

Scotland's Strategic Framework: Other Measures

**BUSINESS AND REGULATORY IMPACT
ASSESSMENT**

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Title: Scotland's Strategic Framework: Life events- Marriage, civil partnership and funerals

Purpose and intended effect:

The objective of Scotland's Strategic Framework is to set out a sustainable response to the pandemic to be implemented until either a vaccine or highly effective treatments to the virus are developed. The Framework covers the four key harms of the virus, how we will work to suppress the virus, and sets out our proposal to move to a strategic approach to outbreak management based on five levels of protection.

This BRIA is focused on the set of **life events** measures for marriages, civil partnerships and funerals included within Scotland's Strategic Framework. However, individual measures need to be viewed within the broader context of the package of measures within each level, with the strategic framework taking a four harms approach to considering which interventions are introduced at each level through assessment of:

- direct health harms associated with COVID-19
- broader health harms
- social harms
- economic harms

The Strategic Framework includes measures across a wide number of settings and provides a comprehensive approach to reducing infection rates and suppressing the spread of the virus. Each of the levels is designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

The key measures relating to **life events** are set out in the table below:

Life Events Measures	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
	Weddings/civil partnerships – 50 person limit Funerals – 50 person limit Wakes and receptions permitted, subject to 50 person limit	Weddings/civil partnerships – 20 person limit Funerals – 20 person limit Wakes and receptions permitted, subject to 20 person limit	As level 1	As level 1	Weddings/civil partnerships – 15 person limit ¹ Funerals – 20 person limit Wakes permitted subject to 20 person limit No receptions

At levels 1-3, there are exceptions to the restrictions for hospitality food and drinks premises to allow for the continued services of alcohol at receptions and funeral wakes and to permit such premises to remain open later than their standard closing time for such receptions. At level 4, while hospitality premises must close to the service

¹ This BRIA focuses on the decision making process leading up to the Regulations which were made on 2 November. On 17 November 2020, the Scottish Government changed the numbers who may attend marriage ceremonies and civil partnership registrations in an area affected by Level 4 from 15 to 20, as for levels 1-3.

of food and drink, there are exceptions permitting hospitality premises to remain open to host a marriage ceremony or civil partnership registration, and to allow funeral wakes to continue and for premises to remain open for these purposes later than would be the case for other customers. This BRIA should be read in conjunction with BRIAs affecting the sectors supplying the wedding and funeral industries, in particular the BRIA for the hospitality sector.

Background

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 first regulations”), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. They came into force on Thursday 26 March 2020.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 came into force on 14 September 2020 and revoked and replaced the first regulations. They make provision which is substantially similar to the first regulations, as amended at the date on which they were revoked.

On 9 October 2020, the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Restrictions) Regulations 2020 (“the additional temporary restrictions”) set out additional restrictions, both nationally and specific to the central belt. These regulations suspended the effect of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 while the additional temporary restriction regulations were in force. The additional temporary restriction regulations were due to expire on 26 October but were extended by amendment until 6.00 am on 2 November to allow for consultation on the levels-based approach.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 implement the new Strategic Framework and came into effect on 2 November.

Scotland’s Strategic Framework

Decision-making under the new Strategic Framework system is intended to be straightforward and transparent. It will build on existing structures and processes, will be informed by clinical advisers and evidence, and will continue the engagement with local leadership as decisions to move up and down levels are taken.

Decisions will continue to be made by Ministers, with input from relevant advisers, as implementing the restrictions outlined in the levels is the exercise of a statutory power for the protection of public health, for which Ministers are responsible and accountable.

Regular reviews of the levels system will take place and as soon as Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the spread of COVID-19, they must revoke that restriction or requirement.

Purpose and intended effect: Scotland’s Strategic Framework Life events Protections

Introduction

Marriage and civil partnership

The businesses providing services to couples marrying or entering a civil partnership (the “wedding industry”) are an important part of Scotland’s economy and society.

The average cost of a wedding in Scotland in 2017 was reported to be £19,791.² Based on the number of marriages registered in Scotland in 2019³, if this remained the average spend, the wedding industry in Scotland

² The 2018 Wedding Report, based on a survey around 3000 couples based in the UK:
<https://bridebook.co.uk/article/theukweddingreport2018>

might have been worth around £519 million in 2019⁴. In 2018, a Visit Scotland briefing, which noted this average also suggested that the average Scottish wedding cost more than that, at £35,674, and that the Scottish wedding industry was on that basis, worth around £963 million.⁵ Scotland also attracts couples who wish to marry here. Around 20% of marriages that take place in Scotland are between parties who do not live here,⁶ providing an additional economic boost.

On marriage ceremonies and wedding receptions, it is difficult to provide accurate data on the number of businesses and employees working in this sector. However, the information we have is that this is a significant industry involving considerable numbers of businesses and customers. The businesses forming part of the supply chain for the wedding industry are varied, covering hospitality premises and venue services (e.g. hotels, venues such as castles and stately homes, and catering); photographers; providers of wedding dresses and other clothing; chauffeurs; wedding planners; hairdressers; beauticians (makeup close contact services), musicians; florists; retailers selling wedding presents; marquee providers; honeymoon providers etc.

