OFFICIAL REPORT
AITHISG OIFIGEIL

# Health and Sport Committee

**Tuesday 15 December 2020**

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

# Tuesday 15 December 2020

## CONTENTS



## HEALTH AND SPORT COMMITTEE

**33rd Meeting 2020, Session 5**

**CONVENER**

*Lewis Macdonald (North East Scotland) (Lab)

**DEPUTY CONVENER**

*Emma Harper (South Scotland) (SNP)

**COMMITTEE MEMBERS**

*George Adam (Paisley) (SNP)
Donald Cameron (Highlands and Islands) (Con)
Alex Cole-Hamilton (Edinburgh Western) (LD)
*David Stewart (Highlands and Islands) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*Sandra White (Glasgow Kelvin) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Nicky Berry (NHS Borders)
Andrew Bone (NHS Borders)
John Brunton (Scottish Government)
Joe FitzPatrick (Minister for Public Health, Sport and Wellbeing)
Karen Hamilton (NHS Borders)
Stewart Harris (sportscotland)
Ralph Roberts (NHS Borders)
Andrew Sinclair (Scottish Government)
Craig Thomson (Scottish Government)
Humza Yousaf (Cabinet Secretary for Justice)

**CLERK TO THE COMMITTEE**

David Cullum

**LOCATION**

Virtual Meeting

# Scottish Parliament

## Health and Sport Committee

*Tuesday 15 December 2020*

*[The Convener opened the meeting at 09:00]*

## European Union (Withdrawal) Act 2018

### Cross-border Health Care (EU Exit) (Scotland) (Amendment) Regulations 2020 [Draft]

### Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (SSI 2020/372)

**The Convener (Lewis Macdonald):** Good morning, and welcome to the 34th meeting in 2020 of the Health and Sport Committee. We have received apologies from Donald Cameron and Alex Cole-Hamilton. I ask all members and witnesses to ensure that mobile phones are in silent mode and that all other notifications are turned off during the meeting, please.

Agenda item 1 relates to the European Union (Withdrawal) Act 2018. We have two EU-exit related instruments for policy consideration under later agenda items, but we must first consider whether the instruments have been laid under the appropriate procedure and categorisation. If an instrument corrects certain deficiencies in retained EU law, the lead committee has the opportunity, in advance of its policy consideration, to recommend to the Scottish Government that the parliamentary procedure that has been allocated to the instrument be changed. That process is known as the sift.

The first instrument that we will consider in relation to the sift is the draft Cross-border Health Care (EU Exit) (Scotland) (Amendment) Regulations 2020. The instrument has been laid under the affirmative procedure and categorised by the Scottish Government as being of medium significance. The Delegated Powers and Law Reform Committee considered the instrument on 24 November. The committee agreed that it was content that the instrument had been laid under the affirmative procedure and that it should be categorised as being of medium significance under the Scottish statutory instrument protocol.

As there are no comments from members, we agree that the instrument has been laid under the correct procedure and categorisation.

The second instrument that is to be considered in the sift is the Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020. The instrument has been laid under the negative procedure and categorised by the Scottish Government as being of low significance. The DPLR Committee also considered the instrument on 24 November. It agreed that use of the negative procedure was appropriate, because of the instrument's technical nature, and that it should be categorised as being of low significance, for the same reason.

As there are no comments from members, we agree that the instrument has been laid under the correct procedure and categorisation.

That concludes the committee's consideration of the sift of those instruments.

# Subordinate Legislation

## Cross-border Health Care (EU Exit) (Scotland) (Amendment) Regulations 2020 [Draft]

09:03

**The Convener:** Under agenda item 2, the committee will consider an affirmative instrument. The instrument has been laid under the affirmative procedure, so we have an evidence session with the Minister for Public Health, Sport and Wellbeing. There will be an opportunity to ask questions, then there will be the formal debate on the motion that the minister will move.

The regulations make provisions relating to certain patients participating in European cross-border healthcare who will be in a transitional situation on the EU-exit implementation period completion day, and will ensure that the Scottish statute book will function correctly after that date. The instrument is a stand-alone piece of cross-border legislation that is not linked to any other arrangements.

I welcome to the committee Joe FitzPatrick, the Minister for Public Health, Sport and Wellbeing, who is accompanied by, from the Scottish Government, John Brunton, who is a senior policy manager in the safety, openness and learning unit of the healthcare quality and improvement directorate; and Arezo Darvishzadeh, who is a solicitor in the legal directorate. I thank the witnesses for joining us and invite Joe FitzPatrick to make a brief opening statement.

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** I am pleased to join the committee to discuss the regulations. It remains the Scottish Government's clear position that the interests of Scotland would best be served by remaining in the European Union. The devastation to the worldwide economy that has been caused by Covid-19 has served only to strengthen that view.

However, as a responsible Government, we are duty bound to make necessary preparations to ensure that the Scottish statute book remains operable at the end of the transition period on 31 December this year.

At present, under the European cross-border healthcare directive, European Economic Area citizens have the right to obtain healthcare services in other EEA countries. However, the treatment must be the same as, or equivalent to, treatment that is provided by their home state. The patient pays for the treatment up front, and may claim reimbursement that is limited to the amount that the same or equivalent treatment would have cost had it been provided by the state at home—which, for our purposes, would be in Scotland and on the national health service.

Healthcare is a devolved matter, so the National Health Service (Cross-border Health Care) (Scotland) Regulations 2013 implemented the directive in Scotland where necessary. Importantly, the 2013 regulations set out the need for prior authorisation to travel for expensive specialist treatment.

The Cross-border Health Care (EU Exit) (Scotland) (Amendment etc) Regulations 2019 provided a mechanism to ensure there was no interruption to cross-border healthcare arrangements for people accessing healthcare through the directive after EU exit day, in the event of there being no deal. That would have applied to member states that agreed to maintain existing reciprocal arrangements with the United Kingdom for a transitional period until 31 December 2020. Cross-border healthcare requires basic reciprocal arrangements in order to operate.

The 2019 regulations were originally due to take effect on 29 March 2019. However, as a result of the European Union (Withdrawal Agreement) Act 2020, that was suspended, as the UK continued to be subject to EU law until the implementation period completion date—11 pm on 31 December 2020. The 2020 regulations reflect that position.

European reciprocal healthcare arrangements are separate from cross-border healthcare. Existing reciprocal healthcare arrangements will remain extant until the end of the implementation period, when reciprocal arrangements that are set out in the withdrawal agreement for existing participants in the EEA and UK will come into force. Negotiations between the UK and EU on wider reciprocal healthcare arrangements after the implementation period are on-going.

European cross-border healthcare has not featured in the negotiations between the EU and UK. Therefore, when the implementation period comes to an end, it will no longer be possible for UK citizens, including Scots, to exercise previous EU rights in that regard. The instrument therefore terminates the existing cross-border healthcare arrangements that are in place between the UK and the EU.

However, the instrument protects patients who find themselves in a transitional situation on implementation period completion day. That includes individuals who obtained prior authorisation for planned treatment before completion day, but who have not yet obtained the treatment; individuals who accessed healthcare abroad prior to completion day, but who have not yet completed the treatment or sought reimbursement; and, importantly, UK state

pensioners from Scotland who live in other EEA countries and who need to access healthcare that is provided by the NHS while in Scotland. Those time-limited measures aim to prevent a sudden loss of cross-border healthcare rights for Scottish residents and pensioners from Scotland who reside in the EEA.

We consider the amendments to be technical for the most part. I hope that members agree that, as part of the Scottish Government's overall programme of legislative planning for EU exit, the Cross-border Healthcare (EU Exit) (Scotland) (Amendment) Regulations 2020 provide necessary changes to protect Scottish residents' rights to access cross-border healthcare, as far as that can be achieved for—[*Inaudible*.]

We are, of course, happy to take questions on the draft regulations.

**The Convener:** I ask members who have questions to indicate that by typing "R" in the chat box.

I will start by asking the minister about the narrow impact of the amendment in relation to people who are undergoing treatment on 31 December. How many people does the Government estimate might be affected by it?

**Joe FitzPatrick:** The number of people will be very low—possibly, none. A relatively low number of people go through that process. Does John Brunton want to add anything to that?

**John Brunton (Scottish Government):** No. The minister is very right that few such people are going through the system at the moment. With Covid, the numbers will be even smaller.

**Emma Harper (South Scotland) (SNP):** Good morning, everybody. That was pretty much my question—it was about the number of people who will be affected. I am surprised to hear that the matter was not part of any negotiations as we were exiting. Is that related to the fact that it affects a very small number of people?

**The Convener:** Could the minister also confirm, as far as it is possible to do so at this stage, that what he said indicates that there will be no cover in place after the transition arrangements conclude?

**Joe FitzPatrick:** In terms of the specifics, the regulations are about people seeking treatment in the EEA, access to which will end on 31 December, so what the convener says is accurate; after that date, people will obviously have to make other arrangements for healthcare. The regulations are to ensure that the law works in practice for everyone, and that nobody falls through the cracks. It is very unlikely that there will be many, if any, people in the category, but it is important that we have mechanisms in place to protect them.

**The Convener:** Excellent. Thank you very much.

There are no further questions from colleagues, so we move to item 3, which is the formal debate on the made affirmative SSI on which we have just taken evidence. I invite the minister to move motion S5M-23423. Any members who wish to contribute to the debate should indicate that by typing an "R" in the chat box.

*Motion moved,*

That the Health and Sport Committee recommends that the Cross-border Health Care (EU Exit) (Scotland) (Amendment) Regulations 2020 [draft] be approved.—[*Joe FitzPatrick.*]

**The Convener:** I see that no members wish to add anything. Does the minister have anything to add?

**Joe FitzPatrick:** No—I think that we have covered it. What the instrument does is pretty technical.

*Motion agreed to.*

**The Convener:** That concludes consideration of the instrument. We will report to Parliament accordingly. I thank the minister and his officials for their attendance.

# Covid-19 (Impact on Sports Clubs and other Local Recreational Facilities)

09:12

**The Convener:** Agenda item 4 is an evidence session as part of our short inquiry into the impact of Covid-19 restrictions on sports clubs and sports and leisure venues. Our inquiry has a particular focus on reductions in or cessation of community-based activities that are undertaken by sporting organisations, including the mental and physical health impacts of that.

However, this morning's session is specifically concerned with the correspondence between the committee and the Government in relation to the impact on Scottish professional football clubs and their links to community hubs and delivery of other types of community support. We will have a further evidence session on other aspects of the inquiry in the new year.

Members will know that we received a response from Joe FitzPatrick, the Minister for Public Health, Sport and Wellbeing, whom I welcome back to the committee. This time he is accompanied by Andrew Sinclair, who is the head of active Scotland, and Stewart Harris, who is the chief executive of sportscotland, whom I welcome.

Again, the minister wants to say a few words to begin the discussion.

**Joe FitzPatrick:** Thank you, convener. I am pleased that the committee is holding this inquiry. It is really important. We recognise that this has been an enormously challenging time for the sports sector, as well as for the country as a whole, and we appreciate its support over the past months to help us to tackle the virus.

Our approach throughout the pandemic has been to permit as much sport and physical activity as possible. We have taken that decision because of the broad physical and mental health benefits that it brings, at a time when those are especially needed. That has included prioritisation of under-18 sport and physical activity, with exemptions to travel restrictions being in place for activity outdoors and indoors. In addition, under the strategic framework we have provided travel exemptions for people living in level 3 and level 4 areas to enable access to local green space for sport and physical activity.

From the beginning of the pandemic, we have prioritised communications to encourage people to stay active within the restrictions. Our "Clear your head" mental health campaign to help people to cope during the pandemic has encouraged people to keep moving or to get outside, as we recognise the benefits of activities on mental health. The physical activity resources that are attached to that campaign have been widely utilised by the public.

