OFFICIAL REPORT
AITHISG OIFIGEIL

COVID-19 Committee

Wednesday 28 October 2020

Session 5

The Scottish Parliament
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Wednesday 28 October 2020

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COVID-19 COMMITTEE
19th 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)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mary Fee (West Scotland) (Lab) (Committee Substitute)
Professor Jason Leitch (Scottish Government)
Willie Rennie (North East Fife) (LD) (Committee Substitute)
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 28 October 2020

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Donald Cameron): Good morning and welcome to the 19th meeting of the COVID-19 Committee. We have received apologies from Monica Lennon MSP and Beatrice Wishart MSP, who are attending other parliamentary committees this morning. I welcome to the meeting Mary Fee MSP, who is a substitute for Monica, and Willie Rennie MSP, who is a substitute for Beatrice.

Agenda item 1 is a decision on taking items 3 and 4 in private. Are members content that we take those two items in private? If any member disagrees, they should indicate so in the chat function now. No member has indicated that they disagree, so we are all agreed.

Coronavirus Acts Reports and Subordinate Legislation

Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 (SSI 2020/318)

Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020 (SSI 2020/325)

Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment (No 2) Regulations 2020 (SSI 2020/329)

09:31

The Convener (Donald Cameron): Agenda item 2 covers the Scottish Government's third two-monthly report on the coronavirus acts and second freedom of information report, and subordinate legislation. This morning, we will take evidence from the Cabinet Secretary for the Constitution, Europe and External Affairs on the two-monthly report and the freedom of information report.

We will also consider three Scottish statutory instruments: the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 (SSI 2020/318), the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020 (SSI 2020/325), and the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment (No 2) Regulations 2020 (SSI 2020/329).

The cabinet secretary is accompanied by three supporting officials from the Scottish Government: Jason Leitch, national clinical director; Gerry Hendricks, head of the FOI unit; and Jenny Brough, from the coronavirus legislation co-ordination (reporting) team. I welcome all the witnesses 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 very much, convener. I am grateful for the opportunity to be at the committee yet again to give evidence. I would like to deal with the two items that you have mentioned and one more in my opening statement. The two will be the reports

and the new regulations but, with your permission, I would also like to mention the issue of scrutiny.

I am pleased to be here principally to discuss the Scottish Government's third report on the coronavirus acts. In line with the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No 2) Act 2020, and with our commitment also to report on the provisions of the United Kingdom Coronavirus Act 2020, that report was laid before Parliament and published on 6 October, at which time I made a statement to Parliament.

Our third report covers the third reporting period under the legislation, which ended on 30 September. In addition to fulfilling the reporting requirements that are set out in the Scottish acts, we reported in more detail on the set of 22 provisions that we judged at this time to be of most impact or interest to the Parliament for other reasons. For those provisions, we have sought to provide detail over and above the reporting requirements that are set out in the legislation on the operation of the powers. I pay particular tribute to Jenny Brough for leading that work since its inception.

Our third report also sets out where provisions in the Scottish acts that were deemed to be no longer needed after 30 September have been expired. It also sets out detail on the separate regulations that have been made to suspend provisions relating to vulnerable adults and to muirburn that are not currently required but might be required at a future point.

Finally, we have reported on the total of 49 SSIs whose main purpose related to coronavirus, as required under section 14 of the second Scottish act. That excludes SSIs that were made by the Scottish ministers under the first or second Scottish coronavirus acts or the UK act, as SSIs made under those acts are already being reported on.

I would also be happy to discuss the second freedom of information report, which, as required by paragraph 12 of schedule 4 to the second Scottish coronavirus act, was laid before Parliament on 9 October.

As the committee knows, the Government has been exploring ways to enhance not just the reporting process but parliamentary scrutiny of Covid regulations. The First Minister indicated yesterday that we are very keen to do so, and to take the issue forward so that there is—entirely legitimately—more intense engagement between members of the Parliament and those who are having to make these decisions and bring the regulations forward. We therefore commit to putting in place the following arrangements, with effect from 9 November—a week after the new process comes into place.

If a change is proposed to the levels approach that Parliament approved last night, the Government will advise Parliament of it by way of a plenary statement, probably on a Tuesday, and members will be able to question the Government on the planned change. Draft regulations—I stress that they will be draft—will be published, normally on a Wednesday. If it so chooses, a committee—such as your committee, convener—may wish to take evidence from the Government on the Thursday. Following any committee consideration, the Government will make the regulations to come into force at an early point on Friday, bearing in mind the committee's views.

In exceptional circumstances, when significant regulatory changes are in prospect, the Government will propose to facilitate a plenary session on a Thursday. It is expected that the normal approval process and a plenary vote on the regulations will still happen at a later date. Parliament will therefore be able to offer a view on the regulations both before and after they are made, and will influence the making of those regulations. That adds a significant additional scrutiny dimension to the current arrangements, but it is balanced with the need to move at speed to protect public health or to remove restrictions at the earliest point. I hope that this committee and the Parliament will welcome that approach.

I am also here today to present three further sets of health protection regulations. The regulations that we will discuss introduce some additional temporary measures at a national level and provide for some specific tighter measures across the central belt during this temporary period. The regulations also adjust the requirement to wear a face covering in certain settings and situations at a national level. The Scottish Government made regulations by way of made affirmative procedure on 9, 15 and 22 October; those regulations entered into force on 9, 10, 16, 19 and 24 October and are due to expire on 2 November.

Outside the central belt, indoor hospitality venues are required to close between 6 pm and 6 am. Licensed premises are not permitted to sell alcohol for consumption inside, but they can sell alcohol for consumption outdoors. Licensed premises can continue to sell food and non-alcoholic drinks for consumption indoors.

In the central belt, licensed hospitality venues other than cafes must close their premises to the public for the duration that the regulations are in force. Other hospitality venues are subject to the same restrictions as those outside the central belt. The regulations restrict indoor group exercise classes for those aged 18 or over from taking

place, and restrict contact sport for that age group unless it is for the purpose of professional sport. The regulations restrict outdoor live events from taking place in that geographical area, and require the closure of snooker and pool halls, indoor bowling, casinos and bingo halls.

The regulations that we are discussing today also make adjustments to the requirement to wear face coverings nationally, both loosening the rules for couples entering a marriage or civil partnership and tightening the rules in workplaces to provide those who cannot work from home with some extra security. The regulations also require retail premises, which had previously been provided with an exemption that allowed 1m distancing to be applied, to return to 2m physical distancing. The regulations that are being discussed today are set to expire at 6 am on Monday 2 November.

As the First Minister set out previously, we will bring forward regulations to implement the new levels-based approach across Scotland from 2 November. The regulations will implement the policies that are set out in "COVID-19: Scotland's Strategic Framework", which Parliament debated and approved yesterday.

I hope that the committee finds those comments helpful, convener. I will be happy to take any questions that you and your members have.

The Convener: I thank you for that statement and in particular for your comments on parliamentary scrutiny, for which I am grateful; I am sure that colleagues on the committee will want to discuss them among ourselves.

I will ask the first question. The submission that we received from Highland Council highlights that

"Whilst the initial broad announcements ... have been clearly articulated"

by the Scottish Government, the relevant documents for amending secondary legislation and subsequent guidance are

"often not published until up to two days after the announcement."

The council gave an example:

"The amendments to the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 relating to the closure of pubs were not published until the afternoon of Friday 9 October when some of the measures were due to commence at 6pm on that day. The expectation from licence holders is that we have advance notice of what the measures will be and expect instant guidance and advice straight after the announcement."

What has been done to address that issue under the previous measures and the new framework?

Michael Russell: We want the regulations to be as clear and easy to follow as possible, but they are being made in the midst of a public health emergency, when time is often of the essence and when making changes promptly affects the outcomes of the changes. We want the outcomes to be positive; we must remember that the intended outcomes are to save lives and prevent the spread of the virus. A number of considerations must be balanced, but the principle is to be as clear as possible.

It is obvious that, with the levels approach, we are moving to an approach that is easier to understand. We have to an extent changed and developed the regulations as we have gone along. At the beginning, there was intense regulation, and then the regulations were relaxed for a period. Given the nature and the spread of the pandemic, we now have different approaches in different parts of the country. I recognise that, as a result, it has sometimes been difficult for people to understand the position.

