



OFFICIAL REPORT
AITHISG OIFIGEIL

COVID-19 Committee

Wednesday 7 October 2020

Session 5



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Pàrlamaid na h-Alba

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COVID-19 COMMITTEE
18th Meeting 2020, Session 5

CONVENER

*Donald Cameron (Highlands and Islands) (Con)

DEPUTY CONVENER

*Monica Lennon (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Maurice Corry (West Scotland) (Con)

*Annabelle Ewing (Cowdenbeath) (SNP)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Shona Robison (Dundee City East) (SNP)

*Mark Ruskell (Mid Scotland and Fife) (Green)

Beatrice Wishart (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Jason Leitch (Scottish Government)

Michael Russell (Cabinet Secretary for the Constitution, Europe and External Affairs)

CLERK TO THE COMMITTEE

Sigrid Robinson

LOCATION

Virtual Meeting

Scottish Parliament

COVID-19 Committee

Wednesday 7 October 2020

[The Convener opened the meeting at 09:30]

Subordinate Legislation

**Health Protection (Coronavirus)
(Restrictions and Requirements)
(Scotland) Regulations 2020 (SSI 2020/279)**

**Health Protection (Coronavirus)
(Restrictions and Requirements)
(Scotland) Amendment Regulations 2020
(SSI 2020/300)**

The Convener (Donald Cameron): Good morning, and welcome to the 18th meeting of the COVID-19 Committee. We have received apologies from Beatrice Wishart MSP, who is attending another parliamentary committee meeting.

This morning, we will take evidence from the Cabinet Secretary for the Constitution, Europe and External Affairs on two Scottish statutory instruments: the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 and the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Amendment Regulations 2020. The cabinet secretary is accompanied by three supporting officials from the Scottish Government: Professor Jason Leitch, national clinical director; Rebecca Whyte, Health Protection (Coronavirus) (Restrictions) Regulations 2020 co-ordinator; and Luke McBratney, bill team leader for the Coronavirus (Scotland) Bills. I welcome you all to the meeting and invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for the Constitution, Europe and External Affairs (Michael Russell): Thank you for the invitation to speak to the committee again, to discuss even more regulations as we adjust the national restrictions that are in place.

The regulations that we are talking about today will revoke and replace the previous lockdown regulations, thus providing us with a consolidated set of regulations with a new expiry date of 31 March 2021. They will impose additional restrictions and requirements on members of the public and businesses. The strengthening of the rules and mitigations that we have in place are required at this time to help keep the virus under

control; there will be further announcements about that later today.

As usual, the committee's consideration of the regulations is retrospective, as they are already in force—I will come back to that point later. The Scottish Government made the regulations by way of the made affirmative procedure on 11 and 24 September. They came into force on 14 and 25 September, and a plenary vote on them will take place in due course.

The regulations make a number of adjustments to the previous restrictions and requirements that were in place and introduce additional necessary measures. They mandate that specified hospitality settings must close between 10 pm and 5 am and that they should only serve food and drink for consumption on the premises if it is to be consumed at the table. Customers and staff must now also wear a face covering in certain circumstances. The regulations allow marriage and civil partnership receptions and funeral wakes to take place with slightly larger numbers than before, as the household limit on those does not apply.

The regulations adjust the rules on social gatherings, including by restricting indoor private gatherings from taking place in most circumstances. They set out that outdoor and public indoor gatherings that are made up of more than six people from more than two households are restricted, with the exception of some limited circumstances. The regulations provide some greater freedoms for those who are under 12 and those who are aged 12 to 17, by setting out circumstances in which the two-household, six-person limit does not apply.

As set out in the updated route map, there are some changes in phase 3 for which the date that they will come into force has not yet been confirmed. Indeed, although the next review date has been set at 15 October, the First Minister will make a statement later today to the Parliament that will give the current position, including information about actions concerning the deteriorating situation.

Finally, I turn to the issue of scrutiny, which I know that committee members will wish to raise and which members raised with me yesterday in the chamber when I made my statement on coronavirus legislation. Members have raised genuine concerns about the current process in Parliament for considering emergency regulations. As I said yesterday, I have written to the Presiding Officer, party leaders and the Conveners Group to ask for nominees to attend a meeting, which I hope will take place this week, so that we can work in collaboration and develop options for enhanced scrutiny arrangements.

However, we must recognise that we are dealing with a public health emergency. We must have the ability to act without delay when the clinical advice indicates that urgent interventions are required. The Government has made every effort to be accountable to Parliament on coronavirus matters, and I will take forward the work to improve that accountability as quickly as I can, in order to find what I hope will be a mutually agreeable solution.

I hope that that has been helpful. I am lucky to have with me Jason Leitch, Rebecca Whyte and Luke McBratney, who can answer your questions in more detail. I can answer questions on certain aspects of the present situation and I am sure that we will all do our best to address your questions. As usual, if we cannot answer them, we will find a way to provide that information to you as speedily as we can.

The Convener: Thank you, cabinet secretary. I will ask the first questions. You are aware—*[Inaudible.]*—possibility last week of the Scottish Government introducing restrictions in the form of a circuit breaker over the October break and you referred to the First Minister's statement this afternoon, when further details will be given. Do you accept that there has been a degree of uncertainty about when, whether, and in what form that circuit breaker would go ahead? Do you accept that the public, in order to buy into and consent to—*[Inaudible.]*—need clarity over any new restrictions?

Michael Russell: I am sorry—your sound was breaking up, but I think that I got the question.

To be fair, I addressed that yesterday when I gave a statement on legislation, but I am happy to do so again. In my answer to Anas Sarwar yesterday, I indicated that there was probably a thin line between speculation and discussion, and I suspect that you and I would agree on that. It is inevitable that there will be questions about what actions need to be taken, given the deteriorating situation that I referred to earlier. It is absolutely essential that there is that discussion.

As leaders—we are all leaders in our communities as elected members of the Parliament—we have to be careful that we do not stray too far into speculation and that we accept our role of trying to create the right atmosphere so that everyone can comply with the necessary regulations. I do not believe for a moment that any of the regulations are in any sense superficial or unnecessary—they are essential.