For some, wedding related work will be their sole employment and others will work in other areas. Stakeholders say that this sector supports 15,000 part time jobs, but we have not been able to validate this figure. A Visit Scotland report⁷ estimates that 50,000 jobs are provided by hotels in 2017/2018.

Marriage celebrants (ie persons who solemnise marriage) should not be seen as part of the wedding industry: the solemnisation of marriage should not be carried out for profit or gain. We are, though, aware that a number of celebrants working for humanist bodies are self-employed and religious and belief celebrants may charge fees for the benefit of their faith or belief (for example to help meet the costs of the upkeep and maintenance of religious premises).

Funerals

The Competition and Markets Authority (CMA) estimates that the average cost of a funeral in the UK in 2019 was £3,911, with an average weighted growth of 4.0% per year.⁸

The National Records of Scotland's (NRS) death statistics show that there were 58,108 deaths in Scotland in 2019.

Unfortunately, there is no data available on the number of funerals that take place in Scotland each year, however, it is likely that for the vast majority of people who die in Scotland, their funeral will be held in Scotland.

The funeral sector in Scotland consists of publically and privately owned organisations and businesses. In the main, the funeral sector can be described as comprising mainly burial authorities, cremation authorities and funeral directors businesses. A breakdown of each is set out below.

A burial authority can currently be either:

- Local authorities; or

³ 26,225 marriages were registered in 2019: National Records of Scotland <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/vital-events-reference-tables/2019/list-of-data-tables#section7>

⁴ Some of spending on marriages and civil partnerships may have benefited businesses outwith Scotland.

⁵ Visit Scotland research paper: <https://www.visitscotland.org/binaries/content/assets/dot-org/pdf/research-papers/wedding-tourism.pdf>

⁶ National Records of Scotland Time Series Data on marriages and civil partnerships by country of residence of parties: <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/marriages-and-civil-partnerships/marriages-and-civil-partnership-time-series-data>

⁷ <https://www.visitscotland.org/binaries/content/assets/dot-org/pdf/research-papers-2/insights-topic-paper---tourism-employment-2018-table-6-updated-jan-2019.pdf>

⁸ https://assets.publishing.service.gov.uk/media/5e4fba6bd3bf7f3938182cb0/Comp_btwn_FDs_pricing_levels_and_trends_-_web_version_---.pdf

- Privately owned and operated

Approximate numbers of burial grounds in Scotland:

- 2,413 in total
- Of these, 1,086 are in use, owned and operated by local authority burial authorities
- 1,242 are historic grounds that are the responsibility of local authority burial authorities
- 85 are owned and operated by private burial authorities

Accurate local authority burial ground numbers can be readily determined. The numbers set out above are based on returns of all 32 local authorities. However, exact numbers of private burial authorities remain an estimate, based on information gathered with assistance from local authorities and private burial authority representatives. A definitive figure of private burial authorities and grounds is not known currently.

Cremation authorities own and operate Scotland's crematoriums. Similar to burial authorities, many operate multiple crematorium, however an authority may also operate only a single facility.

There are a variety of operation models, both public and private. A cremation authority can currently be either:

- A local authority; or
- Privately owned and operated

Numbers of crematoriums currently operating in Scotland:

- 31 in total
- 14 owned and operated by local authorities
- 17 privately owned and operated

Funeral director businesses play an important role as an intermediary throughout the process and procedures around a death and have a fundamental role in caring for people after they have died. Funeral directors liaise with a variety of public bodies such as registrars, local authorities and the NHS to make arrangements for the appropriate registration of a death, followed by burial or cremation arrangements, on behalf of a client.

A funeral director business can be:

- Corporately owned and operated; or
- Independently owned and operated

Approximate numbers of funeral directors currently operating in Scotland:

- 400 businesses
- 700 branches in total

Funeral wakes - In the most recent National Funeral Cost Index Report 2019, Royal London estimated that the average combined spend on venue hire and catering at funeral wakes in the UK was £837 per funeral. Similarly to funeral services, there is no published data on the number of funeral wakes/post-funeral gatherings that take place each year so the estimated value to the economy is difficult to quantify.

On funeral services and funeral wakes/post funeral gatherings, it is difficult to provide data on the number of businesses and employees working in this sector. For some, it will be their sole employment but others will work on a part-time, casual or temporary basis.

COVID-19 and life events

Marriage and civil partnerships

There has been a significant reduction in the numbers of marriages taking place in Scotland over the course of the pandemic since the first regulations as a result of the restrictions and guidance in place over that time. This reduction may be of the order of 75%.

For example, from 26 March, when the first regulations came into effect, until 28 June inclusive, marriages and civil partnerships were taking place only where there was a pressing need to do so (such as where one of the couple was seriously ill). Subsequently, the restrictions and guidance relating in so far as these affected marriage ceremonies and civil partnership registrations were updated on a number of occasions, as described in two statutory reports⁹ published by the Scottish Government under the Coronavirus (Scotland) (No.2) Act 2020.