We are making the approach easier and quicker to understand and we are trying to provide the material more quickly. The scrutiny process, which is important for the Parliament and for democratic activity, will also be important in that regard. We have laid out and discussed extensively with people a process that allows a period to elapse. Having a plenary statement on Tuesday, publishing draft regulations on Wednesday, considering the regulations on Thursday and introducing them on Friday provides a good period to allow things to be finalised.

I strongly commend the work of staff. Such work is sometimes incredibly intensive for civil servants, who must react quickly. For a range of options, they have to consider the scientific advice, lay the four harms against that and look at the other issues that require to be considered. All of that is undertaken and requires considerable thinking and the involvement of ministers and the Cabinet.

The process is complex. We have endeavoured to ensure that everybody understands it, has a chance to look at it and, in the end, can agree with it.

The Convener: My next question covers the old and the new and is on the localisation of measures. We have all accepted that local authority areas are the areas in which restrictions are imposed, but some factors that determine the tiers in the new framework relate to national health service boards. As we all know, NHS board areas and local authority areas do not mirror each other. Do you accept that a person could be in a local authority area with a low virus rate but have higher-level restrictions imposed on them because of NHS capacity issues in the wider NHS board area? That would of course be justifiable, but it might determine someone's restrictions. Does that contradict a more localised approach? Perhaps Professor Leitch would like to comment, too.

Michael Russell: I will say a word or two before Jason Leitch speaks. The First Minister addressed that question yesterday. If the convener will allow me a moment of special pleading, I am particularly concerned about the issue because of the substantial differences in parts of my constituency. The incidence in Argyll and Bute is low and I am pleased to say that the rate is falling, but the islands of Tiree, Coll, Mull, Iona and Islay and closer-in islands such as Gigha have virtually no instances, and some have had no instances. How do we recognise such differences? The local authority area of Argyll and Bute is in the NHS Highland area, but it is subject to restriction and is likely to be subject to restriction at a slightly higher level than the Highlands.

The First Minister mentioned that specifically in her statement yesterday. I will quote from it, because it is really important. Although it is not without its difficulties, which I am sure that Professor Leitch will indicate, and although there may be issues of restrictions on travel for island communities, for example, it is recognised as an issue.

09:45

The First Minister said:

"Assuming that the Parliament agrees to the overall framework today, I will confirm on Thursday what level each local authority will be placed in initially. That will be with effect from Monday and it will be reviewed on a weekly basis. Those decisions will be based on advice from the Government's advisers and the national incident management team and we are also consulting local authorities. While we will initially apply levels to whole local authority areas, we will look in future at any situation where it might make sense to be more targeted; for example, there could be a different approach for the Argyll islands than for the rest of the Argyll and Bute council area" — [*Official Report*, 27 October 2020; c 47-48.]

There are therefore those circumstances. Some anomalies are impossible to resolve—there may be a difference of a street in some areas. However, in other areas, there is a very substantial difference, and we should be aware of that. It is a matter for the development of the application and we must maintain maximum vigilance; nothing that we do should weaken that vigilance. Perhaps Professor Leitch would like to say a word or two with regard to that as well.

Professor Jason Leitch (Scottish Government): The cabinet secretary covered it well. This is the biggest change to the way we handle the pandemic since the route map. The local public health teams are nervous about that level of change and they want to get it right. They are also mindful that the present restrictions appear to be working. Although, unfortunately, we are not yet back to where we were, the numbers appear to be decelerating and going in the right direction.

This major change makes everyone worry, particularly those who are running the public health response in local authorities. They work for the health boards and they are in constant dialogue. I did a lot of local authority calls with the Deputy First Minister yesterday and it was tangible how closely connected to those local authority leaders the public health teams are, which was very encouraging to hear.

Far be it for me to correct the cabinet secretary. I will simply add one word to what he said—"presently". The bits of Argyll and Bute that have low incidence presently have low incidence. That is what makes us nervous. It takes almost no effort for the virus to get to one of those small communities and to spread very quickly. That does not mean that we should not take a more regional approach over time or that we should not consider that with local public health teams. That is where I would take that advice from, because they know much better than I do. If that comes up over time, we will, of course, consider making it part of our advice to the decision makers.

I will illustrate the challenge using Lanarkshire. South Lanarkshire is very rural in areas and it could make a case for division. However, South Lanarkshire feeds to the three intensive care units in the three Lanarkshire hospitals, which presently have a capacity for 30 intensive care Covid cases. That is already double what they would have in conventional times. The present modelling says that, in six weeks' time, we will need capacity for 76 cases unless we do something. That is what we are doing: we are restricting people's liberty and we are making people stay at home.

If somebody in rural Lanarkshire needs an intensive care bed and the intensive care beds in Airdrie, Wishaw and East Kilbride are full, what do we do? That is the dilemma. That is the challenge with Argyll and Bute and with bits of Highland. We can make that argument for almost any local authority. The public health advice will, of course, consider the local scenario, but it will also have to include the admissions and ICU capacity.

The Convener: I thank you both for those answers.

My final question is for Professor Leitch. It is a rehash of a question that I asked him about a month ago—which I hope that he forgives me for—and it is about the efficacy of restrictions.

It has now been just over eight weeks since the ban on household mixing was introduced in Glasgow, East Renfrewshire and West Dunbartonshire. Are you able at this stage to gauge the efficacy of those measures, and what exactly are you measuring?

Professor Leitch: That is a key question. Generally, the measures are working. The challenge with the virus is its long incubation and illness periods, which we do not often consider. People do not end up in intensive care the day that they get their first symptoms; they usually end up in intensive care three to four weeks after they get their first symptoms. The length of time for which someone is ill is quite long. The length of illness varies—from Ebola to flu to norovirus. Coronavirus happens to last longer, and there is absolutely nothing that we can do about that.

When restriction is layered upon restriction it is hard to prove causation. However, on 9 October, my senior colleagues and I published an evidence paper that said that, at that point, the modelling suggested that cases were doubling every nine days. That is one of the reasons why we advised that there should be more restrictions during the week of 9 October. That day, we had 1,045 new cases, which meant that on, roughly, 16 October we could have had 2,100 cases. We did not; we had about 1,400 cases on that date. Individual days are a bit tricky—we should look at trends instead—but cases did not double in nine days, that is for sure.

The number has stabilised during the past week to 10 days, and case numbers are now around 1,100 or 1,200 each day with a little bit of a backlog to catch up on. Cases are not accelerating like they did in March and April, so public health advisers are confident that the present restrictions are working.

My coda to that, unfortunately, is that the pace at which they work is also crucial, because people who catch the infection today will end up in hospital in three weeks' time and could potentially die in six weeks' time. Any delay hard wires in death, misery and infection on an on-going basis. That is why it is so difficult to judge which interventions to make and at what time. We see every country in the world struggling with that.

We can see a variety of options across the globe for how to manage coronavirus. One of the reasons why decision makers have chosen to switch to a regional system—a lot of countries are doing that—is to try to create a system that is a little bit more agile so that we can stamp on the places that have higher rates as quickly as possible.

The Convener: I will turn to Mary Fee. Mary, if you have any relevant interests to declare, could you please do so before you ask your question?

Mary Fee (West Scotland) (Lab): I have no relevant interests to declare.

I would like to ask the cabinet secretary three questions. The first is about the suggestion that the Children and Young People's Commissioner Scotland has made that there is a need to update the children's rights and wellbeing impact assessment. That matter has been raised before, and I know that the Government has been considering it. Can the cabinet secretary give us any update on the Government's position on whether that will be updated?

Michael Russell: I know that consideration was being given to doing so, but I am not aware of the final conclusion. I am very happy to find out and write to the member and the committee. There is sympathy for doing that. The report's focus is on rights and Mary Fee is a strong advocate for rights and experienced in that area. We agree that the issue of rights should be central across the board. I will find out and get back to the member.

Mary Fee: I would be grateful if you could update me.

My second question is about access to digital learning—an issue that education unions have raised. There has been a call to include blended and remote learning as we move through the pandemic. I am thinking specifically about the impact that that has on attainment. It is very important that children have access to learning. I appreciate that the cabinet secretary might not be able to give me a huge amount of detail on that, as I know that the Deputy First Minister is the one who has been considering it. However, can the cabinet secretary give me any update?