We have shown more than a willingness to discuss the regulations openly. There is room for ever more information to be given to support the difficult decisions that are being made by the First Minister, the health secretary, her advisers and the

Cabinet. However, at the end of the day, it will be up to the Parliament to decide whether to do that.

I know that as a responsible person and the convener of the committee, you will recognise that we all have a responsibility to explain what is happening and to be careful with what we say.

The Convener: Apologies for the sound breaking up.

I will direct the next question on the subject of a circuit breaker to Professor Leitch. Last week, you said that—I accept that you were talking about a more extreme circuit breaker such as a stay-at-home order—the international template for that is when the R number is just over 1 and that it would be a two to three-week endeavour. It would appear from what was said earlier that the Scottish Government is no longer considering a stay-at-home order, but that is obviously still a possibility.

I will explore two matters arising from that. First, at what point does the R number need to reach in order for a circuit breaker to be effected? Secondly, what is the optimum timeframe for stricter measures such as a circuit breaker if you want to make any significant and worthwhile impact on virus numbers?

Professor Jason Leitch (Scottish Government): Thank you for asking me to come back to support Mr Russell. Unfortunately, I have to start by saying that I know only some of the answers to your questions. The unfortunate aspect about the virus is that it is young and we learn every week, as we have discussed in the committee before.

The modelling from the scientific advisory group for emergencies—SAGE—that informs all four country responses, and the modelling from other places, such as the European Centre for Disease Prevention and Control, the American Centers for Disease Control and Prevention and the World Health Organization, suggest that we should endeavour to do two things. First, we need to get the prevalence down—that is, we need to get the raw numbers back down from 800 cases a day as fast as possible. Secondly, we need to reduce the transmission rate—the risk of people giving the virus to others—which is a slightly different thing. We need to do those two things simultaneously.

Unfortunately, we can do that only through human behaviour and through testing and tracing around the world. The modellers consider whether we would have to do something for 12 months, two months or two weeks and what we would get from that, depending on the timescale and the nature of the restrictions. It is impossible for that to be an exact science. However, the modellers have helped us to get to where we are. They helped us to produce the numbers in the summer, so we know that the lockdowns in Portugal, New Zealand

and Scotland brought down the numbers dramatically. However, there then comes a moment when we have to reopen, so we now have to play a balanced game. Some of you perhaps heard Chris Whitty say out loud a few weeks ago at a press conference that we had reached the edge of what we could open without the prevalence rising. It turns out that he was correct. Last week, the numbers across the whole of Europe were 350,000, with increased deaths and hospitalisations. Unfortunately, Scotland is not exempt from that.

Now we have a real challenge in what we do next. Do we have national restrictions for a long period? Do we have regional restrictions for a long period? Do we have a mixture of all of them? Do we have a national restriction for a short, sharp period to get the prevalence down again and then slowly reopen? All the advice from Gregor Smith, the interim chief medical officer, Fiona McQueen, the chief nursing officer, and me feeds into the economic and social advice for Mr Russell, his Cabinet colleagues and the First Minister to decide on.

The circuit-breaker concept has become, probably unnecessarily, a bit iconic. That is partly because we were asked about it a lot and we had to respond to the questions. The fundamental science says that, if we impose more severe restrictions for a shorter period, we might be able to come out of them a bit quicker—that is the basic principle. If we can, with support and other means of dealing with the economic difficulties, reduce the prevalence quickly with a short, sharp period of restriction—the virus works in two to three-week chunks, so that restriction might work—we can come out the other end and slowly open up again. That is the scientific principle.

The Convener: That is helpful. My final question is about a written submission that the committee received from Mr John Hunter, who is concerned about the new restrictions introduced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020, which would prevent people from having visitors in their homes. He is particularly concerned that he is not permitted to see his four adult children in his own home, which he considers to be a basic human right. When the Government was developing the restrictions on private dwellings, did it consider creating an exception that would allow people such as Mr Hunter to be visited in their homes by their nearest relatives?

Michael Russell: I will ask Jason Leitch to say a word or two about the science and evidence behind mixing in households, but all options are on the table every time that these matters are discussed—they have to be. However, you

illustrate a point, convener. I am by no means a mathematical genius, but if Mr Hunter's four adult children all have their own households, it occurs to me that the possibility of spread is multiplied by four; an even larger family would get into that situation, too.

When I previously attended the committee, I addressed that issue in response to—I think—Willie Coffey, who asked about a constituent of his who was an old lady with two friends who did not see why they could not sit and have coffee in one of their houses. However, there is an increased danger from such mixing. Jason Leitch can give us the details of the science behind it, but it is a plain fact that the more people and households that are involved in such meetings, the greater the risk will be. I accept that that is extremely hard for people. Every constituency MSP at this meeting will have had cases brought to them that are even more heart-rending and difficult to deal with. However, there are facts involved about which we have to be honest. One of them is that the dangers increase each time that an additional household is added to the mix. Jason Leitch will perhaps underpin that more general remark with some scientific fact.

09:45

Professor Leitch: Before I do the scientific fact, I will add some emotion. I do not think that it is an exaggeration to say that, among a series of impossible pieces of advice, the two pieces of advice that I have found most difficult to give are on the restrictions on visiting in care homes and on people visiting each other's houses. It is unprecedented for public health advisers to tell decision makers in a country that people cannot visit their mum or children or, in Mr Hunter's case, that he cannot have his four adult children round. I have enormous sympathy with Mr Hunter. People in my family do not write letters to me, but they have outlined that exact scenario to me. It is not an abstract concept; it affects your family, Mr Russell's family and Mr Hunter's family. However, the reality is that, every time two separate households come together, there is risk. If the meeting place is outdoors or well ventilated and the people are socially distanced, the risk can be reduced, but it cannot be eliminated.

We see household clusters where people are indoors in environments that are warm or poorly ventilated and when they perhaps drop their guard a little and come too close together. The situation is horrible, but let us be clear: the fault is with the virus, not with the instruction and the advice. The virus causes us to need the restrictions. I want them removed as fast as they can be, but the current numbers do not allow the advice to change. Household mixing is the principal risk. I feel nothing but misery for Mr Hunter's position. I

want those restrictions removed as fast as we possibly can, as does Mr Russell.

Michael Russell: I will make an additional point. We have recognised some of those difficulties by introducing the concept of extended families. That has been helpful to some people, particularly those who live on their own, so it is an important element in the guidance.