09:15

We have worked closely in partnership with sportscotland to support the sports sector during this time, which has ensured the development of overarching national guidance to support development of sport-specific guidance by Scottish governing bodies of sport. That has permitted a large number of sports to continue to operate in communities across Scotland in a Covid-safe way.

Despite the challenges of the pandemic, many sports clubs and community organisations have supported their communities by supplying food provisions to those who are most in need, thereby demonstrating how sport can go above and beyond to aid Scotland's recovery during this unprecedented time. Active schools Inverclyde, Stenhousemuir Football Club and Dundee West Football Club are just three of many examples.

The principles of equality and inclusion run through our active Scotland outcomes framework and sportscotland's corporate strategy, "Sport for Life: A Vision for Sport in Scotland". We recognise that Covid has exacerbated existing inequalities, so our focus on that will be key in our recovery from Covid. The Scottish Government's programme for government reflects that approach, with an increased focus on improving population health and tackling health inequalities, particularly in the context of the pivotal role that sport and physical activity will play in our recovery from the pandemic. We will continue to work in partnership with sportscotland and the wider sports sector on that critical future work programme.

I thank the committee again for its interest in this vital area, and look forward to collaborating with the committee in taking matters forward.

**The Convener:** Thank you, minister.

At the end of last week, the Government announced additional funding of £55 million, which is made up of loans and grants, for sports clubs that have been affected by the Covid crisis. I will ask about the loan element of that fund—in particular, in relation to premiership football clubs, of which there are 12, and for which the funding on offer appears to be £20 million entirely of loan funding. How will the package operate in general, and in relation to the premiership clubs?

**Joe FitzPatrick:** You are right; the £55 million is made up of a mixture of grants and loans, and we are providing £20 million of loan funding for the premiership teams. The basic principle of the loan fund is that the interest rate needs to be within

state aid rules, which is roughly the base rate. We are in discussions with the Scottish Football Association about exactly how the fund will be distributed. On the face of it, we would expect the fund to be divided equally across the 12 clubs, assuming that all 12 clubs want to access the loan fund. If one or two clubs were to feel that they do not require that level of support, other clubs might be able to access more. We have allocated £20 million for the premiership, which is a significant amount of money, and I hope that it will ensure that all the clubs can be sustained through what is such a challenging time.

**The Convener:** From my home-town club—Aberdeen Football Club—I know that £20 million might, as a headline, sound like a significant sum, but once it is applied to the financial losses that premiership clubs are facing through the loss of gate money, hospitality money and sponsorship, it might not go terribly far. How much have you consulted individual clubs in deciding on the total of £20 million for the loan fund?

**Joe FitzPatrick:** In identifying the funding of £55 million that we are providing across sport, active Scotland and sportscotland did a piece of work to identify all the challenges. As the Minister for Public Health, Sport and Wellbeing, the biggest challenge for me has been that, when we finally got clarity about the Barnett consequentials from the UK fund, the amount was something like £4.5 million of revenue. Had we spread that out across Scottish sport, it would not have made the impact that is necessary to ensure sustainability of sports. That is why I am pleased that we have managed to significantly increase the package.

I think that the revenue support across sport is about eight times higher than the Barnett consequentials. The loan element is also significantly higher. I am really pleased that we can, because of how we have managed to profile the grants and loans, make available £20 million for the 12 premiership clubs, which is just over £1.6 million for each club, should they require it. I think that a couple of clubs will not require a loan, which might mean that there is a little bit more for others. The discussions are on-going.

Andy Sinclair will say a little bit more about discussions with the SFA about distribution of the support.

**Andrew Sinclair (Scottish Government):** The minister has comprehensively covered the position. Our intention was always to focus on the lower leagues, where we believe need is greater, while giving the premiership clubs the ability to access loans, if and when they need them.

As the minister said, we carried out a consultation process with the Scottish FA to gather all the financial data in advance, so that we really understood the financial position across all tiers of football before we made decisions.

**The Convener:** I want to understand the situation in relation to the premiership clubs. Have you discussed each club's financial position directly with them, or have you had discussions only with the SFA, which clearly has a wide remit that covers all football at all levels?

**Andrew Sinclair:** We dealt principally with the Scottish FA and the Scottish Professional Football League to gather the data. We have had individual discussions with clubs, but we tend to go through the governing body in order to collect such information.

**The Convener:** Minister, is the intention that the loans will be provided directly to premiership clubs, or will they be provided through a third party?

**Joe FitzPatrick:** We are working with the SFA to finalise the detail. Clearly, the loans must meet state aid rules, and we are looking at providing them at the Bank of England interest rate. The detail is being discussed with the SFA, which will, I think, meet the SPFL clubs this week.

**David Stewart (Highlands and Islands) (Lab):** I refer members to my entry in the register of members' interests, as the chair of the Inverness Caledonian Thistle Trust and a season ticket holder of Inverness Caledonian Thistle Football Club since it was formed in 1994.

The convener has already covered one of the issues that I was going to flag up about football clubs facing a perfect storm. When Richard Leonard and I met Neil Doncaster last week, he confirmed the problem: with few or no fans, match-day revenue has fallen off a cliff, and Covid-19 compliance costs are sky high. My view is that, regrettably, clubs will go to the wall early next year. Therefore, I support the package that the Government has come up with.

After talking to clubs, my view is that the package needs to be quick, understandable and non-bureaucratic. How do the clubs apply? How quickly can the Government make a decision on the applications?

You mentioned that £10 million is available outwith the Scottish premiership. Are you allocating that to specific divisions—that is, to the championship, league one and league two? How is the £10 million split between grant and loan?

**Joe FitzPatrick:** I recognise Mr Stewart's interest. It is helpful to have someone on the committee with that interest, and I know that others on the committee have particular interests in other football teams. It is useful for us to tap into that.

The member is absolutely right about what would happen if we did nothing, particularly to the clubs at the lower levels, which have really challenging income streams and do not have access to some of the funding that is available and still streaming through the premiership. We took the decision to focus the grant side of the funding on the Scottish championship and below, because I think that that will for some clubs—which are so important to their communities—really make the difference between them surviving and going under. My job as the minister for sport is to do what I can to make sure that no clubs go under—that is my aim.

Clearly, it is not just football that is impacted; other sports are, too. However, we cannot overstate the particular importance of football to our society.

In principle, we would be looking at dividing the £10 million between all the lower leagues, starting with the championship, with equal division of funding within each league. The need for support is not the same in all the leagues, from the championship down, because the losses are less. That will be part of our calculation: what funding are the clubs missing from spectators and what funding streams are they still managing to acquire funding from? That is part of the detail that we are finalising with the SFA; David Stewart is absolutely right that we need to do that as quickly as possible. I understand that, elsewhere, money has perhaps not flowed as quickly as clubs would have liked after announcements. I hope that the huge amount of effort that active Scotland and sportscotland have put into understanding the financial challenges means that we can get the money flowing to the clubs as quickly as possible, which, as Mr Stewart says, is so important.

**David Stewart:** I welcome the minister's comments. I think that he understands the real cash-flow problem that clubs are facing. The minister will know this, but for people who are watching, I spoke to senior members of banks this week, and they told me that the majority of football clubs do not have an overdraft facility—they do not have financial support from banks. The UK Government's coronavirus business interruption loan scheme is excellent, but the problem is that, as far as I can detect, no club in Scotland has got a loan because no club meets the viability test, which is crucial. The only institution that has got a loan is the SFA, which has managed to put Hampden up as collateral. There is a real problem here, minister, so I emphasise that getting the money out quickly and having a non-bureaucratic process and early decisions will be vital.

You touched on the issue of the pyramid in Scotland. As a Highlander, I have a particular interest in the Scottish Highland Football League, but I am obviously aware of the South of Scotland Football League and of the crucial role that women's football plays. Will the £10 million package, which is for clubs outwith the premiership, be all grant money or is there a mixture of grant and loan money?

**Joe FitzPatrick:** I recognise all Mr Stewart's points, which are robust and well made. Outwith the premiership, all the funding is in the form of grants. It is important that the funding supports football at all levels—the women's game, amateur games and the Highland league. I am pleased that most Highland league teams are now able to have some fans back at matches, which will help them, but Covid has had an impact on all levels of the game, so it is important that all levels of the game get grant support.

**The Convener:** There is £10 million for all football outwith the premiership. What do you estimate the likely available grant would be for, let us say, a league one football club in the SPFL? What are we talking about in real terms?

**Joe FitzPatrick:** That is a discussion that we are having with the SFA. Prior to making the announcement in Parliament last Thursday, it would not have been appropriate to talk to the SFA about any numbers. We are having discussions about distributing that £10 million pot. Of course, it would always be better if it were more. I ask people to remember that the Barnett consequential from the entire sport budget would be roughly £4.5 million, and we have managed to secure £10 million for football. It is a sizeable pot of money, and we need to ensure that we split that correctly so that it has the appropriate effect at every level of football. Andy Sinclair and his team are doing that work with the SFA.

**The Convener:** Do you know the total number of clubs that will be beneficiaries of that grant support across women's football, the Highland league, the Scottish Lowland Football League and the lower leagues of the SPFL?

**Joe FitzPatrick:** It will be hundreds of clubs. Andy Sinclair has the best chance of being able to answer that, but it is a huge number.

09:30

**Andrew Sinclair:** [*Inaudible*.]—the Scottish football pyramid down to tier 7. That includes the women's game, the junior game, the Highland and lowland leagues, East of Scotland Football League, West of Scotland Football League and South of Scotland Football League. It is almost every semi-professional league in Scotland. A huge number of clubs will be supported.

**The Convener:** Are we talking 200 or 300 or more?

**Andrew Sinclair:** It is probably about 200—there are 240 clubs under the auspices of the SFA.

**The Convener:** Okay, thank you very much.

**Emma Harper:** How do clubs apply for funding?

**Joe FitzPatrick:** That is one of the things that we are finalising with the SFA. Andy Sinclair's team has been involved in those discussions.

**Andrew Sinclair:** That work has been done. The information gathering and the financial information gathering have been concluded. We do not expect the process to be particularly bureaucratic and we expect to be able to move quickly. It will be a case of agreeing the allocations with the Scottish FA and then getting the money out of the door. It should be a fairly rapid process.

**Emma Harper:** I am sure that clubs such as Newton Stewart, St Cuthbert Wanderers and Threave Rovers will be happy to hear that it will not be bureaucratic and will, hopefully, be easy.

How much funding will be provided for women's football?

**Joe FitzPatrick:** It is really important that we ensure that the money reaches all parts of the game, including the women's game. I met representatives of all levels of the women's game last week. I heard how the top level of the women's game is continuing to play, but there are still challenges. I also heard about women's football at community level and how some clubs in levels three and four are working really hard. Teams are not able to play but they are coming together to do something for the community, such as deliver food packages, and to continue their training. It is really important that we support all levels of the game.

We are emphasising the women's game—as the committee has been doing—because it is important that we ensure that it is supported. I apologise for the pun, but there was such a bounce in the game after the women's team qualified for the world cup. Regardless of the disappointment of the final result, it was really exciting. We want that excitement to continue, to encourage more girls to get involved in football, whether that is in a semi-professional and competitive role or just for fun and to keep fit, which is equally important.

**Emma Harper:** My final question is Covid related. It is important that grass-roots football continues. Parents are desperate to watch their kids play and that is really important as we move forward. Luckily, in the south-west, we are in tier 1. Will there be further announcements about how we can get parents involved again and ensure that fans get to see the weans play? I look forward to that.