Michael Russell: I always find myself as a sort of minister for everything at these meetings. I am aware that I should not be, and that I should provide members with the correct information as opposed to a gloss upon it, so I will ask the Deputy First Minister to give the member an update.

However, I want to stress that the priority has been to ensure that schools are open, young people are in them and they have an opportunity to have as near to normal a learning experience as they can. That has been very important to us since the schools reopened in the middle of August, and it has remained so as we have had to reintroduce regulations and restrictions. It has been a pretty sacred objective, and it will remain so. Of course, issues arise with inclusion and digital exclusion, and they all have to be addressed. As I said, I will ask the Deputy First Minister to respond directly to the member and the committee.

Mary Fee: My final question is on comments that the Law Society of Scotland has made on the impact that the emergency regulations have had on the human rights of vulnerable adults and adults with incapacity. What learning has the Scottish Government taken from the way in which it decided to implement the measures, and what changes if any will the Government make to

ensure that the human rights of vulnerable adults are protected?

Michael Russell: That is a central issue, particularly with the emergency legislation, and it has been raised by Monica Lennon and other members. With absolutely the best of intentions, a legislative step was taken that allowed continued support for adults with incapacity as well as continued legislative support in a legislative framework so that their rights would be protected. However, that was not as good as the situation that existed before the pandemic and that should exist after it.

During the pandemic, we have found that there has not been the pressure on support services that we thought that there might have been. Therefore, where it has been possible to operate services normally, they have done so. I have spoken previously to the committee about the statistics that show that the vast majority of services involved have not used the special powers; indeed, those special powers should not be used, given the circumstances.

The issue is a pretty classic example of where the difficulty lies with emergency and unusual legislation in a pandemic, which none of us has experienced before. We have a basic commitment to human rights for all, and particularly to include those who are least included and who require the most support. I hope that we have managed to do that and that we have done so sensitively. More importantly, local authorities and responsible organisations have done so. However, we are moving out of that approach, and only in very much worse circumstances than we are in now in the operation of the public sector would we have to return to that approach. I hope that that is helpful.

Mary Fee: It is—thank you.

Willie Rennie (North East Fife) (LD): I want to talk about mitigation and the financial support that is available to businesses that will be affected by the new restrictions that are on the way. With the change of opening hours, particularly for hospitality, many businesses will feel that they have no option but to close, even though, technically, they will not be forced to close. However, the grant support is for businesses that are closing, and there is hardship support for others that are affected.

That approach is already in place in areas such as Fife and Tayside that are in level 2. Many businesses are closing even though they are not required to do so. A business can probably survive for 16 days without support, although that would be tough, but there will be a problem if that is to be the on-going structure of the financial support. Will the Government change the structure of the support to recognise that some businesses have no choice but to close, even though they are not legally required to do so? In effect, the grant support will be cut by a third, which is significant for businesses.

Michael Russell: Were we entirely free to operate in the way that we would like to and with the resources that we need, I would agree with Willie Rennie 100 per cent. I am a constituency MSP, as is Willie Rennie, and I am sure that, like me, he is receiving strong and entirely justified representation from people whose businesses are on the line. Those are good businesses that people have operated well and that they believe they can continue to operate well.

However, we are not in that position, so Fiona Hyslop and Kate Forbes have to find as much resource as they can to create the circumstances in which there is support for everybody who needs it. There have to be criteria, and it is clear that hardship has to be one of the considerations.

10:00

I can say two things to Willie Rennie. We will continue to do our utmost to support all those who have been affected for no other reason except that essential regulatory change has taken place and they have had to not operate. We will also continue to seek the resource that allows us to do that. The points that were made in yesterday's debate were important in that regard. Listening to business and the points that Willie Rennie has made about requirements on the ground is important, and we will do that, too.

I think that Fiona Hyslop will want to respond more fully to Willie Rennie in the light of his observations. There is no resistance to providing support. There are practical difficulties in relation to our resources. Committee members might not agree on this, but we do not believe that resources have been provided adequately or significantly, in the way that we need.

Willie Rennie: I agree about the overall level of support. It is not sufficient, particularly for larger businesses, which have greater costs even though they are remaining closed.

If only South Lanarkshire and North Lanarkshire move to level 4, will hospitality businesses get the full support that is available, because they will be required to close? In some ways, the new structure eases up the Government's finances in that narrow respect, so the Government needs to have a wee look at all that. I understand that Mike Russell is not the responsible minister, so I will not press him any further on the detail. I will take up the matter with the economy and finance secretaries in order to explore it further. There is a significant issue, because the set-up is for the long

term—not just for 16 days—and we have restructured things in relation to compulsion to close.

I will move on to another issue. I am interested in how areas get down to level 0. Based on the documentation that was provided yesterday, the indicators for the Highlands and Islands are all at 0, yet the indication is that those areas will move only to level 1; in fact, to level 1+, with the indoor—[*Inaudible*.]—in place. I do not know how such areas get down to level 0. What do they need to do? What are the indicators? Is there such a thing as level -1 to take them down to level 0? How does that work? People want to have some clarity and hope, so I hope that the cabinet secretary can help.

Michael Russell: Those are very good questions, which Jason Leitch should address. Such decisions are dependent on a variety of clinical and medical factors, as well as on an assessment of the harms. I am sure that Willie Rennie remembers that one of the issues that emerged yesterday was the issue of judgment applying to advice. This will be an area of judgment and advice, as all these areas will be.

I think that Jason Leitch should address those questions.

Professor Leitch: We had to set the dial somewhere for each of the baskets of measures that we have put in place, but those are not the only measures that the national incident management team will have to consider and that the local public health teams will advise upwards. The system will involve local public health teams feeding in to their directors of public health, who will feed in to the national incident management team, which will feed in to the senior clinical advisers—me and others—who will feed in to a four-harms consideration.

All the indicators being at 0 in the grid does not necessarily mean that the overall assessment will be that a local authority should be in level 0. We have to consider for how long numbers have been reducing or at a low level, and we then have to feed in consideration of the other harms. That has to include tourism and transportation risks and how well that piece of the country can be isolated, without travel. We cannot have people coming from level 4 areas into level 0 areas, otherwise we will very quickly be back where we started. We know how quickly the virus is imported into countries or pieces of countries.

As we move forward and get this first assessment over with, there will then be a weekly rhythm to them, from the public health perspective and from those of the chief economist and the chief social researcher. They will advise Mr Russell, the Deputy First Minister and the Cabinet Secretary for Health and Sport on the decisions that they should then make in relation to each local authority area.

We can get to level 0, but the present position of the senior clinical advisers in Scotland is that no area in the country is ready to do so, because we must consider the state of the pandemic nationally. We cannot sufficiently isolate pieces of the population for us to be comfortable that any part of the country should move to level 0 at present.

Willie Rennie: That is fine. Thanks, convener.

Shona Robison (Dundee City East) (SNP): Good morning. I have three questions: one is about scrutiny and the other two are of a more local nature.

Cabinet secretary, the arrangements that have been described are very welcome. You outlined the advice on which the Government bases its decisions—for example, you cited the scientific advice and the four harms—and you said that such decision making was a complex process. The question that occurs to me is, given all that information, how can the Parliament make an informed contribution through its scrutiny of the Government's decisions? What is the Government's thinking on how much of that advice could be shared and how it could be shared? How could that be done in a short period of time, so that the Parliament could make informed decisions about the Government's proposals?

Michael Russell: That is a good question, which we might consider on three levels. First, it was a constant theme in yesterday's debate that a huge amount of information is published daily. When people ask for more data and more information, they are often asking for things that already exist; it is just that they do not know that they are there. There is therefore a job to be done in continuing to point members towards the published information. The dashboard on the Public Health Scotland website is a hugely useful source of information, which people can drill down deeply into and learn a great deal from, but that requires work. The pandemic is a complex subject, on which a huge amount of detail is available. That information is there, and I hope that members will keep up to date with it as it applies in their own areas and more widely across the country.

Secondly, members will always bring judgments to such information, based on the representations that they receive from their constituents. Every member will receive regular—and sometimes overwhelming—representations on a range of issues, to which they must apply their own judgment. I do not want to go into Burkean philosophy on the question of what public representatives are, but my point is that we are not

mere mouthpieces for a range of individuals or interest groups; we must reach judgments for ourselves. Willie Rennie has rightly raised the issue of people in the hospitality sector, who are in very difficult circumstances yet who are not directly affected by the regulations. We must consider such issues, come to our own judgments and build up our own knowledge, which should not be difficult to do if we are in touch with our constituents daily about how things are.