Everything is being done to take us to the edge of what is possible. Last week, the Cabinet Secretary for Health and Sport indicated that she has been continuing to talk to people whose relatives are in care homes and to the care homes about how visiting can change and develop. The situation is not static. Everybody is trying to do as much as they can. However, as Jason Leitch indicated, the virus is not static, either, and it is the virus that we must defeat.

The Convener: Thank you for those answers, but, on that last point, I think that Mr Hunter's response would be that extended households can be formed only with one child, so that does not help his circumstances.

Monica Lennon (Central Scotland) (Lab): The regulations that we are taking evidence on today will restrict visiting other people's homes—with some exceptions—and introduce a 10 pm curfew on hospitality. The cabinet secretary has advised that we are in a deteriorating situation. I want to go back a little. What modelling was done that led to the regulations? What have ministers been advised with regard to the possible outcomes? Last week, Professor Leitch explained to us that, when modelling is done on possible interruptive actions, such as circuit breakers, it can tell us how much time we might be able to buy—that is, the number of days of lower risk that we might get. What do we hope to get from the restrictions on household interaction and the hospitality curfew? Have the previous restrictions fallen short in that regard?

Michael Russell: Professor Leitch indicated that when he gave evidence last week, so it might be helpful if he rehearses where we were. The situation is inexact, of course. The virus moves as fast as—and, some might argue, faster than—decision making. In those circumstances, we have to react to where we are. To use a golfing analogy, we have to play the ball where it lies; it now lies where it does and we have to make sure that we are equal to that.

I ask Jason Leitch to reiterate what he said last week, because it was an important contribution.

Professor Leitch: [*Inaudible.*—it again is inexact. My answer will be unsatisfactory—it will be to anybody else. The modelling is exactly that—modelling. It is now based on more real numbers

than it was in March and April, of course, because we have more numbers. We now know much more about the virus internationally and locally in Scotland. We know where it spreads and where it likes to spread but we cannot eliminate that completely.

We also know a lot more about compliance and about how people behave when we use television adverts or, when we have to, at one extreme, use the police. It is much more likely that we will use powers of persuasion and communication. However, compliance is not 100 per cent; there is no question about that. No country has 100 per cent compliance.

We are hopeful that the restrictions that this committee is considering today will bring down the R number and the prevalence, but the reality—whether I like it or not—is that the numbers are continuing to rise. The national incident management team has looked at the west of Scotland numbers. We need to remember that neither the Lanarkshire restrictions nor the national restrictions have been in for that long—two weeks or so—and the virus has an incubation period of seven to 14 days, so we are only in one incubation period and that would not show the numbers suddenly turning a corner. Furthermore, in the middle of that period, we had the halls of residence outbreaks, and considerable work has gone on in higher and further education.

The acceleration has slowed in the west of Scotland, but the numbers are still high. As public health advisers, we get worried when we see the numbers at 700, 800, or 850. That concerns us, and that is why the advice to the First Minister and the Cabinet is that we should do something extra, which we will hear about later today.

Monica Lennon: Do we have any idea how effective the restrictions on household visiting and the 10 pm curfew have been? Perhaps you could also say a bit more about compliance. No one would expect it to be 100 per cent, but what do we know about compliance? Will you say a bit more about human behaviour and whether the public is meeting the Government's expectations at present?

Michael Russell: The compliance issue is an important one. The police continue to argue that the four Es approach—engage, explain, encourage, enforce—is the most effective approach that we could have. We have the figures—I am just trying to secure them; I know that I have them somewhere in my papers, but, of course, there is a great deal of material. We know from those basic figures that the incidence at which penalty notices are issued is comparatively small compared with the amount of engagement that the police have had and how they can persuade people to react by using that approach.

The regulations also include actions that can be taken by the police when there are larger gatherings of more than 15 people and house parties. The regulations have been important when intervening in those circumstances.

The evidence also shows—it needs to be, and I am sure that it will be, made available—that the transmission is, as Jason Leitch has said, in households; he can no doubt talk about that, too. That is the area of the greatest danger, but there is transmission in hospitality and licensed premises as well. There is a risk wherever people gather together; where there is ventilation that may not be quite as effective as it is elsewhere; where windows are not open or there is not that type of ventilation; and where the disinhibiting effect of alcohol means that people might move closer to each other than they would otherwise do. That creates difficulties, as the figures show.

There are other circumstances but they present a less severe risk. You know the restrictions that exist on international travel—on people coming in. That was a stronger element a month to six weeks ago, but it is still an element.

All those things come together and there is then a judgment—these are all judgments—about how to deal with them, the places where there is maximum risk and how you move on. That is what is being considered.

At the end of the day, if people will not accept the regulations and the guidance that they get, there has to be an ability to enforce the regulations. Enforcement takes place, albeit with the greatest reluctance. The figures on that are published every week, but I am happy to ensure that Monica Lennon has the latest ones. I do not know whether Jason Leitch wants to add anything.

Professor Leitch: In answer to Monica Lennon's final question, I should say that the Scottish public has, in general, exceeded my expectations. The confidence in the messaging and the ability to repeat the messaging back in the polling, the success of the FACTS campaign and people's ability to understand the nature of the virus have all exceeded my expectations. From looking at our polling in comparison with the international numbers, it is clear that the messaging, and people's understanding of it, has gone very well.

The World Health Organization says that we must do six things to come out of the pandemic. Some of those things are about prevalence and test and protect, but one is that we have to take the population with us. There is no point in regulating if it is not done by consent—regulating without consent will not work.

That does not mean that there are not 300-people house parties that the police should have

the powers to break up—I completely support that; it is on the edge of what we are doing. However, the vast majority of enforcement is about bringing people with us and explaining to them not just what they must do, but why they must do it. I and many others have spent the past nine months trying to do that every single day. When that message is undermined in whatever way, it makes our job slightly more difficult.

It is quite difficult to give a number for compliance, as it varies depending on what the instruction is, but the polling says that most people follow the rules. We introduced the wearing of face coverings, and people have done that. They now—in the main; compliance is not 100 per cent—wear masks on public transport and in shops.