**Joe FitzPatrick:** You are absolutely right. As areas move down the tier system, that provides opportunities, which we must grasp in a way that is safe, because it would not be good if relaxing rules around football resulted in an increase in Covid numbers and an area having to move up a level. We need to do it carefully, and football clubs across Scotland are alert to that. A huge amount of work has been going on in football with the Scottish Government and SFA joint response group, to make sure that, whatever we do, we do it as safely as possible. As prevalence comes down in areas, it offers opportunities for us to safely bring a number of activities back.

With regard to South Scotland, which Emma Harper represents, Queen of the South is already in discussions with Inverness Caley Thistle—as Mr Stewart will be pleased to know—to discuss its experience and make sure that, as football opens up and prevalence goes down, we share that knowledge in order to do everything as safely as possible. As we move forward, we will be able to learn a number of lessons from the Highlands.

**George Adam (Paisley) (SNP):** Good morning, minister and everyone else. I also declare my interests; I am the convener of the St Mirren Independent Supporters Association. It has a 28 per cent share in St Mirren Football Club, which will be fan owned by this time next year. I am also honorary president of Paisley Pirates ice hockey club, which is one of the oldest clubs in Scotland.

Minister, when you were developing the funding package, what discussions did you have with clubs and governing bodies in advance? I know how difficult working with the SPFL can be, in particular, with its chief to have flights of fancy from time to time.

**Joe FitzPatrick:** If we think back to when prevalence was getting so high that, across the United Kingdom, all Governments took the decision that the pilots that we were taking forward had to stop, it was clear that we needed a package to support football and other sports with spectators. At that point, I quickly met the SFA and SPFL to discuss concerns and hear their views; I have met them on a number of occasions. The most important piece of work has been carried out by active Scotland and sportscotland officials working with the SFA and others to try to understand the challenges that individual clubs at all levels have faced.

One of the challenges in meetings with football authorities is that the premiership is understandably but disproportionately represented, so we have to make sure that we hear from all levels of football. I understand why the premiership is so important to Scottish football; the Sky Television contract is a huge income resource, which is really important to all levels.

Although we are not quite there yet, I hear noises from a number of senior members of football organisations that suggest that, because of the pandemic, people increasingly recognise the need to look at football in the round and, rather than take an insular view related to their own club, to think about the wider game. If football as a whole is stronger, that will benefit all teams, including the 12 teams in the premiership.

**George Adam:** Minister, if you find a way to get clubs the length and breadth of the country to work together in that way, you are a better man than I am.

**Joe FitzPatrick:** From my discussions, I am of the view that an increasing number of people at senior levels, including the premiership, recognise the importance of football at all levels, so I think that a shift is happening, which is good.

**George Adam:** That is encouraging to hear, minister, because I also want to ask you how your decision process worked with regard to splitting the funding payments. I am a football fan, and you have put in £30 million for football. My father-in-law is a massive rugby fan, and he will probably hate me for saying this, but it seems strange that there is £20 million for rugby. How did you go about splitting the funding among the various sports?

**Joe FitzPatrick:** As I said earlier, we did a piece of work to try to understand the challenges that different sports and clubs had, at all their levels. That involved looking at reduction in income and the ability to reduce spend—for example, the ability to furlough—plus what existing and continuing streams of money were coming in. That was the basis of the recommendation that came to me.

The most important thing for me was that we were able to make the case that the size of the envelope was significantly larger than the Barnett consequential. We would be having a very different conversation if I had had to make a decision on how to divide £5 million of grant and maybe £20 million of loans across all sport. I would not have been confident that we had put in place a package that will sustain sport through the pandemic.

**George Adam:** I can see the logic, minister. Taking ice hockey as an example, the ice is always the most expensive thing for clubs to deal with. You have put in £2.2 million for ice hockey and ice rinks, and £2 million of that will go to the ice rinks alone. That makes sense, because that is the largest cost for those clubs.

Are you aware of the possibility of any football club going out of business because of the pandemic? Are any close to the line? To use my club as an example, surprisingly, St Mirren has been a well-run club for 30-odd years. We are doing really quite well, considering the challenges that we have had. Are you aware of smaller clubs that might be struggling at this stage?

**Joe FitzPatrick:** That takes me back to the point, which Dave Stewart made, that if we did not have the package, some important community clubs would be at risk. That is partly why we have made sure that the grant funding for football reaches all levels of the game. It would be devastating if we came out of the pandemic and, just when we really need to get people physically active, part of the resource that our football teams provide was not there. We would have to rebuild from scratch to give people the opportunity to take part in physical exercise and sport.

**George Adam:** Different football clubs have different needs, and the funding will be used for different things, depending on the size of the club. For example, the St Mirren Independent Supporters Association had a project to pay for the upgrade of the Astroturf in our training academy. Are any strings attached to the funding, or can clubs use it for community hub projects and capital spend that they could not otherwise afford at this stage, which would make things a lot easier for them?

**Joe FitzPatrick:** The purpose of the fund, as an emergency fund, is to ensure the survival of the football clubs. I am keen that it has as few strings attached to it as possible, because I think that ultimately the teams will be best placed to know what is going to ensure that they are able to sustain themselves. Andrew Sinclair might be able to add something about the discussions that we have had.

**Andrew Sinclair:** As the minister said, we are trying to make it as unbureaucratic as possible. We recognise that clubs are in trouble, so this is an emergency fund. The more strings and conditions that we attach to that money, the more difficult it becomes for the clubs and the more diluted the impact becomes. We are keen to make it as much up to the clubs as possible to meet their needs and costs.

09:45

**Brian Whittle (South Scotland) (Con):** Before I ask my questions, I highlight that I have spoken to my local club, Kilmarnock Football Club. As Dave Stewart said, a lot of clubs function without debt. However, Covid testing is costing Kilmarnock up to £20,000 a month and it has made cuts by not running a second team. Bizarrely, it loses money on pay-per-view when it has a televised game; and if fans come back in limited numbers, the club will lose money on that, too. Although the support offered to clubs is welcome, a lot of them may not

want to take a loan because they do not run a debt. They are under extreme pressure. When I asked Kilmarnock when it thinks that it will get back to normal, the club told me that that will take a considerable time.

My question for the minister concerns other sport. I am looking at the table in the committee paper that shows Scottish Government financial support by sport. I welcome the support but note that quite a few sports whose members I have spoken to are not represented on the table. That includes my own sport of track and field; squash—squash clubs have highlighted to me that a lot of them are under extreme pressure because squash is designated as a contact sport; martial arts; and badminton.

As the minister highlighted, sport has a hugely positive impact on individuals and communities. My concern is about the widening of the inequality gap. Where is the funding for those sports? What were your considerations in deciding to support some sport but not others?

**Joe FitzPatrick:** That is an important question because, on the face of it, one would come to that assumption. The fund is specifically for sport that is particularly impacted by the loss of spectator income, with the exception of the ice sports—curling, for example—which have a particular issue that I think that we all recognise, which George Adam mentioned.

However, Brian Whittle is absolutely right in saying that a wide range of other sport has been impacted by Covid-19. We took an early decision to plan for that challenge and those sports have been supported by sportscotland. I will ask Stewart Harris to outline the approach that sportscotland has taken to supporting sport as a whole.

**Stewart Harris (sportscotland):** We have a good relationship with all governing bodies, as Brian Whittle will know. At the beginning of the pandemic, we took a decision to advance £32 million to the national governing bodies and local partners. That had no strings attached and was based on protecting jobs and supporting the survival of each sport and its infrastructure. We have kept in contact with each sport and set aside another £1.5 million, so should track and field, for example—I know that that is close to Brian Whittle's heart—experience any further difficulty, we will make sure that we are able to use those resources, in discussion with those involved.

Equally, as the pandemic progresses, and depending on the timescale, we will continue to examine how we support each governing body nationally and locally. Our relationship with all 32 local authorities is key in that respect. There is a lot of support in place and we have asked each governing body to keep us posted on the state and readiness of their clubs, so that if there are difficulties—infrastructure problems or issues with jobs, particularly the professional leadership jobs—we will be ready to help and look at providing additional financial support.

**Brian Whittle:** I should declare that I am still an active coach. One of the things that concerns me is that we have lost the ability to recruit during this period—that is, for a year. Also, during the time when sport was unable to keep going, people will not have come back to the sport, if I can put it that way. In my view, we must consider how to support sport in bringing people back and how we backfill those people who have not been recruited into sport because we have lost a whole year. How is the Scottish Government planning to do that? I know that it is not the priority right now, but it is coming down the line, and sport is going to be so important.

**Joe FitzPatrick:** Your question is one of the most important ones that we need to answer as we get through Covid. You are absolutely right: there will be a host of people who would have signed up to sport and clubs but have not done so. If we are to tackle the physical and mental health issues and inequalities that Covid has exacerbated, we need to meet that challenge.

When I met representatives of women's football last week, we discussed not just how Government, but how all the sport governing bodies in Scotland—perhaps the committee can help us with this—can take a national approach to encouraging people to get involved in sport. You are right to suggest that now is not the right time to do that, but that time will come soon. It might be about offering tasters in different sport, to help people to find the right sport for them rapidly—otherwise, someone might join a club and then decide that that sport is not right for them and try something else.

We need to work together throughout Scotland to make the process much faster. There is a particularly important role for all the sport governing bodies, the folk who are involved in sport and those who run clubs in considering how they can make their pitch. There is also a leadership role for Government and a role for the committee. I am really keen to consider how we can work together. After Covid, we will get back to some sort of normal, and we will need to get Scotland moving. Sport is so important in encouraging people to take part in physical activity.

**The Convener:** I want to make sure that the global sums in the sport support package are understood and on the record. The table of the breakdown shows that there is £25 million in loan funding, of which £20 million is for Scottish

premiership football clubs and £5 million is for rugby. There is also £30 million in grants or resource funding, of which half is going to rugby and the rest is being distributed among football and all the other supported sport. Given that grant funding is intended to make up for loss of income as a result of Covid, are you maintaining that half that loss of income is felt by rugby rather than other sport?

**Joe FitzPatrick:** The fund is an emergency fund to ensure that all those sports are sustainable during the pandemic. I would not for a second suggest that it will replace all the lost income; it cannot do so, and the scheme is not designed to do that. The Barnett consequentials are something like £4.5 million, so we are massively increasing that figure to support sport.

I am pleased that, by having a £55 million fund, the Government is recognising the importance of all sport, in the context not just of physical activity, but of the wider economic and social aspects.

Working out where the loans and grants should go was about ensuring that all sport could be sustainable. For premiership football in particular, the resource that was required to make a difference at that level was substantial. The £20 million is about £1.6 million per club, which is a substantial amount of money. Compared with what is happening elsewhere, what we have done is significant.

**The Convener:** I am a little surprised that 200 football clubs are receiving £10 million in grant support, whereas rugby is receiving £15 million. How many professional and semi-professional clubs are there in the Scottish rugby envelope, which is receiving £15 million of resource funding?

**Andrew Sinclair:** I can give a bit of detail on that. The way in which the two sports are governed is completely different, which makes them quite difficult to compare. Scottish Rugby is the owner and operator of the two professional rugby teams—Glasgow Warriors and Edinburgh Rugby—as well as being the owner and operator of the BT Murrayfield stadium. It also supports, to the tune of about £7 million a year, the grass-roots infrastructure in rugby. Given the increased transmission risk, playing rugby has essentially been suspended at grass-roots level. The funding will ensure the future of the men's and women's national teams and the Edinburgh and Glasgow clubs, and aims to protect that investment in grass-roots rugby across the country.

**The Convener:** There is no comparison. There are hundreds of clubs and thousands of players involved in semi-professional football, but there is a relatively small number of rugby players.