I accept that there is also an obligation on the Government to publish information and analysis, and to synthesise such information. Over the past month, information has emerged and analysis papers have been published, and further information went to the Convention of Scottish Local Authorities this week. Such material is important and should be made widely available.

Across politics, the view is often expressed that, in some sense, Governments might be withholding information. There would be absolutely no point in withholding information on the nature of the pandemic—indeed, that would be utterly counterproductive, because we need to persuade people of the severity of the situation and the measures that are necessary to overcome it. I heard members express a couple of views about that in the chamber yesterday. It seemed to me incredible that there might be some reluctance to provide information. That is not the case. However, sometimes information that is asked for does not exist or has not been brought together, or which a disproportionate amount of effort would be required to produce.

The number of people on the front line is always limited. If we take people off the front line to count things, we will reduce that number. Therefore, we need to have a balance. If we take all those things together, I think that a scrutiny process that is informed by well-informed MSPs will be a vital tool in improving the approach and helping to tackle the virus.

Shona Robison: Thank you—that was helpful.

You alluded to our mailbags. In my locality, there is a level of anxiety about Dundee's tier or level. I do not want to prejudge what will be announced tomorrow, but there has been a great deal of speculation. Further to Willie Rennie's point about business preparedness, what thought has been given to maximising the time that is given to businesses to prepare? With the best will in the world, businesses in Dundee will, in effect, have to make changes over a weekend to start on Monday. That is a tough call. As you can imagine, I have had a fair amount of representation on that. What can the Government do to help businesses when rapid changes might be required, and to ensure that they get the maximum support in a short period of time?

Michael Russell: The general maxim that people should hope for the best but prepare for the worst is probably a sensible one to go by in these times, of all times. We must be prepared. I hope that the new scrutiny arrangements will help in that regard. I have laid out the process that we hope will be very much the norm, which will allow a number of days for the process of discussing how the change in levels should happen, starting with a plenary statement on the Tuesday and concluding with implementation through signature of the regulations on the Friday. That will be helpful.

There is growing concern in some areas—I do not want to be more specific than that—so there is obviously a desire for people in those areas to prepare for what might happen. I do not know whether Jason Leitch wants to comment specifically on the areas that Shona Robison is asking about.

Professor Leitch: I do not have anything specific to add to what I said at the beginning about how the pace of the virus is what really hurts us. That affects our ability to know what it is going to do and when, and from a public health perspective, delay is always bad.

That is looking at the issue purely from the perspective of the public health advice for Covid. When we take the public health advice around business, the economy and the social effects, of course we need to factor in time for a business to do something—for a call centre or whatever it is to make changes. The public health advisers are not disrespectful of that and we try to take it into account, but our pure Covid public health advice is to do things as quickly as possible, because every infection today carries a risk of serious illness in the future. That is the nature of the infectious agent. I am not trying to deflect the question, but on this occasion it is not the fault of the politicians or the advisers.

Shona Robison: I appreciate that. The cabinet secretary talked about some of the challenges for large rural constituencies, which would potentially have differing levels within them. Areas such as Dundee sit very close to other local authority areas that might be in different tiers. On the Dundee-Angus border, there might be people who live across the road from one another who are in different tiers, and travel to work issues will have to be looked at. Is the Government looking at such issues, given that, under the new levels system, there will be areas that are in different tiers but which interact in such ways?

Michael Russell: Absolutely; it is a concern. However, there is a difference between areas. Jason Leitch has been very clear about the situation in South Lanarkshire, for example. There is a huge rural hinterland, but the essential

services, particularly in terms of ICU and ventilation, are the same for the whole of Lanarkshire. Taking a risk with that would affect those central services.

I understand that there might be streets where one group of people might be in Dundee while another group might be in Angus. That is the nature of the system. In my view, there is a big difference between that situation and my example, which I will use because I know the situation there so well. If you live on the island of Coll or Tiree, on a good day, you can see the Western Isles and across to Skye and the small isles, which are in a different category, but you cannot see Helensburgh, even though it is in the same local authority area. There are huge differences in some areas and smaller ones in others.

Caution is the important issue here: we should not take risks. Jason Leitch was right to add the word "presently". We only have to consider Uist, which is another area that I know well. It had virtually no contact with the virus until it had a serious outbreak some weeks ago, which involved numbers that were large for its population. That can happen, so caution is extremely important. Of course we consider those issues, and we will continue to do so, so that everybody not only does the right thing but knows that the right thinking is being done and the right consideration is taking place on what should happen.

10:15

Mark Ruskell (Mid Scotland and Fife) (Green): I welcome the update in the guidance for school sports that was sent to the committee on Friday, following our previous meeting. The change, which brings schools more in line with the guidance for communities, was welcome. A number of teachers have got back to me to ask when schools will be notified of that change; I assume that that is in train and will happen this week. It would be useful if more updates on the matter could be provided to the committee.

Michael Russell: I am glad that the change was useful. I am sure that we will update you on the matter and find out when the schools had, or will have, the updated guidance.

Mark Ruskell: Yes, the feedback from teachers has been good.

The Educational Institute of Scotland's submission to the committee talks about the work that education teams across Scotland did in the summer to prepare for a blended model. A lot of creative and excellent work was done, which has not gone away. The decision was made at the end of the summer—[*Inaudible*.]—young people to schools, which you described as a "sacred objective".

In the context of the new framework—in relation to level 4 council areas, in particular—is there a role for that blended learning to eventually swing into place, even if only for a few weeks, in an effort to suppress the virus? Teachers were ready to go ahead with that, so it is still an option, but is it a political option?

Michael Russell: One should never say never. There may or, rather, there might be—I do not want to say "may"—circumstances in which one would have to change what is happening, but such circumstances are not anticipated. Given the sensitivity and the crucial nature of the subject, it is important that we make it clear that we are as strongly determined as we have been to maintain a situation that is as close to normality as possible in education, in which children are having the experience of learning in school.

However, I cannot ever say that something might not happen. You are right to say that a lot of good work was done that is not wasted and which might be available, but I do not want to speculate on the issue, because it is certainly not our intention that the situation would change.

Mark Ruskell: I turn to the experience of students, staff and the local communities in towns and cities where there are colleges and universities.

How can we develop a more consistent approach to supporting people? For example, as I said in the previous committee meeting, at the University of Cambridge there is asymptomatic testing of students and staff: 10,000 tests are being done every week and the university is doing its own tests, using its own facilities. In contrast, at the University of the Highlands and Islands campus in Perth, there is no asymptomatic testing—indeed, there is no walk-in testing centre, drive-in testing centre or any testing centre whatsoever. I have been informed by students and staff that people are having to travel as far as Dundee to get tested—by public transport or by car, if they are fortunate enough to have one. There seems to be massive inconsistency in relation to testing in particular and the kind of protection that staff, students and the wider community can expect. Are you aware of that? Are you concerned about that?

The EIS submission raises concerns about the development of guidance not in relation to schools—it seems quite happy with the guidance about schools—but in relation to universities, which it describes as being "patchy and rushed". Are we in a good place with colleges and universities at the moment? There seem to be some major inconsistencies in relation to testing.

Michael Russell: I will ask Jason Leitch to talk about the testing situation, because it has

improved and keeps improving. It is an issue on which we are doing well in Scotland. I am not entirely convinced that the comparison between Cambridge and Perth is the right one to make. For example, there are walk-in testing centres at the universities in St Andrews, Glasgow and Edinburgh. Such centres continue to be developed all over the place. Indeed, there will be testing centres in non-college and university areas, too.

Jason Leitch can talk about testing in more detail. We should be pleased, but not complacent, about the progress that has been made on testing and the way in which the issue has moved on.