We have had some challenges. Some of the United Kingdom-wide polling said that people were not quarantining when they came from overseas, although there were no exact numbers. When we phoned and emailed people, we found that they were, in the main, being compliant, but we cannot know that for sure.

The number of cases coming from international travel has reduced significantly, partly as a result of the school holidays being over, but we have to continue with compliance. My instinct on compliance is that most of it should be sector driven rather than police driven. Hospitality should drive most of that compliance—it should have the Covid officers and speak to the staff, who should speak to the customers about how to keep an area safe. That is much more likely to work than if we send police into hospitality settings.

Michael Russell: I have the figures, which will perhaps save Monica Lennon from looking at yet another email from me. The information is from Police Scotland's website. From 27 March to 30 September—that is the full period—56,991 people were dispersed when informed to do so; those are people who perhaps just did not realise. In addition, 14,476 people dispersed when instructed to do so; 192 were dispersed using reasonable force; 3,602 were issued with a fixed penalty notice; and 333 were arrested.

Iain Livingstone, the chief constable, said:

“the great majority of people are taking personal responsibility to do the right thing”.

He went on—speaking specifically about house parties, although this applies more widely—to say:

“there can be no excuse for arranging, attending, or hosting a house party.

It is against the law.

Where officers encounter blatant, wilful, or persistent breaches, we will take decisive action to enforce the law.”

Jason Leitch is right that enforcement is about self-policing and self-regulation and is sector driven, but, in the end, there are penalties for breaches of law, and that is how it should be.

Monica Lennon: Thank you—in the interests of time, I will leave my questions there for now.

The Convener: We turn next to Annabelle Ewing.

Annabelle Ewing (Cowdenbeath) (SNP): Good morning, colleagues and panel. I have two questions—I will say what they are and then both witnesses can decide who is best placed to respond. My first question is about the household restrictions, specifically the impact on mental health and wellbeing. Prior to the introduction of the restrictions, what assessment was made of the likely impacts? Further to their introduction, what on-going assessment is being made? I appreciate that it is not an exact science, but it will be interesting to hear about that.

Secondly, what will progress and success look like? I was interested to hear Professor Linda Bauld on the “Call Kaye” programme yesterday. I was making a cup of tea at the time, but I think that she referred to the approach of Germany, where specific targets are set and people know whether they have met them, what will happen next if they have, and what will not happen next if they have not. Has the Scottish Government considered that that might be a way to continue to have this crucial dialogue with the people of this country to ensure buy-in and compliance?

10:00

In that regard, it just occurs that the outdoor restriction to six people from two households from my memory was introduced at the same time as it was introduced for indoor mixing because it was felt, *inter alia*, that it would be easier messaging. However, because we have now taken away the possibility of six people meeting indoors, why do we still have the six and two outdoor restriction? Even though the weather is going to be awful, where there is a will there is a way, and it might be helpful if folk think that they can meet a few more people outdoors. Perhaps the cabinet secretary could start with that.

Michael Russell: I will start on those and then asked Jason Leitch to come in and fill in the detail of the evidence.

There is no doubt that the decisions are about the balance of harms and risks—societal harm, individual harm, economic harm and health harm. We are all well aware of the mental health harm, but the ultimate harm is that people die of Covid, and that is a harm from which there can be no recovery.

For every other harm, we need to decide whether mitigating circumstances or actions can be taken. It is all about the balance of harms and, at the moment of decision on this, we are very aware what the balance of harms is. The Cabinet met yesterday, and this morning, and that is an issue that is never far from any of our minds, and I know that it is not far at all from the minds of the First Minister and the health secretary. These are important issues.

Success will look like us getting ourselves through and beyond this into some new normal. Whether that is dependent on there being a vaccine is a major issue, but success means getting there with the minimum damage to our fellow citizens in each of those areas of harm. Unfortunately, and massively regrettably, there will be harm in each of those areas. How can we minimise those harms, and how can we get ourselves through these circumstances, which are unique in our experience? No Scottish Government, and no Government in living memory, has had to face these circumstances in this difficult way, and balancing those harms is the real issue.

On the member’s point about the outdoor restrictions, I have heard the argument. Again, it is about minimising harm, reducing numbers and making sure that outdoors, which is a safer environment than indoors, means more flexibility and ability. Jason Leitch might wish to say more about that.

Professor Leitch: There is a great deal in those two questions, Ms Ewing, and they are excellent questions. Let me reassure you first that mental health issues are never far from consideration. Ms Haughey, the Minister for Mental Health, is often in these conversations. We have a senior medical officer whose only job is to bring us the mental health data and the mental health considerations of these decisions. They are not someone that you would know in the media, but they are involved in a lot of the decision making. We have the same for each of the medical specialties and other healthcare specialties that you would expect.

One of the reasons for the exemptions to the indoor rule for informal childcare, non-cohabiting couples, extended households for single people, and those who just live with children is exactly what you have described. Other countries have allowed more extended bubbles and we have looked at that a couple of times in our modelling. That is not a ridiculous idea, but now is not the right time to do it. If we get to a point where our prevalence is very low, it might be something that we can think about, but we have thought about it a couple of times previously and we have rejected the idea for risk reasons and not for any other reasons.

Your question about success is an excellent one. As Mr Russell said, science will get us out of this and to final success. Crowds will come back to stadia, we will be back out in restaurants and the pubs will be full. I have absolutely no doubt that that will come, so there is hope, but I do not know when it will be. The most likely scenario for that to begin is in the spring and into the summer of 2021, but I do not know that for sure.

On medium-term success and what we might do on levels, you described the approach in Germany, and the Republic of Ireland has just introduced something similar. We are in consultation across the UK on that. The First Minister, the Cabinet Secretary for Health and Sport and the advisers are talking to the other countries about a levels-based system.

Such a system has attractions. It is clear and understandable, and it is easy to communicate. However, there are disadvantages because, unfortunately, the virus does not work in factors of 50 or 20, so it might have to be nuanced, but we quite like the idea of the clear communication in a levels system. However, I have to tell you that, today, we would be breaking through most of those levels. You will have heard us talk about 20 cases per 100,000 when we restricted people coming from Greece or France, but most of our local authorities are now over 50 cases per 100,000. The levels approach works only if the numbers are quite low, and they are not—we have quite high numbers.