**Andrew Sinclair:** That is correct.

**George Adam:** My question is not just football related; it is about everyone in the whole scenario. Come January, when the transfer window opens, there is a good chance that smaller clubs, because of their financial circumstances, will let some players go. Those players might find it difficult to move to another club. Back in the day, when things were okay, it would have been slightly easier to find another club, but, post-pandemic, there might be some redundancies. Does the Scottish Government have any plans to mitigate those potential employment impacts?

**Joe FitzPatrick:** When we talk about the economic impact on football clubs, it is important to recognise that that is much wider than just the players on the field. Most clubs are likely to have people who are still on furlough. It is good to know that that option is available for a bit longer. We will encourage the UK Government to ensure that that continues to be available to football clubs and other businesses for as long as it is required.

We are all hoping that the situation will turn around and that we will reduce the prevalence of the virus. The vaccine roll-out is one of the bright lights at the end of the tunnel. That light is getting a little bit brighter. We are all desperate to get back to as much normality as possible.

My job as the minister for sport is to ensure that the clubs are able to survive until we get to that point, after which we will have, I hope, a positive future, and clubs can get back to focusing more on the football than on the politics.

**George Adam:** This is my final question. During lockdown, many of the clubs' community development departments and charities did a lot of great work. I am not saying that all roads lead to Paisley and St Mirren—let's not kid ourselves; I am saying that—but the whole point is that we were very good at working with the community and dealing with young people and so on. Over the past 10 years, youth community development departments have become thriving parts of their communities. Has the minister had any indication that some of those departments might be closed because they will not be able to work as they did before?

**Joe FitzPatrick:** No, I do not think that I have had any indication of that. However, I am aware that the work that George Adam talked about happening in Paisley is happening in clubs all over the country and at all levels. Football clubs have really stepped up as really important parts of their communities.

**David Torrance (Kirkcaldy) (SNP):** Football clubs are integral parts of their communities, and they engage with a wide range of age groups. As George Adam mentioned St Mirren, I will mention Raith Rovers Football Club, which is also a great

example, with its walking football programme for all ages, as well as for women. Does the minister recognise that losing community clubs would have a real effect on the physical and mental health of the local population?

10:00

**Joe FitzPatrick:** David Torrance is absolutely right about the importance of football clubs, particularly for smaller communities. Their reach is far wider than just football. Some of the work that football trusts in particular are doing is not just about physical activity; it also covers employment and helping young folk get the confidence to go to college. In football clubs across Scotland, the Government supports the football fans in training programme, which is an evidence-based approach that encourages those fans who may be a little overweight to get physically active. There is evidence that the programme works with that audience where other interventions have not.

I cannot overstate how important the work that football clubs across the country are doing at all levels, including in the premiership. The convener will be aware of the great work that Aberdeen Football Club is doing, which reaches beyond the city into the shire. That is replicated by other groups across the country. That is why it is so important that we support our sport and football clubs.

**The Convener:** David Torrance?

**David Torrance:** I do not have any other questions, convener.

**The Convener:** You mentioned community trusts. Aberdeen Community Trust is a good example of what can be done. Is it your expectation that the loan funding that is being made available to premiership clubs can be used to maintain not only the professional game but community activity?

**Joe FitzPatrick:** The funding that we are providing is more likely to be used to make sure that clubs are sustained. Community trusts and football clubs are separate entities, but there is a synergy—the Aberdeen Community Trust, for example, would not exist if it was not for the football club. What brings those folks together is their passion, like yours, convener, for Aberdeen FC and wearing the red. I do not expect the money to flow that way, but I think that activity is very important.

**The Convener:** That is a nice segue from the passion for wearing the colours to our final area of questioning about the return of fans to Scottish football.

**David Stewart:** This session has been helpful. We are coming to one of the key areas: the safe return of fans to football stadia. In my discussions with football teams, they have argued that they want a hand up rather than a handout. When can we have a safe return of fans to football stadia?

I will flag the position in England, which is not always a good argument for me to put to the minister. However, he will know that, under tier 1 in England, stadia are allowed 4,000 fans and that, under tier 2, they are allowed 2,000 fans. In my club, in a stadium that has a capacity of around 7,000, 300 fans are currently allowed under level 1.

Of course, we have to follow the science, but the same science is governing England and Scotland. I know that Jason Leitch, who frequently cites football, often argues that outdoor is much safer than indoor. Can we look again at the issue? By allowing fans back, we can enable teams to trade out of the financial problems that they have. However, I emphasise that we need the fans back safely.

**Joe FitzPatrick:** The last word that Mr Stewart used—"safely"—is so important. We have seen up to 4,000 fans in stadia in England. I watched some clips of one of those games—I think that it was in London. As I understand it, that approach will now cease, and clubs in a whole section of England will not be able to have any fans at matches.

I would be hugely worried if what I saw in those clips happened in stadia in Scotland. At the start of the game, fans were practising social distancing and being really careful, but that changed as the game became exciting. That does not always happen, but when it does, it becomes difficult for us all to remain mindful of the rules, and, in those clips, I saw social distancing going out the window. There was lots of shouting, which increases aerosol generation.

We need to be really careful, because the virus is still out there. Given the prevalence of the virus in some parts of Scotland, we must be careful about doing anything that increases the possibility of transmission between households, resulting in further community spread of the virus, with all the implications that that would bring.

We have a route map for getting fans back to matches. We need to get the prevalence of the virus down and get areas down to level 1, as we have done in the Highlands, where it is now possible on Saturdays to have 300 fans at Inverness Caledonian Football Club, 300 fans at Ross County Football Club and hundreds of fans at Scottish Highland Football League clubs across the local authority area. That is the way that we want to go to get more fans back into more stadia across Scotland.

It is no use to me, as a Dundee United Football Club fan, that there are fans at Ross County.

Dundee United fans want the chance to see a Dundee United game, preferably a derby. However, we need to be really careful and mindful of the fact that we have seen the levels of the virus go down and then go up again. Every time that we relax the regulations, there is a real risk that we allow the virus to get a grip again and spread. The Highlands are doing really well, and it would be awful if we did something that resulted in the spread of the virus across the Highlands and a move to level 2.

**David Stewart:** We can, perhaps, argue about the English situation another day, minister. However, on next steps, why do we not continue the model of having pilot games? I think that Ross County and Aberdeen did that at one stage. Why not look at having more pilot games in the championship? Obviously, I have a bias, given my interest in the Highlands, which is in level 1. For example, Caley Thistle offered to host the Scottish cup final, which was an innovative suggestion.

The point that I am making about level 1—I hope to see all the other areas move to level 1 eventually—is that 300 fans out of a capacity of 7,000 is an extremely small proportion. Therefore, we can still have safe attendance at games, but with a more realistic income flow for clubs. As the minister will know, the bulk of those 300 people, whether at Ross County, Elgin City Football Club or Inverness, will be season-ticket holders anyway, who have already paid their money and therefore do not provide any extra income flow to the clubs.

**Joe FitzPatrick:** I totally understand how difficult it is—I am the minister for sport, and I saw the smiling faces of the Aberdeen fans who got one of the golden tickets to watch the pilot game. What politician would not want to give that to more people and be a really popular sports minister? However, dealing with the virus is so difficult, and we need to be so careful that we are not doing anything that inadvertently causes the virus to spread.

The suggestion by Caley Thistle to host the cup final was interesting. I do not think that it ever reached the Government, because it was against the rules; there are also particular reasons why that match must be held where it is. I wish that I could say, “Yes, we can do it and it will be safe”, but we need to be mindful that it is not just about the fans in stadia. It is about people getting to stadia and all the risks in that regard, including the pressures that might be put on the emergency services, such as ambulance and police services.

We need to consider all those things when making decisions. I am hopeful that we can drive down the virus and start to get the numbers of fans up before too long, but we all need to focus and work on getting the prevalence of the virus down across Scotland.

**The Convener:** Taking David Stewart’s point about the pilots, there were pilots at Pittodrie and Victoria park in the summer. The reports, as I understood them, were that they were safely and securely conducted. Have you learned lessons from those pilots? Can you apply those lessons? Can you increase the number of fans attending a tier 1 stadium where there are sufficient seats? Can you reintroduce fans in tier 2 on the basis of the kind of precautions that were taken in those pilots?

**Joe FitzPatrick:** The pilots were important, and I thank Aberdeen and Ross County football clubs for carrying them out. It is because of those pilots that we are able to say with confidence that, at level 1, we can have the fans back. On why the pilots were stopped, the prevalence of the virus across Scotland when we were carrying out the pilots was on a downward trajectory and there were plans for a pilot in Glasgow. Unfortunately, however, in the middle of the pilots, the virus numbers started to rise and we had to put a halt to the proposed pilot in Glasgow. The original proposal was that on the same day as the games being played in Aberdeen and Dingwall, there would have been a game in Glasgow. However, the prevalence of the virus started to increase and it has unfortunately gone in the wrong direction for some time.

We are now looking at a downward trajectory and do not have the levels across the country that we had in the summer. When we were doing the pilots in the summer, we had, in effect, eliminated the virus or had come pretty close to elimination in many parts of Scotland. We are looking at an entirely different situation just now but one that is going in the right direction in most parts of the country. We now have the Borders and Dumfries and Galloway in level 1 and we are able to get fans back into the games there. Hopefully, that will be seen as a bit of light at the end of the tunnel for fans elsewhere in the country and a bit of an extra boost for us all to work harder to follow the rules and do whatever we can to stop the spread of this horrible virus.

**The Convener:** Thank you. I know that Aberdeen FC has put to the Government detailed plans for how it could manage numbers of fans in the low thousands safely in the context of the virus prevalence that currently exists, and I suspect that other clubs have done so, too. Have you considered those plans carefully and provided a detailed response or have you simply rejected them out of hand?

**Joe FitzPatrick:** There is a clear route map for getting fans back into the stadia, which is to get to level 1. We have to understand in terms of having

fans in stadia that nothing that we do on relaxing regulations is risk free. Clearly, the higher the prevalence of the virus in the community, the more likely it is that someone who is part of that crowd will have the virus. We need to judge the point at which that risk becomes acceptable, and the Government has been clear that we need to get the prevalence down to level 1.

One of the things that people need to recognise is that the World Health Organization has two definitions for the virus being out of control: one is that its positivity rate is above 5 per cent; and the other is that there are over 50 cases per week per 100,000 of the population. That is therefore not level 2. In Aberdeen in particular, we are now looking at around 100 cases per week per 100,000, so to do something that would potentially put people at risk in a level that has twice the number of cases that the WHO says defines the virus being out of control would be irresponsible.

Folk want to go to football, but they want to do so knowing that it is safe. They do not want to go to football thinking that they are not infected but then find out that they have infected other people or that they have come back with the virus and have passed it on to a loved one or a grandparent, for example. That is not what people want. They want to know that what we are doing is safe, and that is what we are trying to ensure. That is why we are encouraging folk to work hard to get the prevalence down. We have done it before and we can do it again.

**The Convener:** So, if the Government route map is to get to tier 1 and take it from there, is there a route map for expanding the number of fans at a home game beyond 300 in areas such as the Highlands?

10:15

**Joe FitzPatrick:** That is something that we need to consider when we get confidence that what we have put in place—the 300-fans limit in an increasing number of clubs across the Highlands in particular—is working. We need to get past Christmas to see how the numbers flow, because there is obviously a concern about the relaxations that have been allowed and we will need to consider their impact.

The virus has not gone away in the Highlands, so there is a risk to everything that we do, which we need to manage. The worst thing that we could do for the Highlands would be to have a relaxation that resulted in the rise of the virus in rural and remote communities, which would be really challenging. Nobody wants to see the Highlands move back up to level 2.