Professor Leitch: There are two principal things in train. First, there is an expansion of the polymerase chain reaction—PCR—testing programme around the whole of the UK. Let us remember what such testing can and cannot do. It cannot find the virus when someone is incubating it. Although asymptomatic testing is helpful in some circumstances, it is not what people think it is. It cannot always find the virus. If someone is incubating the virus, the test will not find it. The test will detect the virus roughly 48 hours before someone shows symptoms, but that varies hugely from individual to individual. It relies on the testing being accurate and everything else. We know that it takes time to get the results back, because it takes time for the machine to do what it does. Eleven walk-in testing centres have been developed, built and staffed at enormous pace, and I am hugely grateful to local health boards and everyone who has put that together. It has happened really quickly.

I am happy to look at Perth if the member thinks that there is a challenge in that particular locality. I am not aware of there being a particular demand there that is not being met. However, if there is, I would be happy to look into that and get back to Mr Ruskell.

Secondly, the technology is changing all the time. We have new testing technologies that are faster but perhaps less sensitive, although that might not be a problem for large-scale asymptomatic testing. We are testing the tests—as is most of the developed world—but they are not yet at a stage at which we can deploy them at scale, although they will be. I am confident that that technology will come. That will help us a great deal in getting the level of testing up across the UK and Scotland and in allowing us to do more of the asymptomatic testing that the member and others seek.

I would balance that comment with the clinical view of testing. We have to have a reason to test and we have to do something in response to the test when we use it, whether that is a mammogram, a PCR test for Covid or a CT scan. We are comfortable with asymptomatic testing, but only if it helps and gets us something that we did not have before in the population.

Mark Ruskell: I will follow up on that briefly. Asymptomatic testing would be great, but the issue for people in Perth is that there is not even symptomatic testing: if people have symptoms and wish to get a test, they have to go to Dundee.

The only other option would be home testing. Would it be possible to prioritise people who do not have access to a car or who have a particular postcode, so that they can get a home test more quickly? I think that you would agree that it is not acceptable for people who have symptoms to have to travel to Dundee to get a test. We know that there are delays with home testing.

Professor Leitch: Home testing is run by the UK Government, in partnership with us. We can influence the number of home tests that are available and the prioritisation within that, but it is not necessarily a matter for us. We have struggled to prioritise in the home testing regime because of the massive scale of testing. There are parts of Scotland that, because of their geography, are closer to drive-through testing centres. I am very happy to ask my testing colleagues to have a look at the provision in Perth specifically, and perhaps Perth and Kinross in general, and to get back to Mr Ruskell.

Mark Ruskell: Thank you.

Stuart McMillan (Greenock and Inverclyde) (SNP): I want to go back to questions that my colleagues posed regarding their particular areas. I refer you to the document that was published on 26 October. Table A sets out the indicators, signals and levels for each local authority. Shona Robison asked about Dundee and I will ask about Inverclyde. According to the table, Inverclyde has the lowest levels of any local authority on the west coast in the NHS Greater Glasgow and Clyde area. However, it is widely anticipated that we will come under tier 3, rather than tier 2. Looking at the indicator table, the hospital forecast seems to be the key driver in the decisions on any tiering position. Is that the case?

Michael Russell: I will ask Jason Leitch to answer that, given his knowledge of the background and the decisions being made on the tiers as well as the wider national question. I suspect that there is a balance to be struck between the two.

Professor Leitch: It is precisely that. The gearing of the levels is not scientific—we cannot publish a threshold and say “This is the only thing that matters and that is how an area becomes a tier 2 or 3.” That would be completely artificial and would remove the ability to include the judgment of local public health teams.

As I have described in relation to Lanarkshire, we have to take account of what we would do around ICU and health service capacity. The last thing that we would want is a fast outbreak in Inverclyde that our hospitals cannot cope with, which would mean that we could not protect the residents of Inverclyde.

Mr McMillan is right that Inverclyde is different from the rest of the west. The data has been relatively consistent in suggesting that Inverclyde took a really big hit in wave 1 but has not taken such a big hit in wave 2. We do not know why that is. It is an interesting research question: what is different about Inverclyde?

We are seeing a similar phenomenon in London, which has been less affected by a second wave than the north of England. Researchers are asking questions about why that is. Is there a level of immunity? Is it to do with behaviours? We simply do not know the answer yet.

The other challenge, apart from hospitals, is the time spent at a level. We are still concerned locally—I refer to the local public health leader in Glasgow and Clyde—and nationally that it is too early for the central belt to move downwards. We face exactly the same challenge on the east coast and have had similar conversations in respect of City of Edinburgh Council and East Lothian Council, which feel that they are in a similar position to Inverclyde.

I do not want to prejudge this, but Inverclyde will either be a 3 or a high 2—if you see what I mean. It may be that Inverclyde will move down over time faster than some of the other local authorities. It will not just depend on ICU capacity and hospital capacity; it will also depend on the prevalence in individual areas.

10:30

Stuart McMillan: Thank you for that. You touched on the data that has been presented regarding where Inverclyde was in phase 1 and where it has been over the past few months. I suggest that how the population dealt with phase 1 has certainly helped with the situation that we have had consistently for a number of months. I think that there was an initial fear in Inverclyde because of where Inverclyde was in phase 1, but people certainly took on board the rules and FACTS and followed the regulations and the guidance, because they did not want what happened previously to happen again. Clearly, too many friends and family of individuals succumbed to Covid-19, and people do not want that to happen again.

Professor Leitch: I agree with what you are saying. I should perhaps have mentioned one other important thing. I understand that it is extremely important to get the first steps of levels correct, but those levels are not forever. In terms of public health advice, we will review the situation every week and advise whether local authorities should be moved probably not more regularly than every three to four weeks—that would be our instinct, because that is roughly an incubation period and a half, and you learn quite a lot in three to four weeks. What happens on 2 November is not fixed until March. It is important that the residents of Inverclyde, just like the residents of every other local authority area, understand that the initial tier is not necessarily the tier that will remain in place forever.

Stuart McMillan: I accept that point, but I would challenge you on it. Because of the fact that, over the past number of months, Inverclyde has been following the rules and the guidance, our rates are a lot lower than those of neighbouring local authority areas, which I touched on in my contribution to the debate yesterday afternoon. I would not want the hospitality community in my area, in particular, to feel as though it is being challenged even more because of what is happening elsewhere, when people in Inverclyde have done the right thing over the past months.

I also accept the point about the tiering. The tiering is extremely important, particularly in the first announcement, which, obviously, will be tomorrow.

Michael Russell: I would like to make a point about the idea of people doing the right thing. I am absolutely certain that the vast majority of people try to do the right thing. That applies to licensees, hospitality providers, publicans, restaurateurs and individual members of the public. Which tier you are in is not a judgmental thing; it relates to the objective evidence, which is laid against a range of other information—some of which, such as the national position, is objective, and some of which, as with some of the issues around the four harms, will be more subjective—in order to come to a judgment.

I am sure that we all hear from people who say that they have done everything right and ask why they are being penalised or victimised. The answer is that they are not being penalised or victimised. We are desperate to help in any way that we can and to support people, but the steps that are being taken are about the public health benefit and the essential task of suppressing the virus and saving lives. It is not a judgment on individuals and we should not talk about it in that way.

A small number of people have behaved irresponsibly, as has been reported, but let us be accurate about how we are approaching this.

Stuart McMillan: I have one other question that is on a totally separate area. Do you believe that the new proposals for scrutiny will aid the Delegated Powers and Law Reform Committee, on which I sit, to undertake the work that it needs to do regarding any new regulations?

Michael Russell: There is an important place for committee scrutiny of what is being done. If the Delegated Powers and Law Reform Committee, the COVID-19 Committee or other committees want to be involved in that scrutiny, perhaps they could come together to hold an evidence session or to consider things.

The important thing is to ensure that the matrix does two things. First, it should allow and encourage maximum scrutiny; secondly, as Jason Leitch has indicated, it should ensure that delay does not take place, as that is dangerous. In that regard, it is not for me to say which committees will be involved, and in what way. We are trying to come to something that benefits all of us through both scrutiny and effective government.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I have a couple of questions, the first of which is for Professor Leitch. Jason, I wish to ask you about the numbers that we see on a daily basis. In your earlier remarks, you mentioned figures of 1,100 to 1,200 cases a day. Have you had any chance to look at the data and ascertain which types of interaction and behaviour are principally causing those numbers to go up?

As I am sure you know, the most important issue that people are always asking us about as elected members is not being able to see their families. Is there anything in the data that is telling you that that restriction is still very much an appropriate and correct restriction to keep in place? Is there any other intelligence within the data that you are getting that is giving you any more information about possible relaxations or even further restrictions?