As we come out of restrictions again and we think about moving back to a route map that is easing rather than imposing restrictions, a levels system might well be one of the things that we think about, even across the UK.

Annabelle Ewing: I thank Professor Leitch and the cabinet secretary for their answers, which were interesting and gave food for thought.

I realise that colleagues have more questions, but I want to make two quick points. One is on the important issue of mental health. We know that the issue is factored in at all times, but it would be good to see more information about that, so that the people of Scotland are aware that it is absolutely being considered every day. That would be helpful.

Secondly, I make a plea. When we get to the stage at which we can see a bit of wriggle room—I am an optimist in life, so I hope that that will happen soon—can we please consider seriously the idea of allowing multiple households, or at least more than one, to form extended households? That is a key measure that would make such a difference in people's lives.

Shona Robison (Dundee City East) (SNP): I want to go back to the theme of public consent,

which Monica Lennon touched on. The First Minister has said that we are entering a tricky period in maintaining public support. I guess that there is a sense of weariness. How do we do that? Obviously, it is not just the Government's role to do that; we all have a part in it.

Is there any evidence that the public's understanding has been affected in any way because of the local variations? We went from having a single consistent message to having different local measures. Is that impacting on the public's understanding, and are you testing that?

On Monica Lennon's point about compliance, in the early days of the pandemic, we were given a percentage figure for compliance that would be needed for measures to be effective. Does the Scottish Government still work to a percentage compliance figure? Is there a figure for how many people need to adhere to enough of the measures to ensure that they are as effective as you need them to be?

Michael Russell: I will address the first half of that directly. Clearly, all of us are weary. It would be foolish for any of us to say that we wake up every morning fired with new enthusiasm to talk about regulations or restrictions. All of us are weary of the process, but that does not make it any less necessary that we take it forward, and that is what we should focus on.

The role of each one of us—I go back to this point—as community leaders who have the privilege of representing other people, is to ensure that there is a clear understanding of the imperatives here. Politics works its way into everything, but all of us, as representatives, know that people want to hear the truth and they want to see people working together to try to solve the issues arising from what is the most extraordinarily difficult, complex, problematic and distressing period that we have ever been through.

I have answered the question by putting it back to the committee. The role of all of us—and, perhaps, the members of this committee most of all—is to ensure that people understand why the rules are in place. We must also, of course, interrogate whether the rules are necessary and ensure that those who make the decisions are fully accountable and are able to argue for the rules. However, once that is done, we must ensure that those rules are understood and complied with, and we must persuade people to do so. We must also support the police and others in relation to the four Es strategy—engage, explain, encourage and enforce. We must ensure that people can be persuaded and enlightened—to use an “E” that we have not used yet—about the purpose of the rules.

I very much support the publication of more information that can help to explain to people how

necessary the rules are, which is a point that was raised yesterday by Monica Lennon and others in the chamber.

Jason Leitch is best placed to answer the second part of your question.

Professor Leitch: I agree completely with Mr Russell about the need for clear messaging. Frankly, 23 March was easier for the public health advisers than 7 October. It is much easier to tell the country to stay at home—the messaging is clearer, even though the actual message is much harder to hear. However, behavioural scientists tell us that, as the message gets more complex and nuanced, we should use every mechanism available to us and we should repeat those messages every day. That is why, whether you like it or not, you hear Gregor Smith and me repeating those messages on phone-in shows on the radio and on television.

It is the job of all of us—parliamentarians, including those in the Cabinet, and a select group of public health advisers—to be part of the public voice in this regard. That is why I and a couple of others have put our heads above the parapet. Occasionally, our heads are shot off, but we need to try to get that message across to the public as best we can. Our polling suggests that the balance between the messaging in the First Minister's briefings, the messaging that is handled by others and the public health messaging in general is working as well as it could possibly work. However, the challenge now is that the current message is much more complex. Further, we have been at it for nine months—I am fed up, and so is everyone else. That makes it really difficult to get compliance.

That brings me to your second question. We do not have a single number. It was slightly easier when the message was simply that people should stay at home because, at that point, we could count the number of people on public transport and the number of people who were literally at home and were only leaving the house to go to the supermarket once a week or to exercise once a day. Now, because some workplaces are back, some sport is back and some stuff for kids is back, the ways of counting become much more difficult. Therefore, we have to be cleverer about compliance when it comes to polling data, house parties, how many pubs are managing to keep to the regulations and distancing and the other aspects that we discussed earlier.

Shona Robison: I have a further question for Jason Leitch. You will be aware of some of the media reporting over recent days—particularly in the UK media today—about the idea of a split in the medical and scientific community about the best way to deal with the virus. I want to give Jason Leitch an opportunity to tell us whether the

overwhelming consensus among the medical and scientific community is still that we require an interventionist approach in order to contain the virus. It concerns me that there could be a perception given to the public that, somehow, people in the scientific and medical community are in disagreement about the way forward.

10:15

Professor Leitch: The headline answer is that the mainstream scientific advice from around the world says that this virus remains a major threat to global public health and individual lives. You will find the same message from the WHO, the European Centre for Disease Prevention and Control, the Governments of Europe and the Governments of south-east Asia. Not one country has veered much from it.

There are nuances—Sweden is often quoted to me. I said to the chief executive of Swedish healthcare, “People are telling me that you didn't lock down.” He said, “No, we locked down. It is just that we have a very compliant population and we did not have to put it in law.” Every country in the world is doing the same thing.

What is happening of course is that scientific disagreement is playing out in the public eye because it is a global pandemic. We have always had clinical and scientific disagreement in my world of head and neck surgery, but it happens on the pages of journals that nobody ever reads except us. This disagreement is playing out from the *BMJ* to the “Today” programme and “Good Morning Scotland”. That is okay, as long as there is balance in the reporting and the messaging, and the mainstream public health message is heard.

I have no difficulty in being held to account for my advice, but we need to be careful. Some of the more extreme versions—“Let this virus fly,” “Face coverings don't work,” and, “Distancing is nonsense”—need to be controlled and other, strong voices are needed to ensure that those messages are not heard by too many people.

That does not mean that disagreements between public health professionals about exactly what restrictions we should have, or about their timing, should not happen—they are healthy in the scientific community—but it is then difficult when one wants to tell 5.5 million people to do something. That is why I am keen for Mr Russell and me to get as much data and evidence as we can so that parliamentarians and citizens understand why we are making these choices.