**George Adam:** I lied when I said that the previous question was my final one, because a couple of ideas went through my head when this one opened up. Nobody knows more than me the disappointment that is felt at the fact that the pilot will not happen, because the SMISA stadium of St Mirren FC was going to be one of the pilot areas.

The idea of a 300-fans limit is a good way to see that the process works, but for clubs to be able to work their way out of the situation, thousands of fans would need to be allowed in, which gives us another problem entirely.

On the back of what we have already said, for a safe return to football, we have to consider the game-day experience that many fans have. Many of my friends and colleagues—not so much me, because Stacey will not allow me—go into the town centre and make a day of it. I have spoken to Tony Fitzpatrick, the chief executive of St Mirren FC, about the issue. The problem with allowing in thousands of fans is that they would have a window of opportunity to go to the game from noon onwards for a 3 o'clock kick-off, for example.

Many fans could be sitting there, in the middle of winter, from half past 12 in the afternoon for a game that does not start until 3pm, which gives us logistical problems. With thousands of fans going to the game, my concern is that groups of individuals who sit in the same area or close to one another would turn up with all their friends at the one time. The worst-case scenario would be for everybody to rock up to the stadium at quarter to 3 as they normally do. Is that a concern of yours and how do we address that issue?

**Joe FitzPatrick:** Concerns around larger number of fans are not just about the numbers of fans in the stadim. Technically, if we were to use the whole of a stadium, we could spread people out so that, even when everybody got excited and less careful than they should be, they would not be in close proximity with somebody else.

Other issues exist with regard to people getting to the stadia. We need to take into account additional pressures on the wider system—transportation, the police, ambulances—and we have done so, which is the reason why we have come to the 300-fans limit.

We need to build confidence that that approach is working, particularly with a wider range of football teams, so it is really good that the process is happening not just for Inverness Caledonian Thistle and Ross County, but for an increasing number of Highland league teams.

The Highland league teams are going through a process to ensure that, as they bring fans back in, they are able to do so safely. It is not as simple as me saying that it is okay: the teams are working with football authorities to ensure that they have robust plans in place, and a huge amount of collaboration is taking place.

There was a question earlier about the wider concern for football, and the reason why I have confidence is partly because of that good degree of collaboration between the teams in relation to best practice, to ensure that the smaller Highland league teams that start to bring fans back in learn from the others so that they can do that as safely as possible. I recently heard, for example, that Inverness Caledonian Thistle had discussions with Queen of the South to ensure that the latter learned from the former's experiences.

**Sandra White (Glasgow Kelvin) (SNP):** As everyone is shouting out to their local football team, I will give a shout out to my local constituency football team, Partick Thistle, which was working hard in the community before the pandemic and has continued to do so during it. I thank the team very much for that.

I want to move on and speak about the return of football fans to stadia. We have had news that—hopefully and thankfully—we have a vaccine against Covid-19. That vaccine is apparently going to be able to be given to people in the new year. Minister, do you anticipate a large return of fans to football stadia once the vaccine becomes available, and, on the back of that, if the vaccine is available and the public are able to get it would they need a certificate to say that they had received the vaccine before they could enter a stadium?

The vaccine is good news and a positive part of what is happening in both football and elsewhere. However, could you answer those questions and tell us if you have concerns about that?

**Joe FitzPatrick:** You are right: it is really good news. None of the vaccines that we currently have, or those that are on the way, have the research behind them that is necessary to tell us that when a person has been vaccinated they will not still potentially be infectious.

It is good that all of the evidence from the vaccines that are being produced—some of it is preliminary—says that they appear to be good at protecting the individual from serious illness, hospitalisation and potential death. That is good, and it is why the roll-out of the limited stocks of the vaccine that we currently have is targeted at the most vulnerable folk. We want to protect the most vulnerable. We will vaccinate all of the priority groups that the Joint Committee on Vaccination and Immunisation has recommended, and that will protect 99 per cent of people who are most likely to die from Covid. That is a prize in itself, but it does not give us confidence that the people who have been vaccinated will not spread the virus to somebody else. There is good reason to think that it will probably be helpful, but the evidence is not there yet.

Therefore, we are not at the stage of providing someone with a certificate that might imply that they do not pose a risk and could somehow act differently. We should get there. As time goes on, the evidence base will build, and we are all hopeful that it will give us the certainty that being vaccinated protects not only the person who is vaccinated but also others.

One of the points that we make when we tell people to get vaccines is that doing so is not only for you, but for your granny too. We say that about the flu vaccine. We are not there yet in relation to the Covid vaccine, so the idea of issuing a certificate would go a stage further than the evidence takes us.

**Sandra White:** It is important that we clarify that issue about vaccines. I said it was good news—and it is—but the general public, particularly as we are talking about football and fans going to stadia, need to know that this is not a cure-all vaccine that means that people who get it cannot pass the virus on to anyone.

Fans from all over will be thinking, "We have a vaccine, so we will be able to go." We have mentioned the certificate. Is there a way that you and your officials will be able to clarify the position on that?

When fans and football clubs start to ask why fans cannot return to stadia, we will need a message out there to say that it protects the person who is vaccinated but not everyone. Is there a possibility of a date in the future when we will get other vaccines that will protect others as well? I know that you do not have a crystal ball, but I wondered whether you had any indication of that?

**Joe FitzPatrick:** I would be speculating if I suggested how long that will take. The issue is not necessarily having different vaccines but not having the evidence base. The deputy chief medical officer, Nicola Steedman, has done a great job of explaining the situation in a number of outlets; I appreciate her frank expression of the vaccine limitations.

The Government must not inadvertently feed misinterpretation of what a vaccine can do, which is why I instinctively oppose the idea of having vaccine certificates. Certificates imply a degree of protection for others that does not exist.

A positive for fans is that, without the vaccine, vulnerable fans probably would not have the confidence to be part of the 300 people who are at a football match. Having the degree of protection from being vaccinated means that some vulnerable people might have the amazing pleasure that we saw in Aberdeen—I am talking about that because it was on the telly. I saw the smiles on the Aberdeen fans' faces when they got

their tickets and knew that they would go in to watch their team play. The vaccine means that a few folk who might have otherwise thought that attending a match was too risky will benefit.

**The Convener:** The minister has spotted the sunny disposition that is characteristic of Aberdeen supporters. On that happy note, we conclude the session. If the minister is content for me to do so, I will write to him in due course with further questions from colleagues. I thank the minister and his officials for their attendance. In January, we will take further evidence for the inquiry from those who deliver and participate in community sports; I know that the Government will be interested in that session, too.

# Subordinate Legislation

## Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 24) Regulations 2020 (SSI 2020/404)

10:27

**The Convener:** Agenda item 5 is consideration of a made affirmative instrument. As in previous weeks, the regulations are laid under section 94(1) of the Public Health etc (Scotland) Act 2008, which is on international travel. They were made on the basis that they are emergency regulations, but they need to be approved by Parliament. It falls to us to consider them and report to Parliament accordingly.

We will hear from the Cabinet Secretary for Justice, who is accompanied by officials. The regulations remove Latvia and Estonia from the list of exempt countries, add a number of countries and territories to that list and amend the additional provisions that a previous set of regulations made for travellers who arrive from Denmark.

I welcome Humza Yousaf, the cabinet secretary, who is accompanied from the Scottish Government by Craig Thomson, border measures review team leader, James Boyce, unit head in health performance and delivery, and Peter Brown from the police enforcement, liaison and performance team.

I ask members who have questions to enter an "R" in the chat box. Will the cabinet secretary outline the special provision that was made in relation to Denmark in the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 22) Regulations 2020 and say what SSI 2020/404 changes and what the reason is for the change in approach?

**The Cabinet Secretary for Justice (Humza Yousaf):** I thank the committee for allowing me to speak to the regulations. I will not rehearse too much of the explanation. The committee will remember why a ban was introduced on travelling back and forth to Denmark. The UK Government did that under its reserved powers, but we absolutely agreed with the approach that it took. Members will remember that the reason for the ban was that a mutation of the coronavirus was found in mink in North Jutland in Denmark, which caused concern about interference with the efficacy of any vaccine.

That ban and a range of other restrictions were put in place in relation to Denmark—for example, the sectoral exemptions that exist were removed for Denmark. Because further detail has emerged

about the control of that mink mutation, it was thought that the travel ban—in effect—for visitors could be lifted. However, these regulations make clear that Denmark is still not exempt from quarantine measures, so travellers still have to quarantine for 10 days—you might know that the isolation period, which was 14 days, has been changed to 10 days.

10:30

Airline crew will be able to travel into the UK from Denmark and will no longer have to self-isolate as they would have had to do before, because the exemption for airline crew now includes Denmark, as do other exemptions that are in place. Essentially, because of the regulations, Denmark has reverted to being a country that is not on the travel corridor list but—other than that—has no additional restrictions placed on it.

**The Convener:** You referred to the reduction in the quarantine period from 14 days to 10 days; clearly, all the regulations that we have considered up to now have been on the basis of a 14-day period. Will that require further regulations to come to the committee or will the matter be dealt with elsewhere?

**Humza Yousaf:** No, it will not have to be done specifically for international travel, because it is related to another regulation, which I think has been discussed and debated—forgive me if it has not—and which came into force yesterday, so there will no separate regulation. My understanding is that there will not be a requirement for separate regulations, but officials might want to come in and correct that.

**Craig Thomson (Scottish Government):** The change to reduce the isolation period from 14 to 10 days was included in the regulations that were introduced last week on the travel corridor changes, which at some point—perhaps next week or into the new year—will be considered by the committee, but there is no independent set of regulations to make the change.

**The Convener:** Thank you; that clarifies the position. There are no questions from committee members, so we move to agenda item 6, which is the formal debate on the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 24) Regulations 2020 (SSI 2020/404). I invite the cabinet secretary to move S5M-23535.

*Motion moved,*

That the Health and Sport Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 24) Regulations 2020 (SSI 2020/404) be approved.—[*Humza Yousaf*]

**Humza Yousaf:** Do I have the option to speak at this point?

**The Convener:** You certainly do.

**Humza Yousaf:** It is just to thank the committee for its scrutiny of the regulations. I have been in discussions with my colleague Michael Matheson over the past couple of weeks, because most of the committee's focus has, quite understandably, moved on from enforcement issues. I was leading on travel regulations in relation to enforcement issues, particularly Police Scotland enforcement, but the issues have moved on, as you have just demonstrated, to test and release and measures that will need to be taken forward in discussion with airports and airlines. I have therefore asked Michael Matheson, who leads on domestic travel regulations, also to lead on the international travel regulations, so I am pleased that, after a couple of weeks of discussion, he has agreed to take over the lead responsibility in that regard—hence his having written to you last week.

I thank the committee for its scrutiny, which I am sure will continue, with Michael Matheson attending the committee. Of course, if the committee wants me to attend on enforcement issues, I will be happy to do so. However, this should—he says, touching wood—be my last appearance at the Health and Sport Committee.

**The Convener:** I thank you for your many appearances to give evidence on such matters over recent months. It is clearly a case of a new year, a new minister. We look forward to scrutiny work with your colleague in due course.

No committee members have indicated that they wish to speak in the debate on the motion.

*Motion agreed to,*

That the Health and Sport Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 24) Regulations 2020 (SSI 2020/404) be approved.

**The Convener:** That concludes our consideration of the instrument. We will report to Parliament accordingly. I thank the cabinet secretary and his officials for their attendance.

# Scrutiny of NHS Boards (NHS Borders)

10:35

**The Convener:** The next item is an evidence session with NHS Borders as part of the committee's on-going scrutiny of health boards and special health boards. I welcome, from NHS Borders, Karen Hamilton, who is the chair; Ralph Roberts, who is the chief executive; Nicky Berry, who is the director of nursing, midwifery, allied health professionals and operations; and Andrew Bone, who is the director of finance.