Professor Leitch: There are two questions that I most commonly get asked, whether by elected representatives, the media or individuals. The first is along the lines of, “Why can I do this, but not this?” That is always the first question. The second question can be summarised as, “Where is the transmission actually happening?” That is what your question is about. Unfortunately, the answer is not particularly satisfactory—for you, for me or for families.

We have to go back to first principles and read the actual research on this virus, and indeed on all viruses. This virus thrives in particular circumstances. We do not have very many actual causations—for instance, that Johnny gave it to Mary in a particular room. That sort of causation is hard to find. However, we know that the virus likes the indoors, it likes humid conditions, it likes a lack of ventilation and it likes people close together. If you imagine that scenario, that includes households, hospitality, visitor attractions—all those elements. It is not immune from transmission outdoors, in parks or in sport—you can catch it in those settings, and people have—but, in the main, transmission is in indoor settings.

Therefore, around the world, with advice from the World Health Organization and the European Centre for Disease Prevention and Control, every country has attempted to restrict those household interactions in whatever way they can. Quite early on, we said that there should be no indoor household interaction. That is an enormous decision—it is a very difficult one for politicians, and it is a difficult one for me and my colleagues to advise on. We do not like it, and we know that nobody else likes it.

The second thing is hospitality, in the general sense, with attractions and other places such as snooker halls and bingo halls—places where people come together. Again, that is not something that we want to restrict, but we know that the evidence says that those two areas in particular are where people mix, and it is there where the virus inevitably finds new households.

This virus does not actually want to kill people; it just wants to find a new host. That is all it cares about. It just wants to find a new uninfected person to infect—that is how it survives, and it then goes to another one and another one. We get the actual data for that from test and protect interviews. We have seen this over recent months, and we published this relatively recently in our evidence document and, more recently, in the next version of that. It is suggested that household interaction is of course falling, because we have prevented it, in the main, and pubs and hospitality interaction is falling, because we have prevented it. That is one of the reasons why the doubling time has not happened as it would otherwise; it is why we have 1,100 cases today, not 2,300 or 2,500 cases.

We will have to hold our nerve. If we hold our nerve and if that number falls, we will be able gradually to release some of the more stringent restrictions. I cannot believe that I am saying this in November 2020, but I am afraid that that is the nature of this infectious agent.

Willie Coffey: Thank you for that. It is so helpful to be able to hear and understand that, because probably the most common question that I am asked by constituents is about the impact on family, given that we are all doing what we are being asked to do but the numbers keep going up and the restrictions continue to be in place.

Professor Leitch: Two weeks ago, you could not reassure people that it was working. I think that today you can reassure them that it is working.

Willie Coffey: That is lovely. Thank you.

I switch to a question about outdoor contact sports, as it has been mentioned by the cabinet secretary and, I think, by yourself. It is a plea on behalf of my good friends in the Ayrshire amateur football code, who tell me that they are unable to begin playing, but that their colleagues in the semi-professional junior code may well be given the go-ahead soon.

Their plea is that, given that they operate, by and large, to the same regulations and guidelines and so on, why is there a distinction between them, which does not allow the amateur code to continue? They are very well run clubs, as you can imagine. That is a common question that I am being asked, at the moment, so I would be obliged if you could give me any information about it.

Professor Leitch: I am being asked a lot about the layers of sport as well, from elite level down to kids just playing in the park on a Sunday morning—and everything in between.

There are two principal pieces of advice and regulation. The Government's bit is about what we are saying, including about the tiers. The tiers will allow travel restrictions to look different from the way that they do just now. Just now, we are saying, "If you are in the central belt, don't travel outside your health board area." In the new version, we will be saying, "Don't travel to a tier that is different from yours"—in shorthand; "Don't go from a high-risk place to a low-risk place."

That will mean, for example, that if Ayrshire and Arran ends up in the same tier as the rest of the central belt, people will be able to move between those areas. That will remove one of the challenges that amateur football clubs are facing, because they cannot take a team from one place to play a team in another.

The other layer is about what advice the Scottish Football Association and the Scottish Premier Football League are giving to regulated clubs about how they should behave. The minister Mr FitzPatrick, I, and other more traditional civil service officials are in constant touch with them to try to make that guidance fit as well as we can. However, some of those choices are a matter for the SFA, not for Government.

We have tried to be as open as we can. In the new restrictions, we are quite specific about what is allowed in each of those tiers. That came up in yesterday's debate. It has come up with stakeholders over the past 48 hours. The final version may therefore not look exactly as it was when it was published at the weekend. We are of course taking into account the bingo hall people, the sports people, and all of that. It will go today to the Deputy First Minister and others, and then the final tiers and the final tiering will be published over the next couple of days.

Willie Coffey: That is very helpful as well. Thank you very much for that.

My last query is, again, about our shielders. Given the spike that is occurring, and that the numbers are going up, is it still the correct advice that our shielded group should continue as they have been doing for the past few months, or should we be asking them to protect themselves a little more, because of the spike?

Professor Leitch: That gives me an opportunity to say a couple of things.

In the recent publication of the draft tiers, we have tried to link the advice to the high-risk groups—the so-called shielders—to those tiers. At none of those levels are we telling people to stay in the house and cut themselves off entirely. We do not think that that is appropriate for them, from what we now understand about risk.

We are asking people to assess their individual risk, whether from their workplace or just for them and their family, and then to think about how they behave. In summary, we are asking them to be extra-careful, in each tier, with the regulations that the rest of the population are facing.

There is still a vulnerability—a high risk—for those who are obese, elderly, or who have heart or respiratory disease. We understand the risk group much more than we used to. It is slightly different from what we believed it to be in March, to be honest, because the science has changed. We know now that age and obesity are the two principal risks, then comorbidity—other diseases—and other things in that box.

The shielding list is now not the same as it was and we are publishing advice to the high-risk groups at the same time as we publish the tiers. We would ask those who are at high risk to look at what tier their local authority is going to be in and be extra vigilant about following those rules inside their tier. We are not asking people to retreat completely to protect themselves as we did in March, and I hope that we do not have to do that again because that was one of the hardest pieces of advice that I have ever had to give.

10:45

Willie Coffey: Thank you for that; it is really helpful to hear that.

Maurice Corry (West Scotland) (Con): I have three questions, the first of which is for the cabinet

secretary. In notifying the changes to the regulations, which are very important, what support and co-ordination has been given to local authorities to ensure that the Scottish Government, local authorities and health and social care partnerships are in step, bearing in mind the new processes that are being implemented?

Michael Russell: I am glad to say that the initial discussions with local authorities have been detailed and comprehensive, and they will continue. As we move on to a local authority basis and the local authorities become absolutely crucial, it is important that the local authorities and, as you rightly say, the health and social care partnerships and the local NHS, given the situation that we are in, know what those discussions are, are able to understand the rationale and reasoning for them and are able to promote the terms and conditions. That is going ahead. That dialogue will continue. We all have that dialogue in our own areas but also more widely.

To be fair, as the situation has changed during the past few months, there has also been that dialogue. The Deputy First Minister has talked to local authorities when circumstances have changed, and I have done that myself on occasion with Jason Leitch, when we were required to talk to one or two local authorities and local representatives about the situation and why the regulations are being brought in.

That activity is crucial. It is a partnership activity and a listening activity on both sides, and it will continue.

Maurice Corry: Thank you. My next question is for Professor Jason Leitch and is on the health and social care partnerships. What changes do you wish to see implemented to communications with the health and social care partnerships to ensure that any actions by the Scottish Government that are required by the new process are implemented quickly?

Professor Leitch: One of the choices that we are making is to devolve even more local decision making to local public health teams, and they, of course, have to link with the operational providers such as the health board, the local authority, the social care providers and the health and social care partnerships. I am confident that that is happening. As I mentioned earlier, the Deputy First Minister and I yesterday made a round of calls to local authority political leaders and executive leaders, and they all said how well they were doing in their relationships with their directors of public health.

There are 14 individuals in this country who I think are the unsung heroes of this pandemic, among a whole host of others, of course. They are holding together a local public health response at a completely unprecedented level. When the music stopped, they happened to be in those seats. They did not predict it or desire it. They and their teams are crucial to that communication.