Mark Ruskell (Mid Scotland and Fife) (Green): You have written to the committee and identified the route map changes, which are under constant review at the moment. I am looking at the list, and one of them is on indoor contact sports for

people who are aged 12 years and over. Obviously, there is a range of circumstances that can change, but one that is foreseeable is the weather—a look out the window tells us that it is already changing.

The Education Scotland guidance that was issued this week reinforces that ban on all indoor contact sports for over-12s but also extends it to under-12s. We are in the term running up to Christmas when teachers are under pressure, and primary school children will be unable to do contact sport outdoors because of the weather, or indoors because of the current guidance. Do you foresee that that will create problems?

Michael Russell: I will make two points. One is that the weather is a substantial, but not complete, disincentive in Scotland for outdoor activity during the winter, although I accept that it is not nearly as desirable as in other times of the year.

The second point is that the education secretary will have advice that is germane to the issue and it would be more helpful if I were to ask him to get in touch with you about it. The situation will create difficulties and he is the person who should respond to you on the matter. However, I caution against the view that outdoor sport during the winter will be impossible.

Mark Ruskell: Some primary schools do not even have outdoor facilities, so they are already at a disadvantage.

Michael Russell: That is not strictly true. There is a legal requirement for a certain amount of outdoor space for primary schools—as a former education secretary, I happen to know that. I accept that it might be constrained and difficult, but there should be at least some outdoor space for every primary school.

Professor Leitch: I will add two things. We should write to you because, if I am honest, I cannot keep up with all the regulation and advice; there is simply too much of it to keep on top of every day. We should write to you with the detail of what you have asked about—if you give us the question, we will get back to you.

My principal advice is that children and outdoors are safer, but indoor contact sport for kids has been allowed. We think that, in the round, that is as safe to do as some other things. Like you, I am very keen to allow that to happen for the sake of physical activity, mental wellbeing and all the other things that we know about.

Outdoor contact sport is allowed for all ages at this point. That was a big step, particularly for adults, because it is a risky area—there is no question about that. That is one of the exemptions that we have given in relation to contact sport.

Let us look at your specific question about under-12s.

Mark Ruskell: That would be very welcome. The guidance was issued this week—on 5 October, I think—and it is being interpreted by primary schools as meaning that they cannot do indoor contact sports.

I move on to the 10 pm curfew, which is in the regulations. How are we monitoring its effectiveness? I used to sit on a licensing board, and there was always a concern about having an early closing time because, at chucking-out time, a surge of people can move through licensed premises to the exit and congregate at taxi ranks, kebab shops and so on. That causes an issue in relation to duties that need to be considered on alcohol licensing.

However, what are the knock-on effects of an early closing time on the spread of Covid? People could go on to house parties after 10 pm. How are we monitoring the situation? Is there a role for licensing standards officers or the police? Should it be up to the licensing trade to say that the early closing time is working fine or that it is having trouble enforcing social distancing because a huge number of people are leaving at 10 o'clock?

Michael Russell: The only counter to the argument regarding what happens at 10 o'clock is having no closing hours at all, because the same would hold true at 11 o'clock and 9 o'clock. At any time, there are issues with people exiting premises and congregating together when premises are closed.

As Jason Leitch said, the first and best monitoring and support come from the sector and trade. The sector and trade want their customers to be healthy and to continue to be available as customers, so they will want to make sure that the regulations work. That means ensuring that all the steps that they can take to enforce social distancing and regulate their premises are taken.

As legislators, we are discussing regulations, and there is a legal imperative that they be enforced—licensing boards and the police have a role in that. In addition, there are regulations on social distancing that need to be observed. It is also up to individuals. We perhaps do not stress enough that the regulations are for individual safety. Nobody wishes to be infected by the virus, given the consequences that exist, even for younger people, as we know. In the circumstances, individuals who are in public houses at closing time need to ensure that they keep themselves safe. We have also increased the requirement for people to wear face coverings when they are moving about premises and are not at a table and not consuming alcohol, other drinks or food. That is important, too.

The circle of monitoring and observance starts with the individual and then spreads out. There are lots of rings in that circle, but the best ring is the central one. It is up to individuals to keep themselves safe, and the regulations and guidance are provided for that purpose.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I have a couple of questions for the cabinet secretary and one for Professor Leitch. Those who are shielding have withdrawn from pretty much all aspects of society for eight months or so—with some relaxation of the rules. Do you see any new advice being given to our shielding group, given that the numbers have been rising rapidly over the past few weeks?

Michael Russell: It is our intention to ensure not only that are people safe, but that they can do as much as possible. That was the reason for the differentiation between those who are shielding and the general population. We have tried to ensure that as much participation as possible can take place. Jason Leitch can probably address that from a medical standpoint, because how we help and protect people when the situation is deteriorating is a medical issue. The best thing to do is to stop the situation deteriorating as rapidly as we can.

Professor Leitch: Shielding was a very blunt tool and we always knew that—just as lockdown was a blunt tool when we understood very little about the virus. We now understand a lot more about risk and we know which patients suffer most from the virus. That list has changed quite significantly since March. For example, we now know that obesity is a major problem in relation to the virus. We also know that heart failure and diabetes are more risky than we thought that they would be for a respiratory virus. Respiratory disease is a risk. Unfortunately, the principal risk factor, as shown on any graph, is still age. There is nothing that we can do about some of those risk factors, although we can take action on those for which we have personal responsibility—we cannot do anything about our age, but we can reduce our weight or control our diabetes, for example. That means that the information and advice for the at-risk group should change over time.

I do not support a return to full shielding and nor does Gregor Smith. We do not think that we should do that again, because the social costs of shielding are too high. However, we think that the at-risk group should have as much information as we can give them in order for them to adjust their behaviour and for their families to adjust their behaviour. This week, Public Health Scotland changed its dashboard so that it is now much more local, which means that people can look below postcode level, perhaps to 4,000 addresses, and see the numbers. Colleagues in

an Ayrshire town can now look at their specific risk of going to the supermarket or going to meet someone outdoors and can make individual choices about family and friends, depending on that information. That is one element.