We move straight to questions. Will the chair give an indication of the overall financial position of NHS Borders?

We are having some difficulties with Karen Hamilton's sound. Will Ralph Roberts give an indication of the costs to date of the additional measures that have been required to manage the Covid pandemic in the Borders? Where have those additional costs been incurred?

We cannot hear Ralph Roberts. We are having little luck with NHS Borders this morning. In that case, I am bound to go to Andrew Bone, the director of finance.

**Andrew Bone (NHS Borders):** I will answer your questions, if that is all right. In the year to date, we have incurred about £6 million of direct costs in response to Covid. That expenditure has been across a number of areas. Money has been spent on a combination of public health and infection control measures, including social distancing measures in hospitals. There was spending on a reconfiguration of our bed base in the Borders general hospital and on a number of actions in the community to manage resilience in care homes, for example.

The biggest element probably relates to our acute bed base. We have provided additional beds specifically for Covid patients, and there has been a change in our staffing model as a result. Across the health board, in order to deal with staff who were shielding or otherwise in the initial phase, we increased sickness absence provisions during that period.

That is broadly what the expenditure has been on. I also highlight the costs of expanding the testing service. As we have entered into another phase, the costs of the remobilisation of services, our winter planning and our flu planning are starting to come through, too.

**The Convener:** You have described the additional costs that have arisen as a result of this year's circumstances. Clearly, even before then, both NHS Borders and the health and social care partnership were under financial pressure and seeking to manage that through brokerage. As the board's director of finance, is it your view that you will be able to continue to manage with the level of brokerage that was agreed before Covid-19?

**Andrew Bone:** Yes. We have worked closely with the Scottish Government throughout this period. Prior to the onset of Covid, we had a financial plan that sought a reducing level of brokerage over the next three years, but with an on-going requirement as we started to implement some of our turnaround plans.

At the moment, our expectation is that the level of brokerage that we described in our financial plan will still be required. The additional support from and constant dialogue that we are having with Scottish Government colleagues in the finance team give us a measure of comfort that we should be able to live within that level of brokerage; we might yet see some slight movement downwards.

**The Convener:** Thank you very much—that is helpful. I will just check to see whether Ralph Roberts is connected now. Ralph Roberts, can you confirm that you are in communication with us?

**Ralph Roberts (NHS Borders):** Hello, convener. I can hear you. I apologise for the problem earlier.

**The Convener:** That is quite all right—we know the perils of online meetings all too well. Can I also confirm that Karen Hamilton, the chair of NHS Borders, is connected now? No. Well, one out of two is progress. We will, I hope, be able to hear from the chair in due course. Emma Harper has the next set of questions.

**Emma Harper:** Good morning, everybody. I am interested in winter planning and Covid numbers. We have heard about a recent outbreak of Covid cases in the Borders. Are you able to manage the demand and pressures from the second wave or additional little outbreaks of Covid-19 infections, through all your processes, as we head into the winter?

**Ralph Roberts:** I might bring in Nicky Berry, the director of nursing, in a moment. To start with, it is worth emphasising that this winter is a winter like no other; we are managing a number of contributory factors. We are dealing with the normal issues that we would have in any winter and then Covid is placing additional pressure on us.

Alongside the Covid patients who are coming through our services, we have to manage the vaccination programmes, test and protect, the testing of our staff, and the work that we are doing

to support care homes and social care, in terms of the quality of service that they are providing.

We also need to be aware of potential issues associated with Brexit, and we need to recognise that because of the pressures across the whole system—particularly some of the pressures within social care—the flow of patients through our system is likely to be slower this winter than it might have been in a normal winter. Those factors all add up to a significant set of coincidental risks that we need to manage as a whole.

You are right to reflect that, over the past week, we have had a significant number of Covid cases in Borders general hospital. In our Covid planning, we have a system in place: we have a series of Covid wards that we can open as additional Covid patients are identified. We currently have our first two Covid wards open and we are right at the transition point of needing to move into our third Covid ward. The issue around managing that is about ensuring that we have enough staff across the hospital to manage everything. It is also important to be aware that our third Covid ward is the ward that, up until now, has been our green clean pathway for routine elective patients. Therefore, if the numbers continue to increase and we need to move into our third Covid ward, we will need to step down our routine elective activity, which will obviously have an impact on the non-Covid harm that we have in the system. I hope that that gives you a useful overview.

10:45

**The Convener:** That is very helpful. I will bring in Nicky Berry.

I am afraid that we are not hearing Nicky Berry; we might come back to her. Because of the issues that we are having in connecting to NHS Borders, we might need to supplement some of today's evidence with additional input from the chair and Nicky Berry. We will see what can be done and we will invite written comments if necessary.

**Emma Harper:** I am sure that we can get written responses if the sound is a challenge.

I have seen amazing work by health service staff, who should all be thanked. We are managing outbreaks. Teams are adapting. Everybody hit the ground running in late February or March and people have been running ever since. What role does the health board have in managing minor outbreaks and in supporting staff?

**Ralph Roberts:** That is an important point and one that the board is aware of. It is important for us all to understand that the pressure that staff are now under as we go into winter is greater than it has been throughout the pandemic. We are dealing with that with staff who have been in this situation for nine months. That gives us significant concern. Although we can see that vaccination will bring benefits, we know that we will be in this situation for at least three more months, if not longer. We are conscious of that.

We must recognise that staff have responded incredibly well. As leaders of the organisation, we are proud of them and thankful for that response. We must also acknowledge that staff will react in different ways, depending on their circumstances. We must allow staff the space and the time to depressurise when that is right for them.

We have focused on staff wellbeing throughout the pandemic. Work in that regard has been led by our employee director and we have taken care to involve staff in that. We have put additional psychological support in place and we have made breakout spaces available for staff.

When we came out of the first wave of the virus, we ran the collecting your voices programme, which was a bottom-up approach to getting staff feedback on how things have felt for them and what we should do next. That has taught us some important lessons that we can take into the next stage. Some of those lessons were about the impact of moving staff from one team to another and the additional support that is needed when people are working in teams or departments that they are not used to. We are aware of that as we go through the next phase. We will continue to focus on supporting our staff.

**Emma Harper:** We must continue to monitor that.

I have read about localised outbreaks in Greenlaw, Jedburgh and some other areas. What role does the board have in managing those specific wee outbreaks? Is it about engaging outwardly, or public education?

**The Convener:** I will bring in Ralph Roberts and ask him also to explain the current position with the outbreak at Borders general hospital.

**Ralph Roberts:** I suppose that we have a number of roles, one of which is the one that you have just mentioned, which is to make sure that the public get good information about what is going on, to help them to make the right choices about their behaviour and how they comply with the controls that are in place, and to make them aware of the risks around what they are doing every day.

We are also involved in the work that our public health team does in conjunction with other partners, particularly the local authority, in managing individual outbreaks. Who that team engages with will depend to some extent on the nature of the outbreak. If it is in a commercial premises, the individuals involved might be

different from those involved if it is an outbreak in social care or a care home or hospital.

We have a trusted and practised health protection response to outbreaks that includes our public health team leading problem assessment groups, which is where the information about an outbreak is first collected. If the outbreak is significant, it will move to an incident management team, which our public health team would lead. That would involve staff from our infection control team and the council. If the outbreak is linked to social care, social care managers will be involved along with council emergency planning officers and senior council staff.

We use that well-run process on a more-than-daily basis, depending on the scale of the outbreak. It requires an awful lot of input. The team will look every day at the control measures that are in place to try to understand the reasons for transmission. That links into the information that is coming in from the test and protect service about what the numbers are, who they are, and who their contacts are. The team collects all that information and then tries to make sure that the appropriate controls are in place.

Linked to that, there is a wider question about the significant impact and lessons that we have learned and the relationships that we have continued to build on throughout all this in working with partners. That might be something that we come back to later.

Specifically on Borders general hospital, we became aware about 10 days ago that some positive cases had been identified on one of our wards. We applied the same health protection approach to that by having incident management teams daily testing other patients in adjacent beds and bays, testing all the staff on the wards, and trying to put in place additional mechanisms so that we can manage the outbreak as effectively as possible.

**The Convener:** Nicky Berry, do you want to add anything?

There is no sound, so perhaps not at the moment. We will move to George Adam.

**George Adam:** The NHS Borders submission lists a number of positive changes that have been made because of the pandemic and says that you mean to retain those, which is great. I have a simple question, however. Why did it take a world-wide pandemic to improve services?

**Ralph Roberts:** That is a bit of a loaded question. There are a number of things to say. We continually improve service, but through change methodology we all understand that part of the process of managing change is people's willingness to change or their understanding of the need for change.

As we look back over the Covid response, particularly at the initial phase, our staff have said to us quite a lot that, in managing change and making decisions, they found it helpful to know that we had a very clear common purpose, which was to address the outcome of the pandemic.

That allowed us to be more specific in our prioritisation of decisions and increased the pace at which people accepted that decisions needed to be made, as well as their willingness to go along with those decisions, even though they might previously have said that they would not do so or they would have had more conversation about the pros and cons and balances of any decision. Therefore, there is a lesson for all of us about the importance of prioritisation and being clear about our purpose. We were able to put some things, such as virtual appointments, in place because staff and patients recognised that they were an absolute necessity and to patients' benefit, so they were willing to accept changes to the way in which services were provided in a way they would not otherwise have been. It is about recognising the cultural and human dimension to change, which was fundamentally affected by us being in a pandemic.

A number of the changes, such as our wish to use more virtual technology but also things that we had been talking about—such as the way we manage our bed base and whether patients are cared for in the acute sector or supported in the community—were also accelerated. A number of those were part of the longer-term transformation programme that flowed out of our financial issues and a strategy to shift care into the community. The pandemic accelerated the need to do that, so we were able to move forward faster than we had until now.

**George Adam:** Thank you for that, Mr Roberts. I would have thought that you would have had a clear common purpose pre-Covid as well, but never mind.

Specifically, what has the leadership team done during this period to empower staff and improve collaboration between health and social care partners? We have been talking for years about how we should all make it a lot easier and break down barriers, but it has always been an issue.

**Ralph Roberts:** I will comment first on the common purpose. It is important that we all recognise that the delivery of health and care is a complex set of issues and, at all times, we have a significant level of competing demands. During the Covid pandemic, particularly at the beginning, there was a clear single purpose, which was to make sure that we had as much capacity available

as possible in order to address the potential increase in Covid patients. That meant that we stepped down other services, and our whole focus was on how to create enough capacity to deliver against the potential level of Covid patients. That was what I meant by a common purpose. That is not to say that we do not have a clear set of corporate objectives or priorities, but having a clear set of priorities and having a single thing to deal with is a different context.

In relation to what we did, some of which was fed back to us by our staff, we instigated the normal pandemic response, which would reflect the response to any major incident—

**The Convener:** Mr Roberts has dropped off the call. I will check whether Karen Hamilton is now on the call.

No, we do not have the chair or the chief executive but, happily, we have Andrew Bone.

11:00

**Andrew Bone:** I will try to finish Ralph Roberts's answer for him. I hope that I will hit the key points. He was describing our response to the pandemic—or, indeed, to any emergency. We stepped up our pandemic committee and our gold, bronze and silver command structure. That meant that routine meetings were held frequently—daily in the initial phase, and then stepped down to every other day. We are currently running our pandemic committee meetings weekly, but we will continue to review that. That meant that there was a constant connection between the direct operational management of each element of our service and the pandemic committee. That represented a significant burden for managerial time—we would not operate in that way in a normal phase—but it meant that we were constantly communicating and bringing together the organisations' various tiers of management.