The second point is about communication to the population, whether they are in Argyll or East Lothian. That must be clinically led but helped by local authority political and executive leaders, and I think that communication locally, in local papers and on local television and radio, is absolutely crucial. There is only so much that we can do centrally, and people might be a little bit fed up with hearing me on the radio. Those local leaders are important in giving the population hope about how we might move through the tiers, how their behaviour matters to movement through the tiers and what they have to do to get more freedom. The hope is that, in time, we will be able to move the populations around the country down the ladder in order to give people more opportunity to mix while keeping them safe.

Maurice Corry: I am delighted to hear that last comment. Would it help to enhance communications if you set out a template for the health and social care partnerships describing to people the blue-sky objectives, to put it in marketing terms, in order to give them hope? Most of our questions this morning have reflected the idea of having hope or seeing light at the end of the tunnel. People can cope with lots of things but, if I may say so to you, for God's sake give them something that they can hang their hats on.

I previously chaired a health and social care board in Argyll and Bute, and I understand the problems of communications and trying to work together. The joy of the health and social care partnerships, though, is that half of those in a partnership are councillors and half are health board officials, so they have a massive amount of incredible expertise. However, an element of guidance from you, Professor Leitch, would be helpful in terms of providing a template to get those messages out, which can be tailored for local needs.

Professor Leitch: I completely agree. Some of that happens already. For example, we have a head of corporate communications in the Government health directorate who meets health board directors of communications about not just news comms or reactive comms but the proactive stuff to and from the health service. For example, we have this week seen the BBC in the intensive care unit in St John's, in Livingston, which is about getting out that messaging about how the health service is managing locally.

Frankly, although the second wave of the virus is affecting the health service in the same way as the first wave did, we are not all clapping for the

NHS on a Thursday night any more. It is pretty tough to be a nurse in an intensive care unit or a manager of an acute receiving unit in Ayrshire today, for example. Those are really difficult jobs that are much harder than mine, and I want them to be recognised by the population in the response to the second wave. I also want the population to understand how their behaviours—the non-pharmaceutical interventions of distancing, hand-washing and so on—affect the way in which the health service will manage.

Maurice Corry: Thank you. I turn to the cabinet secretary for my third point, which follows on from Shona Robison's earlier question. It is about the excessive movement of populations from a higher-level area of restriction to a lower-level area, such as we experienced recently when people from Glasgow went down the coast to Helensburgh and Inverclyde. What are the Scottish Government and Police Scotland considering putting in place to prevent such movements in the future? We certainly learned some lessons from those movements.

Michael Russell: There is very strong advice in place. You heard it again from Jason Leitch, but I am happy to reiterate it. The new tiers or levels should indicate strongly that people should not move about the country, particularly from a higher-level area to a lower-level one, and they should not put themselves in the way of increased transmission. When people want to move out of the area that they are in, which is understandable, they need to bear that strongly in mind.

We are not in the position that the police should be stopping people crossing the street or doing things of that nature, but they should be—and they are—active in saying to people that something is not the sensible thing to do or is the wrong thing to do. If people go further than that—for example, we have seen reports today of a very small number of people being involved in gatherings of one sort or another—action will be taken. However, I think that people broadly understand the situation and are now not undertaking excessive movement. That is really important, and we will continue to emphasise that strongly.

Of course, we can put that into regulation—indeed, the indication on the levels that we have is that those are underpinned by regulation. However, we have to continue to seek to take all that forward by consent as much as possible, which is what I hope we will do

Maurice Corry: Thank you. I have a final question for Jason Leitch, which is on airport testing services. Are you close to getting those agreed with airports in Scotland?

Professor Leitch: There are on-going conversations with the sector, and some pilots—forgive the pun—are beginning in Heathrow and elsewhere. We would like new technology, such as I described earlier with regard to the student population, to help us to do faster tests. The nature of the present test means that it takes hours to process and we cannot find the incubating virus. The test is good at what it does, but it cannot do something that it is not designed to do.

We are watching what happens around the world. Different countries are taking different steps to test on different days of quarantine, and we keep that under constant review. However, importation is a really crucial and massive risk. If we get the virus down around the world, the next risk is importation. Whether you are New Zealand or Scotland or Somalia, you run the risk—even when you have reduced the prevalence—of importing new families of virus. That makes us very nervous, particularly as we begin to see some good signs of our present position levelling off. We have to be very careful not to open it back up again.

Maurice Corry: Thank you, Professor Leitch.

The Convener: Our final set of questions comes from Annabelle Ewing.

Annabelle Ewing (Cowdenbeath) (SNP): Good morning. My first question is for both gentlemen.

I have listened carefully to this morning's evidence session. If we look again at hospitality, it is very clear that, downstream, many others are affected by what is—or is not, as the case may be—happening in the hospitality sector, such as taxi drivers, those who operate on high streets in a host of different businesses, and the cultural sector. Many people are affected by what happens in hospitality in addition to those who work in hospitality.

With regard to hospitality, I listened carefully to Professor Leitch's response to the convener about efficacy and how he seeks to measure it. How do you communicate better efficacy, in terms of assessment of what you are doing and why?

This morning, on the radio, I listened to representatives of the hospitality industry who, it is fair to say, are not very happy. One point that they raised was that they want somebody to explain why 8 o'clock has been chosen and not 6 o'clock, or why closing time is now 10.30 pm and not 10.00 pm. My guess is that, for someone who is running a business, those are key questions. If you are not operating a business but are operating the public health of Scotland, you might say that you need to look at public health in the round and do the job as best you can. I welcome the strategic framework, because the tiered approach will facilitate greater local response to local circumstances, which is

really important. If we look at level 2, those changes are, indeed, being made, and it seems that the vast majority of local authority areas will be assigned to level 2 or below. However, those who are not in your job think that these decisions are arbitrary. On the public health side of things, you sincerely do not believe that they are arbitrary, and I worry that there is a gap in the communication of that important message. As I said, there are not just many thousands of people working in hospitality in Scotland; there are many other people in affected jobs as well, and this is getting very serious for folk.

What reflection can be given on better communication of the whys vis-à-vis specific individual decisions such as closing time being 8 o'clock and not 6 o'clock? Perhaps the cabinet secretary can respond, and then Professor Leitch.

Michael Russell: It is a good question, but I think that we have to step back from it. If there were an exact science to this situation, we could explain that—absolutely. If there were a textbook that said, "If you do this, then such-and-such a thing follows," we could do that, but there is not.

I thought that yesterday's debate usefully illustrated—as has some of the committee's discussion today—the interaction between the scientific opinion, which is based on observation and facts, and often on experimentation and the scientific method, and a wider group of considerations and judgments that we apply—and that individuals apply—to these matters. It is not an exact science.

To put it crudely, we are endeavouring to diminish the effects of alcohol and of people mixing, either together or separately, because we know that those are crucial intersections that allow the virus to spread in the way that Jason Leitch has described and that we are now familiar with. The question is, how do we do that? It could be that there is some brilliant way of doing it that we have not yet thought of or that has not yet been brought to our attention.

It is not a criticism of anybody in the hospitality trade, or of any individual, to say that we require a pretty broad-brush approach to diminish the effects of alcohol and mixing and that we have to draw lines to do that. The worse the problem is, the tighter the lines have to be drawn in order to get the outcome that we seek.

11:00

In a contribution to yesterday's debate, a member—I will not say who it was—seemed to suggest that there was a magic formula that the Government was hiding from people and that, if we only applied that formula, it would solve all these problems. If only that was the case, we would publicise the magic formula instantly. However, the reality is that judgment needs to be applied to bring together the right tools in order to have the right effect on the issue of alcohol and mixing, given the desensitising effects of alcohol. In difficult circumstances such as funerals, or in happier circumstances such as weddings, the combination of alcohol, mixing and celebration or mourning—all of those things—needs to be judged very carefully.

In these circumstances, none of us—I am sure that Jason Leitch is in the same position—wants to be the person who, in the end, has to reach that judgment. Nonetheless, somebody—with all humility, and recognising the difficulties that Willie Rennie raised in respect of mitigation—has to reach a judgment and say, "That's where we think the line has to be drawn." That is what is taking place.