The other place that is crucial for the at-risk group is the workplace. One innovation is that an individual risk assessment can now be done online by an occupational health department, a human resources department or an employee. It will not produce a score out of 10—it is not as exact as that—but it will give people and their employers some understanding of their risk. The unions have been helpful in distributing that for use in factories and offices. That is important because it is about individuals taking responsibility for their individual risk.

Willie Coffey: That is very helpful. Thank you both for answering that question.

My second question is about the increase in case numbers that we have been seeing over the past week or so. Has any analysis been done of how the virus is being transmitted, or will we have to wait until later on today to hear more about that? The public are asking me where and how the numbers are rising.

Michael Russell: That information should be available before the end of the day. I am not sure how much Jason Leitch feels that he can say on that until the information is published.

10:30

Willie Coffey: Okay—I am happy to wait for that. Can you tell us anything about that at the moment, Jason?

Professor Leitch: I would simply tell you that it is not an exact science, unfortunately. Test and protect interviews every positive case so, although we do not have causation, we have association. We know where people have been—in the Greek islands, for example, or in Manchester or Aberdeen, and we know whether they have been in a pub, a restaurant or a family home. If, for instance, someone has been in Greece, and then went to a pub on the way home and then went to see their mum, we cannot tell exactly where the virus came from. We can sometimes do that with genomic or genetic studies, but that takes a long time. However, we know that the virus spreads in poorly ventilated places among close-together crowds. It does not take that much of a public health degree to work out where that might happen.

We know that approximately 40 per cent of positive cases report social interaction, and we know that a reducing number—now going into the low single digits—report international travel. That

allows us to decide where we should restrict and what advice we should give to those who make the decisions about the restrictions.

We hope to publish more evidence on that today, and that will address the type of question that we are most commonly asked, which is, "Why can I do this, but not that?"

Willie Coffey: That was very helpful—thank you both.

This last question is on one of my favourite subjects: football. Professor Leitch, you have mentioned stadia, and you mentioned Germany. Where are we when it comes to the virus in Germany, compared with Scotland? We note—and constituents tell me—that the Germans have managed to reopen some of their football stadiums and admit supporters in limited numbers. Could you give us a wee indication of where you think we are compared with the German situation? How far off might we be from allowing more supporters to come back into the grounds to watch their football club?

Professor Leitch: This issue has been prominent, as you know. Football supporters always choose the example of Germany; they never choose Spain, where the stadia are shut and the numbers are rising, and they never choose England, which has gone backwards, with even the pilot events having closed. Depending on which argument you wish to make, you can choose your appropriate country. I can do that too, of course—I plead guilty to doing that sometimes.

Germany is doing relatively well, but the situation there is fragile. Partly because of the size of the country, the Germans have taken a much more regional approach than we have, although those regions are each about the size of our country. I think that they have 12, 13 or 14 regions and, the last time I looked, seven of them had open stadia with very restricted numbers, and five or six of them had no stadia open. The Germans are allowing slightly more devolved responsibility for that decision making. I do not think that that is a stupid idea; it is a good idea. As we did with our pilot stadia, with local travel only and with no away fans, the arrangements in Germany include all the things that we would expect, keeping away the at-risk people we have just described. That is where we were headed.

We have good relationships with the Scottish Professional Football League—Mr FitzPatrick had another meeting with the SPFL yesterday, which was principally about financial support. The question of getting the crowds back is always in the background, particularly for the smaller, lower-league clubs, which really rely on what are relatively small crowds to achieve financial sustainability; we are very mindful of that. Just

now, because of the prevalence of the virus, we do not think that it is safe to do that. When it is safe, I will be a big advocate of that; there are a number of other advocates for that, in Cabinet and among public health advisers, who fight that good fight—I promise you that.

Willie Coffey: Thank you both very much.

Maurice Corry (West Scotland) (Con): Good morning, everybody. I wish to touch on the matter of visiting older people who are on their own and who have no access to outside space in their accommodation. What steps can be taken to alleviate their situation? We are dealing with people who may have underlying health problems, and that is obviously a concern. We are putting people in that situation at a severe disadvantage, particularly in relation to their state of mental health. Perhaps Jason Leitch can comment on that.

Professor Leitch: That takes me back to my point about emotion, Mr Corry. You are right that that is probably the toughest group to take decisions about; those are the toughest pieces of advice that we have had to give. It is not only for care homes: we should remember that more older people receive care at home than in care homes. The challenge is that that is exactly the group who are most at risk from this particular virus.

There is a horrible balance to be sought between risk from the virus and risk from loneliness. I have friends and family members in exactly that position, as I am sure that Mr Corry and others on the committee have, too. Those individuals are allowed to have an extended household, which does not have to be a family member; it can be anybody. People are restricted to just that extended household, but that is allowed to be with friends, not just family. They are also allowed to go to cafes and be distanced. I know that a lot of older people find local cafes to be a huge lifeline. They can meet their pal there or go with their family.

I hope that we will be able to remove the indoor restrictions as fast as we possibly can, because I know that some older people are scared to go out and would much rather receive individual visitors. I am very mindful that, in our impossible list of priorities, the number 1 priority has to be dealing with that elderly cohort and the loneliness that this virus brings. It is horrible.

Maurice Corry: That last point about people being frightened to go out is a big one. It brings me on to a question about flu vaccinations for older people, particularly those who are in the age range that is now entitled to have it.

I am hearing from my constituents about a fear of going out even to get vaccinated and that there is a need for more publicity about the marquees

and so on. As we know, people are having the vaccination in marquees and schools rather than medical centres, for various reasons. There is a fear running around. What are you doing to counteract that and ensure that people go out to have their vaccinations? Again, perhaps Professor Leitch would comment on that.

Professor Leitch: I am hearing the same thing. I will say a couple of things about the challenge, not to excuse it but to underline it. We are trying to vaccinate 2.5 million people—the most we have ever tried to vaccinate—and that cannot all be done on the same Tuesday for the whole population. That is logistically impossible, so it has to be staggered and happen in places where we can deal with more people than previously.

We cannot put all the work on to general practitioners. If we did, that would be all they would do: they would have to stop doing everything else. In some small, rural and local places, the GPs can do the work, and elsewhere we have had to ask primary care environments—the health boards—to think about how to do it. Some are using not football stadia themselves but the conference rooms within the stadia, and some are doing it outdoors.

