

## Equality Impact Assessment

### The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 9) Regulations 2020

#### Introduction

1. The COVID-19 pandemic has led to unprecedented calls on the health system as well as policy and financial decisions that have made fundamental changes to everyday life for people in Scotland. While it has been necessary to take these extraordinary measures to respond to the pandemic, the protection of equalities for Scotland's population, and the proportionality of the measures taken, have also been at the forefront of consideration of these actions during this emergency situation.
2. The Coronavirus (COVID-19): Framework for Decision-Making and *Scotland's route map through and out of the crisis* ("the Route Map") make clear that COVID-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. The *Framework for Decision-Making* identified four main categories of harm: direct health impacts, non-COVID-19 health harms, societal impacts and economic impacts. These harms are deeply inter-related: health harms impact on society and the economy, just as the societal and economic effects impact on physical and mental health and wellbeing. The Route Map sets out the range and phasing of measures proposed for Scotland as it moves out of lockdown. Like the initial response to the crisis, navigating the right course out of lockdown involves taking difficult decisions that seek to balance these inter-related harms and risks.
3. The Framework and the Route Map documents also note that the pandemic, and the measures to respond to it, can have the most negative impacts on people least able to withstand them.
4. Some harms will be felt over different time horizons: short, medium and long-term. Some harm may not be fully understood for many months or even years, such as the long term impacts on mental health and school attainment. However, even in these initial stages, it is clear that impacts have not been equally felt across the population. Consideration of the continued but differential impacts as lockdown is lifted in careful phases is therefore critical to the decision making process.

#### Legislative background

5. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to bring forward the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 ("the Principal Regulations"), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. The Principal Regulations came into force on Thursday 26 March.
6. Recognising the extraordinary impact of the measures, Scottish Ministers have put in place a statutory requirement to review the restrictions every three weeks to ensure they remain proportionate and necessary.
7. As soon as the Scottish Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, the Scottish Ministers must revoke that restriction or requirement.

8. The Framework for Decision Making makes clear that the reviews will be informed by assessments of options for relaxation under their impact on the 'four harms', their viability, and broader considerations including equality impacts and consideration of measures, for example, for specific geographies and sectors.
9. The Scottish Government considered from the outset whether the lockdown provisions were consistent with the Equality Act 2010 and also considered whether the provisions could constitute indirect discrimination. In many cases, the provisions have applied to all persons irrespective of protected characteristic. Equality Impact Assessments (EQIAs) have been carried out to consider the impact of the measures contained in the Coronavirus (Scotland) Act 2020 and for the respective legislation thereafter. Where some possible impacts have been identified, the Scottish Government has considered these to be justified as both a necessary and proportionate means of achieving the legitimate aim of protecting the general public from the threats posed by the outbreak of the Coronavirus pandemic and, therefore, the threat to human life in Scotland. However, from the beginning measures were put in place to support people as they complied with lockdown guidance, such as the £350 million of community funding announced on the 18 March.
10. As Scotland emerges from the lockdown, following the Route Map, some changes are delivered through regulations, such as the opportunity to take part in outdoor recreation. Other measures are delivered through changes to guidance, such as the opportunity to take part in some non-contact sporting activities. However, all measures are given thorough consideration on the basis of their impact, including on equality and human rights.

### **Policy Objectives**

11. On 21 May 2020 the Scottish Government published a route map setting out a phased approach to easing lockdown restrictions while still suppressing coronavirus (COVID-19). The route map recognises that the restrictions and requirements in place have a negative impact on some aspects of people's lives, such as increasing loneliness and social isolation and have potential to deepen inequalities and damage our economy. The route map also stated that, subject to the available data and evidence in support of such proposals, some of the restrictions and requirements may be eased at this time.
12. Some changes to the lockdown measures are made by this instrument and are described below. The Scottish Government's guidance has been updated to reflect these changes and to make other changes for the purpose of implementing proposals in the route map. The revised guidance is available at [www.gov.scot/collections/coronavirus-covid-19-guidance](http://www.gov.scot/collections/coronavirus-covid-19-guidance).

### *Community centres*

13. The Regulations revoke regulation 4(8) of the principal regulations which require the person responsible for a community centre to ensure that the community centre is closed except in specific circumstances. The effect of this amendment is that community centres can now re-open subject to physical distancing requirements.

### **Assessing the impacts and identifying opportunities to promote equality**

14. It is necessary to make and lay this instrument urgently to make necessary adjustments to the current arrangements which facilitate self-isolation and minimise

the risks to public health arising from COVID-19. On that basis, there has been a welcome opportunity to gather evidence on the possible impacts of the Regulations. Evidence was also gathered as part of the development of the Scottish Government's COVID route map and the review of the Principal Regulations.

15. Given the importance of assessing the impact of policy change on each of the protected characteristics, the following table sets out an assessment of the impact of the changes made in the Regulations on each of the protected characteristics.

<ul style="list-style-type: none"> <li>Revoking the restrictions on the opening of community centres for the specific purpose of resuming third sector non-NHS health support groups.</li> </ul>		
<b>Impact</b>	<p>This measure is intended to allow for community centres to re-open. This is intended to facilitate of the resumption of third sector non-NHS health support groups – such as Alcoholics Anonymous (“AA”) and Narcotics Anonymous (“NA”) - where they believe that remote support is insufficient for the people they work with, This is to allow them to offer face-to-face and group support, where deemed essential and where appropriate protective measures according to relevant guidance, such as physical distancing, are in place.</p>	
<b>Differential impacts</b>	<p><b>Age: Children and Younger People</b></p>	<p>No impact identified.</p>
	<p><b>Age: Older People</b></p>	<p>Older people who are less likely to feel comfortable using remote services will now be able to meet face to face.</p> <p>The relaxing of restrictions could increase the chances of older people contracting COVID-19. Figures show that older people are more likely to be adversely affected by the virus.</p> <p>Some may feel anxious that attending face to face meetings will increase risk of infection.</p>
	<p><b>Sex: Women</b></p>	<p>Some may feel anxious that attending face to face meetings will increase risk of infection.</p> <p>The majority of people seeking treatment for drug and alcohol use are males however there are specific dedicated support groups for females.</p>
	<p><b>Sex: Men</b></p>	<p>Some may feel anxious that attending face to face meetings will increase risk of infection.</p> <p>The majority of people seeking treatment for drug and alcohol use are males.</p>

<b>Race</b>	Relaxing restrictions around face to face meetings could increase the chances of people of some minority ethnicities contracting COVID-19 who are at higher risk.
<b>Religion &amp; Faith</b>	No impact identified.
<b>Disability</b>	<p>Positive impact on mental wellbeing from reduced isolation offered by face to face support groups.</p> <p>Some disabilities – such as sensory or cognitive – impede people’s ability to engage in support in a virtual environment. There is a high prevalence of cognitive impairment among people with drug and alcohol problems. Some may feel anxious that attending face to face meetings will increase risk of infection.</p>
<b>Socio-economic disadvantage</b>	<p>Those socio-economic disadvantaged are less likely to have access to digital or mobile technology to allow them to take part in remote support groups so there would be positive benefits for this group in allowing access to face to face meetings.</p> <p>People who use drugs and or alcohol are more likely to be economically disadvantaged and have more limited access to digital technology.</p> <p>Those with compromised immune systems may not be able or comfortable returning to your physical meeting until there is an effective COVID 19 vaccine.</p>

**Mitigating actions:**

Guidance will be developed to take account of specific equalities issues.