When I hear—as I do every day—from people who run pubs and restaurants in my constituency, I try to make it clear that that is where we are. I hope that some of them, at least, will understand. We would be really happy if we were not in such a position, and we look forward to not being there. Maurice Corry said that people need hope. They do, and the hope is that the current situation will come to an end. However, in our judgment, that will happen sooner and more completely, and with less damage, if these measures are applied.

Professor Leitch: Mr Russell has put it very well. Given the uncertainty—there was a *British Medical Journal* editorial this week about the uncertainty of a pandemic—we simply cannot know everything that we want to know.

I, too, heard some of the speeches in yesterday's debate. I would love to be able to give numerical answers to some of those questions, but they are simply impossible to answer, not just here but in every country in the world. I remind the committee that pubs and restaurants in Madrid, Dublin and Paris are closed and that every country in the world is trying to reduce household interaction, because we know that that is how the virus spreads.

When we closed everything, we got to single-figure infection rates per day. That is how it works. We are now in a position in which we are trying to balance the advice around opening businesses and the economy and protecting the population.

The answer to questions such as, "Why six people and not eight?" and "Why close at 10 pm and not 1 am?" is that those measures are aimed at reducing the number of household interactions. The simplest approach would be to close everything and get the numbers back down to single figures very quickly. However, we can see how that would work—we would start to open up

and the numbers would go back up again. All the variations in timing and around alcohol, and decisions on whether to open cafes and restaurants—yes or no?—are all about reducing the number of occasions on which people socially interact in order to reduce the prevalence of the infectious agent.

Annabelle Ewing: I thank both the cabinet secretary and Professor Leitch for their answers, and I very much take the point that has been made, particularly regarding the international examples. I understand that President Merkel and others will meet today to discuss whether there should be a one-month closure of all bars and restaurants in all Länder in Germany.

As I have said previously, it is important that we always try to place ourselves and what is happening in an international context, to the extent that there is any relevance. The same approach has been taken, often in a much more restrictive way, in many other countries in Europe. Nonetheless, it is important that we always remember that any of these decisions will impact directly on people's livelihoods and that the language that is used around them is really important. People have to pay their bills and mortgages and meet rental contracts with landlords, and they are extremely worried about how they will manage to do all that.

My other question is probably directed to the cabinet secretary but, if Professor Leitch wishes to comment, that is fine. I want to pick up briefly on the written submission that we received from deafscotland, which reminded us all of our obligation—it is a statutory one—to ensure inclusive communication. The organisation is a bit concerned that, in response to the pandemic, the key obligation to consider various people in the deaf community who are affected in different ways is not being met, or that those people are not being best served. Deafscotland hopes that we will reflect on that to ensure that the issue is at the forefront in all types of communication.

As we have talked about all morning, communication is absolutely key to getting through the pandemic and to getting buy-in and compliance, and it must include every citizen of Scotland. Perhaps the cabinet secretary can assure deafscotland that the matter will be reflected on.

Michael Russell: It is reflected on. We continue to have signing at the First Minister's press conferences, which is important. I am acutely aware of the difficulties that mask wearing creates for those who lip read and those who have any hearing difficulties. Indeed, even for those who do not have a hearing difficulty, it is sometimes difficult to hear what people are saying from behind a mask. We are aware of that issue.

Earlier, Mary Fee raised the impact of the emergency regulations and legislation and asked about our actions on human rights in the broadest spectrum. We will continue to be aware of that. Individual groups will draw our attention to issues, and perhaps we will change and develop in a piecemeal fashion. We are conscious of our wider obligations, and that will continue.

Professor Leitch: I completely agree. I have learned how to subtitle video clips and I have engaged with the community on an individual level. I have done stakeholder engagement events digitally with the deaf community and with many others to try to get the message across and to hear from them about what would be helpful and how they can help us. I am conscious of all those groups, and we are trying as hard as we can to make the communication accessible.

The Convener: Before we say farewell to the panel, I have two questions, just for clarification. The first is about restrictions on travel, and it is just for my peace of mind. Is it the case that people are prohibited from travelling from a tier 2 area to a tier 1 area unless they are covered by one of the exemptions, such as travel for work or education? To use the cabinet secretary's example, if a local authority area such as Argyll and Bute Council was divided up between mainland Argyll and the islands so that those areas were at different levels, would travel be prohibited within that local authority area, under the same rationale?

Michael Russell: "Prohibited" is a strong term—there is strong discouragement from travel, but there are exemptions and necessities. The issue about the Argyll islands requires to be resolved. Like me, Mr Cameron will be aware that people are saying that they would like to have a less restrictive approach, but there is a question about whether they are also willing to accept a more restrictive approach on ferry services, for example.

We went through that in the early part of the pandemic. In the first wave, there were many difficulties with travel, which were resolved by common sense. That is another reason why we need to look at the issues more closely before there is differentiation, if there is any—I do not want to assume that there will be. We need to consider the issue carefully to see whether there is that concomitant obligation and, if so, how it will be managed.

We will move on from that, but, as I am sure Jason Leitch will underline, we are trying to stop the spread. That is what we have been talking about. If we are trying to stop the spread, it is not sensible for people to go from a level 3 area to a level 2 area.

Professor Leitch: The world is presently divided into two types of country. Global response

number 1 is to close everything, get the prevalence to as close to zero as you can and build a wall around the country. A number of countries have done that. New Zealand is the poster child of that response. It has a specific location in the world and has a specific island nature. Global response number 2 is to try to have a regional response that means that the country does not need to open and close all the time.

Another response that we see around the world is the involuntary "open then close, open then close" approach. The regional response, of course, allows a country to be more specific about what restrictions it has, but the implication of that is that the importation of cases from within the country as well as from outwith the country has to be stopped. The unit of population that is used is a matter for each individual country. The unit that is used in Switzerland will, of course, be different from that which is used in Scotland. That takes us into conversations about Ms Robison's point about one side of a street being in Angus and the other being in Dundee, as well as Mr Russell's point about the Argyll islands and a host of others.

The public health advice in the first set of tiers will be that simplicity is crucial. If we can, we want to move most of what we are doing just now, which is working, into the new tier system, and we will then think about the intricacies of moving things around within that. The fundamental advice in the pre-debate draft—I am not judging what will happen tomorrow before the First Minister makes the final choices with the Cabinet—said that people should not move from a high-risk area into a low-risk area. In other words, people should not go from a level 3 or 4 area downwards.

We should remember that, presently, we have advised travel restrictions. Our advice is that people in the central belt should not move outwith their health board area. People should not go from the NHS Greater Glasgow and Clyde health board area to the NHS Lanarkshire health board area to visit their family. That applies to me, on an individual level.

Michael Russell: I want to emphasise the crucial point that Jason Leitch has just made. That travel advice is existing advice. We will not suggest that that advice changes. Observing that advice, which most people have done, is very important.

The Convener: Thank you, both, for that clarification.

I ask the cabinet secretary, if he does not mind, to repeat the announcements on parliamentary scrutiny that he made in his opening statement, because I think that those were new. I apologise for asking him to do so but, for the record and for the sake of other members, I ask him to go through that one more time.

Michael Russell: Yesterday, the First Minister presaged what I have said. We have had good discussions with a variety of people, and I think that Graeme Dey talked to the Parliamentary Bureau about the matter yesterday, but I am happy to repeat what I have said.

When a change is proposed to the levels approach that Parliament approved last night, the Government will advise Parliament of the proposed change by way of a plenary statement, normally on a Tuesday, and members will be able to question the Government on the planned change. Draft regulations will be published, normally on a Wednesday.

If it so chooses, a committee might wish to take evidence from the Government—we suggest that that should be done on a Thursday morning. When I say "a committee", I am not saying that that will be a single committee; it might be a group of committees or whatever. Following any committee consideration, the Government will make the regulations to come into force at an early point on the Friday, and it will be mindful of the committee's observations.

In exceptional circumstances, when very significant regulatory changes were in prospect, the Government would propose to facilitate a plenary session on a Thursday. The expectation is that the normal approval process of a plenary vote on the regulations would still happen at a later date. Parliament would therefore be able to offer a view on the regulations before and after they were made. That adds a significant additional scrutiny dimension.

The Convener: Thank you for that answer.

I thank the cabinet secretary and his accompanying officials for their evidence. That concludes the public part of the meeting.

11:14

Meeting continued in private until 11:47.

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