We need patience. There is not much flu circulating yet. It is 7 October and the flu season is beginning, but we are not in the peak of it. There is time, so people do not have to panic and get the vaccine by Friday, although we do want people to be vaccinated as soon as possible.

I see on social media and in my correspondence that some people are queueing up outside in the cold and wet, and I do not like that any more than they or you do. There have been teething troubles—Fife has been particularly prominent in the media—but we have corrected some of the problems. Fife has stepped up extra people and places.

It is a huge logistical exercise, but it is nothing to the logistical exercise that we will have for a Covid vaccine, which we hope to get in the first half of next year. We are sympathetic to the challenge and we want to hear from people who are struggling with access to the flu vaccine. Parliamentarians are one of the ways by which we can get access to that kind of intelligence.

Maurice Corry: I have a final question about the sales of alcohol in the off-sales sector. By that I mean retail: supermarkets, shops and off-licences. Has any consideration been given to ceasing sales of alcohol at 9 o'clock on evenings when shops are open later than that? If that has been considered, on what basis has the Government taken the decision not to move that time back to 9 o'clock? Will Mr Russell answer that question?

Michael Russell: All options are on the table, and they remain as such because there are actions that the Government might have to take. The time of 10 o'clock was seen as not being unduly restrictive to people's socialisation and access to pubs. Equally, however, it reduced the issue of the night economy, which was associated with some difficulties elsewhere.

We remain alert to other options, and some of those will need to be taken. If I may say this in a way that is not disrespectful to you, Mr Corry, you and I are both old enough to remember 10 o'clock closing when we were much younger, and maybe an element of 10 o'clock closing came back into this. However, I certainly never thought that I would see it again.

We remain flexible on the matter.

Stuart McMillan (Greenock and Inverclyde) (SNP): I have a couple of questions. I want to go back to the question of 10 o'clock licensing. When the regulations were put together, was any consideration given to having two closing times, possibly 9 o'clock and 10 o'clock? When people in pubs and social clubs—where older people tend to go—come out at the same time, it makes it harder for them to get public transport or taxis to get home than if there were two times. Two closing times could allow older people to get their taxi earlier and the taxi trade to get more than one fare because a second group of people would be leaving at 10 o'clock.

Michael Russell: In response to an earlier question from Mark Ruskell, I made it very clear that, whatever time we set, people will be coming on to the streets, and there will be competition on the streets for the services that are available—be them a kebab or a taxi. That is unavoidable.

I will go back to individual responsibility and say that the issue is not about the setting of times for pubs to close. People do not have to stay until the very last minute and then leave; they can demonstrate their freedom of action and responsibility by recognising that and ensuring that they are not in a group, that there is substantial social distancing, that they are wearing a mask and that all the things that are required are observed.

We could talk almost infinitely about whether one solution would be better than another, but the reality is that these are the solutions that have been put in place, and for good reason. To ensure that they have an effect on suppressing the virus, we look to individuals to ensure that they regard them as useful. However, they are not a bible by which they should live their lives. They can leave their social club at half past 8 or 8 o'clock, and they can leave a pub at quarter to 10 or half past 9.

Stuart McMillan: The mention of bibles takes me on to my second question. It regards the increasing number of people being allowed to attend funerals and wakes, which has been warmly welcomed. It also relates to the limit on the number of people attending churches, which is 50. Churches come in all shapes and sizes. Has there been any dialogue regarding potentially increasing the number of people who are allowed to attend a church service, particularly at larger churches and cathedrals?

Michael Russell: There has been and continues to be dialogue with faith groups. That is entirely normal, and I know that there is an argument that a cathedral is different from a small church. There are very small cathedrals—I point to the Cathedral of the Isles—but I take the member's point.

The regulations are easy to understand and implement. If we were to undertake an exercise to grade the capacity of every single church, we would have some difficulty. Nobody wants there to be continued restrictions on congregational worship or anything of that nature. However, given where we are, in what we described as a deteriorating situation, this is not the time to relax existing regulations further.

At the beginning of this meeting, Jason Leitch referred to Professor Whitty's point about being on the edge of what can be relaxed. Look at the figures—we are beyond the edge of what can be relaxed. We have to accept, reluctantly, that where we are is where we are.

10:45

Stuart McMillan: My final question goes back to Willie Coffey's question about football clubs, particularly the smaller clubs. It is not solely about football, but also about rugby and other outdoor sports, although obviously football is very much the national sport. At some smaller football and rugby clubs, a small number of people being allowed to attend—for example, a limit of 10 per cent—would have a positive effect on the club's financial viability. Jason Leitch spoke about keeping up that particular fight, but has there been any form of dialogue about the potential for small numbers?

Michael Russell: As Jason Leitch indicated, Joe FitzPatrick met representatives this week. There needs to be dialogue, but I go back to the basic point that we are where we are at the moment—the figures speak for themselves and the First Minister will be making a statement today.

To go back to another theme, as leaders of communities we have to be very straight with people. They can see the danger that we are in. They see the figures that are being produced on a

daily basis. I am sure that they recognise—and those in leadership positions need to recognise—that to have a conversation now about relaxing restrictions is going in the wrong direction. The figures are certainly going in the wrong direction. In the light of that, to have a discussion now about whether we should relax restrictions is just not feasible.

Stuart McMillan: Thank you.

The Convener: I thank the cabinet secretary and his accompanying officials for their evidence this morning.

Agenda item 2 is consideration of the motions on the subordinate legislation that we took evidence on in agenda item 1. If members are content for the motions to be moved en bloc, I invite the cabinet secretary to move S5M-22704 and S5M-22856.

Motions moved,

That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 (SSI 2020/279) be approved.

That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Amendment Regulations 2020 (SSI 2020/300) be approved.—[*Michael Russell*]

Motions agreed to.

The Convener: The committee will publish a report to the Parliament in the coming days, setting out our decisions on the statutory instruments that have been considered at the meeting.

That concludes our business for the meeting. I extend my thanks to colleagues and the cabinet secretary and officials for attending. I advise that, due to the October recess, the next committee meeting will be scheduled for Wednesday 28 October. The clerks will provide members with further information about that meeting in due course.

Meeting closed at 10:50.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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