Step 2, on completion of the transition period and move to the steady state (likely end May), along with the cessation of wide-scale testing and contact tracing, guidance would change from advice to isolate, to focussing on protective behaviours only, such as “take care”, in line with the approach taken in England. This two-step approach differs to UK Government’s approach which moves directly to ‘living with Covid-19’ and is more akin to the approach taken in Scotland which involves a transition period before moving to a steady state and ‘living with Covid-19’.

Ministers are asked to agree to cease the legal restrictions to self-isolate for positive cases and unvaccinated contacts.

Ministers are asked to agree to amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 Regulations to account for these changes.

Ministers are asked to agree to introduce regulatory changes commencing 28 March.

⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054362/S1514_SPI-B_note_on_lifting_restrictions.pdf

Ministers are asked to agree the above operational decisions.**Legal advice**

- Legal Services have noted the advice within this MA and the recommendations set out. With respect to the decision on timing to remove the requirements, Legal Services would comment that without more, they will automatically cease to apply after 28 March when the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 Regulations expire. Legal Services note the TAC advice that “self-isolation is likely to be the most effective remaining measure”. However, the continuance of the measure in any meaningful form will, of course, be dependent on the ongoing ability to access free testing, which is to be phased out. Additionally, the fact that Wales would become the only country in the United Kingdom to have a specific legal requirement would be a relevant consideration, given this could lead to greater non-compliance with the provisions. There would continue to be confusion, particularly where the England and Wales border is most porous, in the north east and south east. Maintaining a provision which is widely disregarded (and not enforced) or which creates confusion will itself give rise to rule of law issues.
- The availability of vaccines and antiviral treatments is also a relevant consideration given that taken together they may provide an alternative public health response to requiring people to self-isolate, which itself interferes with a number of Convention rights (including Articles 8 and 11). Whilst you will be aware of the potential for some more groups in society to have concerns about attending premises where people who were formerly required to self-isolate may now be, given that duty will have been removed, those considerations should be set against considerations of the restrictions on individual liberty, particularly in the context of the reduced rates of mortality and hospitalisations and the effect of vaccinations and other treatments, which are a separate public health response to coronavirus.
- Your decision should balance the public health advice on the efficacy or desirability of maintaining any requirement, against the wider factors outlined in this advice and the MA more generally. **On balance, Legal Services consider that a decision to remove the requirements following the 24 March review would carry a low risk of successful challenge.**

Communications

- Consistency with UK Government will aid public understanding and acceptance of a new approach. The UK Government policy is already in force and has received extensive media coverage. This will also alleviate any cross-border considerations for Welsh citizens who work in England and vice versa.
- The Keep Wales Safe campaign, which includes TTP messages, would be adapted to reflect any changes to policy to support public understanding, reassurance and compliance with desired behaviours. New and revised TTP communication materials and guidance would be created as part of wider

transition communications planning, and will be proactively shared across our social media and digital channels. Web guidance will be updated. A stakeholder briefing document will be created, signposting to digital assets and guidance, for partners to share, to ensure consistency of message.

- The NHS COVID-19 App is in the process of updating user facing components to reflect changes announced by the UK Government to remove restrictions to self-isolate as of 24 February. The QR code feature to check-in at venues in England and Wales was removed on this date, and venue alerts will no longer be issued (although this feature was only ever activated in England due to concerns from Welsh Government and PHW). The app will continue to automate contact tracing, close contact monitoring and display isolation timers – but all messaging will move to an advisory basis. Because the information presented to English and Welsh users is separate; Welsh Government officials have been advised that any changes for Welsh users will need to be requested in good time.
- Ministers should be aware that distinctions between vaccinated and unvaccinated contacts and index cases are fixed in the app functionality. Following any decision to harmonise advice to these groups there will be a more significant lead time to remove or amend the un-vaccinated contact process. To reduce the risk of mixed communications to these groups in the meantime, the information in the app would be updated to reflect the new advisory nature. Despite this, there is likely to be a delay between policy announcement and technical changes, which we would mitigate with comms messaging as has been done previously.
- Policy officials are closely linked in with UKG leads for the continuous development of the 119 FAQs and can ensure policy changes are reflected in the 119 script as part of the continuous review cycle.
- If you agree to the recommendations above, a draft written statement will be provided for your consideration.

Financial implications

- There are no financial implications associated with this advice.

Annex 1: ASSURANCE AND COPY RECIPIENTS**CLEARANCE TRACKING**

Aspect	Tracking	Yes	No	N/A	Clearance no.
Finance	Financial implications over £50,000?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Group Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Strategic Budgeting?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Local Government Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Legal	Legal issues?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Cleared by relevant lawyers?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Governance	Novel and contentious issues?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Corporate Governance Unit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

DEPUTY DIRECTOR, STATEMENT OF ASSURANCE

In clearing this MA, I confirm that I, Nia Roberts, have quality assured this advice, ensuring it is provided on the basis of evidence, accurately presents the options and facts and I am accountable for the recommendations made

I am satisfied that the recommended decision or action, if agreed, would be lawful, affordable and comply with all relevant statutory obligations. Welsh Government policy priorities and cross portfolio implications have been fully considered in line with delivery of the government objectives.

I have fully considered the statement of assurance contained in the MA guidance to ensure all relevant considerations have been taken into account and that the actions and decisions take account of regularity, propriety and value for money.

COPY LIST

All mandatory copy recipients (as indicated in the guidance). Additional copy recipients specifically interested in this advice:

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