In addition, we have weekly calls with our partners, and also informal calls outwith that pattern through our relationship with our council colleagues. With the changes to the chief nurse's responsibilities, Nicky Berry in particular works closely with our social care colleagues. We have a close working relationship with care homes, and our social care colleagues in general, at the moment, as we have done over the past nine months or so. We are in constant communication with them almost daily, and certainly weekly, on planning for community services and responding to issues arising in those environments.

In the first instance, our approach was about establishing the structural aspects of our response. However, the same common purposes that Ralph Roberts described in relation to the health system have brought us together with our health and social care colleagues to form a wider system.

**Nicky Berry (NHS Borders):** Good morning, everyone. I will add to what Andrew Bone has said. We had previously planned for clinical leadership of a pandemic event, but facing Covid-19 has obviously been new to all of us. Our approach has been very much clinically led and clinically driven. Our clinicians have been involved in planning our response across the three clinical boards. The initial planning phase had to be rapid. We had to scale up our intensive treatment unit immediately, by quadrupling its capacity, and we opened nine Covid wards and a Covid hub. We ensured that all our board's clinical directors in the acute division, our mental health clinicians and our general practitioners in primary and community services were linked. Our board's area is not huge. We have the Borders general hospital and four community hospitals, and our mental health service has three in-patient wards.

Initially, Ralph Roberts, our general managers, our associate nurse directors and I held meetings with staff. We held daily comms meetings to discuss what was happening with the pandemic and how we were faring. We shared our plans with the senior medical teams. Our aim was to ensure that communication was key, because everything was changing, sometimes hourly, to—[*Inaudible*.]—just had to respond to that—[*Inaudible*.]—partnership with our health and social care colleagues.

As Andrew Bone mentioned, we now have weekly meetings between health and—[*Inaudible*.]—but in the midst of the pandemic those meetings were daily.

**George Adam:** Those are all my questions. Thank you very much, convener.

**Brian Whittle:** I am interested in the suggestion in your submission that cancer referrals and treatment have remained a priority throughout the pandemic. You also indicate that your out-patient activity has suffered and that out-patient appointments are at only 40 per cent of pre-Covid performance levels. Furthermore, you anticipate that the situation will worsen as primary care capacity increases, which is not being matched by capacity in secondary care.

The remobilisation of mental health services is also detailed in your plan. It shows that child and adolescent mental health services are running at 60 per cent capacity and community mental health teams are at 75 per cent capacity. I think that you would agree that that is worrying, considering the increase in mental health issues during the pandemic.

Is the board able to follow its remobilisation plan as expected? If not, what are the challenges to doing that? Why were those not predicted?

**Ralph Roberts:** That is an important area for us to be sighted on. We all need to understand that the impact of the pandemic on our services is long term and will take considerable time to address. We also need to recognise that the harm from that is about the potential impact not just on patients who have Covid and the impact on them in the short term, and, potentially, in the long term, but on our other patients.

If there had been no pandemic at the end of March, we would have hit our waiting times targets. We would also have only had a small number of patients waiting longer than 12 weeks either for their first out-patient appointment or for their treatment time to come and receive a procedure under the treatment time guarantee.

As you have pointed out, because we are not able to remobilise all our services up to 100 per cent of previous activity levels, there has been a significant increase in the number of routine patients who are waiting.

We are pleased that we have been able to sustain all our emergency and cancer work throughout the pandemic, and that has been very important. However, we should not underestimate the impact that the situation will have on patients who have been waiting for more routine procedures. Their numbers are continuing to grow, particularly those who are waiting longer than 12 weeks. In addition, a significant number are now waiting longer than 26 weeks. The numbers will continue to grow until at least March next year, depending on when we can get back to a position in which we are running services normally.

Nicky Berry might want to come in and give a bit more context to the position on capacity. However, it is important that people understand that the process of seeing patients has changed—it takes longer to see individual patients because of the requirements for personal protective equipment and so on. We have also had to move staff out of a number of our services to support the essential Covid response, not only to increase the hospital capacity but to support test and protect and the vaccination programme, for example.

Unfortunately, the reality is that there will be lower levels of routine activity until we are through the pandemic response. It will then take a considerable period for us to address the significant backlog. That will take months if not longer to address, and we should not shy away from that reality.

**The Convener:** I call Nicky Berry.

We seem to have lost Nicky, so I will go back to Brian Whittle.

**Brian Whittle:** I think that we all appreciate the pressure that Covid has put on many services. However, on the board's suggestion that cancer referrals and treatment remain a priority, the performance does not match that. Therefore, an issue is managing expectations.

Will you comment on the suggestion that improved capacity in primary care is not being matched by improved capacity in secondary care to deal with the backlog?

**Ralph Roberts:** I will comment on the cancer aspect. As I have said, we have been able to sustain our performance throughout the pandemic. It is important that we recognise that, and I am grateful to staff for their focus on that. We have delivered against our cancer targets this year to a level similar to what we have delivered in the past.

On routine activity, right at the beginning of the pandemic, obviously, we stopped doing such procedures in hospital, as everywhere else did. Therefore, we had a number of patients on our waiting list who, at that point, will have waited for less than 12 weeks, but then moved along the curve, if you like, and ended up waiting longer than 12 weeks, because we were not doing any activity.

Of course, during the initial part of the pandemic, primary care also focused its attention on Covid. Therefore, patients who might otherwise have gone to primary care services and then been referred to secondary care were not going to their general practitioner and therefore the number of referrals coming in from primary care services into the hospital also dropped. Therefore, although more people were waiting longer because we were not able to operate routinely, the number of patients being referred initially went down. Obviously, as we began to remobilise services, primary care started seeing patients again and the referral rate has begun to move back to the normal expected rate.

It is again important to emphasise that, throughout, primary care continued to provide services and was available to anyone who needed to be seen urgently, albeit that that was being done in a different way.

As primary care referrals have begun to move back up to the normal level where we would expect them to be, obviously, if we are taking only 40, 50 or 60 per cent of our normal level of patients, there is a disconnect between the number of patients being referred in and the number of patients who we are able to treat at the other end of the waiting list. That then creates a disconnect between the number of patients being

added to the waiting list and the number of patients who we are able to take off the list.

**The Convener:** We are still having some technical difficulties, so I suspend the meeting for 10 minutes to enable those issues to be resolved.

11:12

*Meeting suspended.*

11:25

*On resuming—*

**The Convener:** We resume our meeting. Brian, do you still have questions for our witnesses?

**Brian Whittle:** I do, convener.

I was looking at the thankfully relatively low Covid-19 activity that you have in the Borders. With that in mind, can you explain why performance in relation to out-patient and in-patient waiting times continues to be such a problem?

**Ralph Roberts:** There are a couple of things to say about that. First, we need to be careful when we say that the rate of Covid activity is low. That is certainly not an impression that I want to give our local community. The numbers in the past week show that the rate per 100,000 people has more than doubled, so we need to be very careful about that.

I will bring Nicky Berry in on this in a moment, but there is a broader point. Regardless of the level of Covid activity in the community, the implication of there being some Covid cases in the community is that we need to provide services in a way that keeps patients safe when they come into the hospital or primary care, and in a way that also keeps our staff safe. Regardless of whether we know that patients who come into the hospital have Covid, we have to behave as if they might have it.

The way in which our staff have to manage patients through the system is having an impact on the percentage of patients that we are able to treat compared with what we did before. As I said, our staff are also delivering a number of services that we did not have to provide previously, and that has an impact on activity levels. I ask Nicky Berry to say a little more about the practicalities of providing services in a Covid-safe way.

**Nicky Berry:** The board is also challenged by the situation. For example, we have lost 60 per cent of our waiting rooms. Because of social distancing, we have had to put in place measures to ensure that patients are screened before they come in for face-to-face appointments, and there are delays because of that. We are trying to maintain services as much as we can, through Near Me and telephone appointments. However, as Ralph Roberts said, it is a question of balancing the risks.

We were at level 2 until last week, and we are now at level 1. We want to ensure that we do the right things for the public in the Borders and make the right decisions about Covid prevalence in the community, including when people need face-to-face appointments. We are doing that alongside the Scottish Government guidance, and we are maintaining the safety of residents who come into the hospital.

**Brian Whittle:** That is helpful. In the interests of brevity, I will combine my final two questions. I would like to hear an explanation of the rationale for reducing allied health professional services to such an extent. Why are minor injury services not operating at all? Most importantly, why are CAMHS running at such reduced capacity? We know that mental health has been a big issue during Covid and that that will continue post Covid.

**Ralph Roberts:** There are several issues in there, some of which are linked to specific issues in particular services. I will take CAMHS as an example—[*Inaudible*.] It is fair to say that our CAMH services were challenged through 2019. We recognised that and did a number of pieces of work to address some of those challenges. We recruited additional staff. Last year, our performance went from a position that none of us was comfortable with to one, which by the early part of the year was meeting the national CAMHS target.

11:30

**The Convener:** I am afraid that our connection with Mr Roberts is not going well. Perhaps Karen Hamilton can comment on the overall position of the services that have been reduced or are not operational.

**Karen Hamilton (NHS Borders):** My sincere apologies for the chaos that there has been in trying to make contact with the committee. Unfortunately, because I have been running around trying to make the connections work, I have not been following the conversation so far. However, I will say a couple of words from my position as chair of NHS Borders.

During the Covid pandemic, my focus has been on supporting the organisation and enabling the non-executive director cohort to maintain their connections and links with the organisation. On the governance and scrutiny of our performance, we managed to maintain all our governance committees bar two minor issues around public and staff governance. Other governance issues have been maintained during the pandemic and

are still on-going. From my perspective, it has helped to keep that helicopter view of how the organisation is performing at the same time as ensuring that things such as workforce support are also continuing. We have also had to manage public expectation to some extent. Communication with the public through the whole process and at present, given changes to the levels and so on, is absolutely crucial.

I hope that that is helpful in relation to the conversations that have been going on this morning and our presentation.

**The Convener:** Thank you very much. Would Nicky Berry like to add anything?

**Nicky Berry:** I am sorry—my connection was removed.

We are certainly not delivering on the CAMHS standard and the board is currently focusing on that. We are working with the Scottish Government and there is enhanced support around CAMHS and psychological therapy. Previously, we have delivered on the CAMHS standard, but our issue is that it is a small board and a small service and so vacancies, sickness and absences bring many challenges that impact on the CAMHS standards.

We are working with the Scottish Government on how we can improve the standard. I am involved in that work along with the leads for mental health and psychological therapy.

The Covid pandemic has brought an increase in referrals to mental health and we need to manage the impact of that and ensure that we can put processes in place to develop the standard, while maintaining a sustainable service. Being a small board is not an excuse—we need to ensure that whatever happens, we have a sustainable service. We are looking forward to learning from other boards from across Scotland.

**The Convener:** In the annual review, the board suggested that 120 full-time equivalent staff would be required to deliver services connected to the response to the pandemic. Were all those extra staff secured and the services delivered?

**Nicky Berry:** To give some perspective, I point out that more than 100 staff were required in corporate services, nursing and for the flu vaccination programme. We are in the midst of recruitment—I cannot say exactly how many staff we have recruited, but we will be able to give the committee that information at a later date.

It is quite challenging to recruit registered nurses. Last year, I spoke to the committee about the need to be innovative in that area and across any discipline. We are looking at that, as is the whole of Scotland. The 126 staff are required across many services, not just nursing. We will come back to the committee with an update on how we have progressed the recruitment for those posts.

**The Convener:** That will be helpful.

Have you been able to put wellbeing support in place for permanent staff as well as anyone who has been brought in to assist during the current circumstances?

**Nicky Berry:** Yes, we have been delivering wellbeing support for any staff. Our here for you service is run by our head of psychology and the occupational health department.

Approximately 20 retired staff have come back to the board to help with flu vaccinations. The support is there and we have made sure that it is signposted on the intranet so that staff are aware of where they can go for it.

**Sandra White:** I am sorry about all the glitches that we have been having.

I will ask about the interaction that the board has with general practitioners and about the Covid assessment centre. We know that GPs are being paid to action those assets—as we say in the committee.

How have you interacted with general practices since March, and can you tell me about practice capacity issues? Have practices incurred extra costs? I mentioned that GPs get paid for those services. What additional payments have been made to practices and for what purpose? What interaction has there been with regard to referrals to secondary care for mental health assessments and chronic conditions, for example?

Those are three separate questions, but I will roll them into one.

**The Convener:** Would Andrew Bone like to comment on the financial aspects?

**Andrew Bone:** Primary care has suffered significant disruption during the Covid period. The issues with access to services as a result of social distancing and infection control measures have meant that practices have not always operated at the level that we would have expected pre-Covid. I am sure that my colleagues will speak more about that.

Provider sustainability is the first element of the immediate payments to GPs that have been arranged on a national basis. That is about making sure that existing contract payments are paid, irrespective of whether elements of the contract were not able to be delivered in line with original expectations. Those sustainability payments have provided a floor for practices to ensure that they have a level of cash flow.

On top of that, the Scottish Government has made a couple of announcements about additional funding support to practices that specifically relate to Covid. There have been payments for some of the additional response that has been required in relation to infection control measures and support with things such as PPE.

The board's financial response has mainly been about trying to work with practices to enable our service to be delivered safely. We work through our primary care and community service management team to liaise directly with the practices to identify measures that can be taken to improve accommodation and make treatment rooms safer. We have put in additional investment in that regard. In the order of our overall resourcing, it is not particularly material—it is a few hundred thousand pounds of additional expenditure, which is largely constrained by the ability to make those facilities safe.

There are certain activities that we simply cannot do, as we cannot redesign a building in six months. However, we can make changes to treatment rooms to make them safe, such as through the cleaning regimes, and we can try to provide wraparound support in relation to the environment that is available for practices to operate in. I think that Nicky Berry will be able to speak better than I can about how the clinical services have been supported.

It is probably worth saying that, throughout the pandemic, one thing that we have been committed to, and have worked with practices on, is making sure that the primary care investment plan that was agreed has continued to progress in line with the contract. That has remained broadly on course throughout, so we are on target to have recurring investments of just over £3 million through the programme, which is seen as part of the main contract. That has had its own implementation challenges during the pandemic, but the board has been committed to making sure that the plan progresses.

**Ralph Roberts:** I will pick up on Andrew Bone's point about the work that we have done with primary care to continue to build sustainability. That work has continued, and we have engaged regularly with our GP leaders on it. In one example, that work specifically led to our agreeing the roll-out of a new mental health service. The roll-out started in October and November, and it will continue to expand through the winter until it is at full capacity early in 2021. The service is a response to building capacity to support GPs, given the number of patients that are coming in with mental health or distress issues. The service has been welcomed by our primary care colleagues, and it has addressed one of their key priorities associated with the implementation of the primary care improvement plan.

**Sandra White:** I will come back on one of the answers before I ask about the Covid assessment centre.

Is it correct that practices have incurred no extra costs—they have been reimbursed—and, apart from the Scottish Government moneys, no additional payments have been made to practices?

**Andrew Bone:** Bear in mind that the Scottish Government is the primary source of financing for the GP contract. Practices have received additional payments, largely in respect of offsetting their additional costs and expenditure. We have tried to work with them to wrap support around them as much as possible, but it is not really a case of the board having introduced additional payments.

We have made sure that we honour the provider sustainability agreement, and we have tried to make sure that all the local—[*Inaudible*.]—we continue to maintain cash—[*Inaudible*.]—that the contract is fully in place at this point, recognising the level of challenge that primary care faces. It has not been a matter of direct investment in primary care to expand practice capacity, because the opportunities to do so are limited. It has been about trying to give them as much stability as possible, and making sure that the support that the board can provide in a wider context is available to them.

**Sandra White:** If I am correct, GPs have had extra moneys from the Scottish Government, as you mentioned. The contract that you have with GPs has been honoured in monetary terms as well, even though they have not been able to continue with what they normally do. You mentioned £100,000 of additional moneys. Was that to GP practices?

11:45

**Andrew Bone:** I am sorry—that point was probably a bit more specific. The money relates to additional costs that have been incurred by the board to make facilities as fit for purpose as we can through adapting the environment and supporting cleaning. It is not a direct payment to practices; it is about enabling the environment in practices to be as safe as possible. It is really about what we can practically do in the circumstances to help them operate in their facilities.

**Sandra White:** I have a couple of questions on the Covid assessment centre in the Borders. How have you organised the assessment centre? You mentioned staffing previously, but what

arrangements have you made with local general practices during the pandemic for staffing the centre? Will you describe and explain how the CAC has been operating alongside out-of-hours services? Lastly, what support has the board made available to general practices to supplement that provided through Government guidance, which you mentioned in your earlier statement?

**Ralph Roberts:** We created a Covid assessment centre right at the beginning of the Covid pandemic. We located it in the Borders general hospital in what was previously an out-patient day hospital area. It is co-located with our out-of-hours service, which we also moved, and which was previously immediately adjacent to the emergency department. That also gave us a bit of additional capacity and space in the emergency department to help to make it Covid secure.

The service has run alongside the out-of-hours service and the Covid assessment hub and is staffed through a range of staff, including ANPs, GPs and so on, with some support, at various times, from secondary care throughout the Covid pandemic. In addition, we are involved in the current discussions about creating a redesign of our unscheduled care service, which is being run out of the same location.

I think that that picks up on the initial comments. Nicky Berry might want to come in with more detail.

**Nicky Berry:** I will add something on engagement, as Sandra White asked about that earlier. As Andrew Bone said, the primary care management is part of the governance and decision-making process. Any decision making regarding the Covid hub and assessment centre has come through the gold command, and clinicians are involved in it. From a GP perspective, in the lead for the Covid hub, they had a link to any decision making in the gold command, which the chief executive chairs.

**David Stewart:** In relation to the roll-out of the Covid-19 vaccine, will you describe the arrangements for your health board area?

**Ralph Roberts:** Obviously, that will be one of our key priorities over the next few months. In a second, I will hand over to Nicky Berry, who is leading that work for us. I will make the general point that we recognise that it is a really important priority and we are absolutely focused on delivering it as quickly as possible, but we need to do that safely and we need to recognise that we are planning for the roll-out with a significant level of uncertainty, particularly in relation to vaccine supply.

I have been pleased and impressed with the way in which staff have responded, but we are adapting almost daily as more information becomes available, as members of the committee will understand. It is early days yet, but at the moment we are focused on delivering the first stage of the vaccination programme to our staff, care homes and social care staff.

I will hand over to Nicky Berry to give you more of the detail.

**Nicky Berry:** As the executive lead for the Covid vaccination programme, I agree that it is one of the things that we are committed to delivering, but it is challenging. We are the lead agency, but we have a governance structure involving Scottish Borders Council and NHS Borders to ensure the successful delivery of the programme. We expect to receive 11,700 vaccines in wave 1, which is the two doses. Waves 2 and 3 will be huge, logistically, which is why it is critical that we work alongside Scottish Borders Council to ensure that we can deliver the programme. We have delivered an extremely successful flu vaccination programme, vaccinating more than 45,000 people. Our potential numbers were just over 60,000, so delivering 45,000 is testament to the staff and a high take-up rate.

**David Stewart:** Nicky Berry makes a good point in comparing the roll-out of the flu vaccination with that for Covid-19. Perhaps you can put some flesh on the bones of a technical point. Our understanding is that temperature control is vital. I think that -70°C is needed for the vaccine that is currently available. Do you have facilities in NHS Borders for storage of the vaccine at the correct temperature?

**Ralph Roberts:** Yes—we have the cold storage in the pharmacy in the Borders general hospital. Deliveries of the Pfizer vaccine come to the hospital and it is stored there at the correct temperature. There is a logistical issue in managing the transfer of the vaccine out to the wider Borders area, which we can do at fridge temperature—if I can use that as a description—but there is a fixed window of time in which to do that.

There are some detailed requirements in terms of moving the vaccine in its powdered form and only being able to constitute it and dilute it for vaccination on site, at the point at which we are delivering the vaccination. There are practical issues with getting it into every care home and out into individual communities. There will also be a particular issue when we deal with the housebound population.

**David Stewart:** I have a question about a national issue that will affect boards throughout Scotland, which is that there are question marks around the security of the vaccine. Without breaching confidentiality, obviously, can you say

whether you have had discussions with the local police or with security services about that?

**Ralph Roberts:** I can confirm that I had a conversation with one of the police commanders at the back end of last week on exactly that issue.

**David Torrance:** My question is on the vaccination programme. How does the board co-ordinate and report on who has been vaccinated and by whom?

**Ralph Roberts:** There is a mixture of approaches to that. With regard to the Covid vaccination, there is an app that allows the person administering the vaccine to record the information as the vaccination is given. The information collected by the app transfers into the general practitioner records, so that we have a record of which vaccination a person had and when they had it. Obviously, that will be critical, because we must ensure that we call people back for the second dose within the appropriate timescale.

**David Torrance:** What local mechanisms and procedures are in place to monitor and deal with any adverse reactions to the vaccination, given that it has been tested on a healthy trial population and not on those with underlying conditions?

**Ralph Roberts:** It looks as though Nicky Berry has lost her connection, and I am not sure whether she has come back in.

The arrangements for that comply with all the guidance. Individuals are required to wait for 15 minutes after they have received their vaccination, to ensure that they have not had an immediate negative reaction. We are administering the vaccination in places where we have the appropriate kit to deal with any issues. The staff who are administering the vaccinations have been given training on the specific aspects of this vaccination.

As committee members are probably aware, on the back of the initial couple of incidents that occurred in England following the administering of the vaccine on the first day, a decision was made that any individual with a known allergy would not be vaccinated with the vaccine at this point. That is part of the consent process and the discussion that we have with individuals before we give anyone the vaccination.

Therefore, there is a range of control measures in place, and an alert mechanism is available to staff so that, if they see any negative reactions in anybody, those are fed into the national alert system. That is exactly what happened in those first instances. The information can then be transmitted across the country, so that people can understand what incidents have happened.

**The Convener:** Finally, Nicky Berry wants to come in.

**Nicky Berry:** To be honest, Ralph Roberts answered the question beautifully.

Every ward has an immunisation co-ordinator, who would manage any adverse event. Such events are escalated and there is a process for dealing with them. I have nothing else to add, as Ralph said everything that I would have said.

**The Convener:** I thank all our witnesses from NHS Borders. I apologise from our end for the technical issues that we have experienced. A number of witnesses wished to add additional points, which they were not able to do live, so to speak. However, please feel free to write to the committee on any points that you were unable to address during the evidence session. Likewise, we might write to you on one or two areas that we have not fully explored. I thank everyone for their patience.

# Subordinate Legislation

## Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (SSI 2020/372)

11:58

**The Convener:** The final item on our public agenda is consideration of subordinate legislation. In this case, we will consider the negative instrument that we considered and sifted earlier this morning. We first considered the regulations on 24 November. We have had clarification from the Scottish Government of the matters raised by the committee, and this is our opportunity to consider the instrument in light of that response. As no member wishes to raise any issues, does the committee agree to make no recommendation on the instrument?

**Members** *indicated agreement*.

**The Convener:** The committee will now move into private session. I suspend the meeting, and we will resume in private on a different platform in five minutes.

11:59

*Meeting continued in private until 12:31*.

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