Before the Strategic Framework was implemented on 2 November, marriage ceremonies and civil partnership registrations and their associated receptions could take place in public venues with up to 20 people in attendance. The limit of 20 people excluded any staff employed by a venue, such as hospitality staff. It did include the couple, two witnesses, guests, anyone employed by the couple, such as a photographer, and the celebrant or registrar and any required interpreter. Those attending may come from any number of households.

Between 26 March 2020 and 14 September, receptions could only take place if they were in line with the general restrictions applying to gatherings in private dwellings and public venues.

Over the period from 26 March 2020 to 30 September 2020, NRS has reported that there were 3624 marriages and 23 civil partnerships registered.¹⁰ Based on the numbers of marriages taking place in 2019, in a six month period, over 13000 marriages might have been expected in the same period.¹¹

Many couples have chosen to cancel their wedding this year and re-schedule for next year or the year after. As a consequence of the significant reduction in marriages taking place this year, some businesses have effectively been closed for nearly 7 months and we are aware of increasing concerns about their financial viability. We understand that managing cash flow issues and sustaining these businesses through the next few months will be critical so that the industry can be ready to take advantage of likely pent up/high demand in future years.

Funerals

Overall, the COVID-19 pandemic has sadly resulted in an increase in the number of COVID-19 deaths in Scotland. This means that more funerals have taken place than is usual at certain times of the year, particularly during wave 1 (late spring 2020)¹². The overall excess number of deaths caused by COVID-19 is not yet available. While funeral services have necessarily taken place throughout the pandemic, varying levels of restrictions have been in place at different times. For example, in the early stages of the pandemic only a person's household and close family could attend the funeral. Where no household or close family members were in attendance, friends could attend.

Since July 2020, up to 20 people (not including funeral directors/cremation or burial authority staff or the celebrant) have been able to attend a funeral with strict 2 metre physical distancing between households. Physical distancing

⁹ The first report covered the period to 31 July 2020: <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership/pages/1/> and the second report covered the period to 30 September 2020: <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership-2/pages/1/>.

¹⁰ Data is broken down into periods and set out in the two statutory reports referred to: <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership/pages/1/> and: <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership-2/pages/1/>. As there may be a slight delay in data on solemnised marriages and registered civil partnerships being entered into the IT systems, there may be some marriages which were solemnised or civil partners in this period but have not completed the registration process.

¹¹ This assumes that marriages take place spread evenly throughout the year, but our understanding is that more marriages and civil partnership take place over the summer months.

¹² NRS has published statistics about deaths involving COVID-19 in Scotland: <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/weekly-and-monthly-data-on-births-and-deaths/deaths-involving-coronavirus-covid-19-in-scotland/archive>

requirements means that the numbers able to attend a particular venue, such as a small crematorium service room, may be less than the maximum of 20 people. Like many other businesses - burial authorities, cremation authorities and funeral directors have been required to ensure their premises are 'COVID secure' by complying with relevant guidance.

Funeral wakes/post funeral gatherings were not permitted to take place until 14th September, when they able to take place in regulated venues (e.g. hospitality venues) with up to 20 people in attendance.

Marriages, civil partnerships and funerals

However, gatherings for weddings and funerals fulfil many of the high-risk criteria for COVID-19 transmission, as transmission of SARS-CoV-2 is most strongly associated with close and prolonged contact in indoor environments. The highest risks of transmission are in crowded spaces over extended periods.¹³ Weddings and funerals are likely to involve people who know each other and who will want to interact with others at the event (see Transmission below). This has formed the basis for consideration of further measures in recent weeks, including around social gatherings and hospitality settings, in response to the recent increases in COVID-19 cases and transmission experienced across Scotland.

Policy Objective

In common with the wide range of other countries who have implemented similar measures, the objective of the restrictions set out within the Strategic Framework is to ensure that the numbers able to attend these life events (weddings and funerals) is appropriate to the level of COVID-19 risk within the Local Authority area in which it takes place, also taking into account the other restrictions in place. Any restrictions on operations are intended to help control and suppress the spread of the virus, ultimately minimising transmission rates, hospital admissions, deaths and the potential overwhelming of the NHS.

Rationale for Government Intervention

Strategic Intent

COVID-19 threatens health and life, but also how we live our lives, and our shared prosperity. The Scottish Government, in common with other UK Nations, is committed to suppressing the virus to the lowest possible level, and keeping it there, until we have a vaccine and/or effective treatments, and the virus is no longer the threat it is now. There is no acceptable number of people we are willing to let become infected.

The evidence base around transmission for this new virus is still emerging, so we are committed to taking decisive action based on the best evidence available to us, while keeping this under constant review.

We have considered a wide range of evidence in developing the Strategic Framework, incorporating information from a variety of sources.

Transmission

SARS-CoV-2 can be transmitted by three main routes: close-range respiratory droplets and aerosols, longer range respiratory aerosols, and direct contact with surfaces contaminated with virus. Transmission is strongly associated with proximity and duration of contact in indoor environments. It is possible for SARS-CoV-2 to be transmitted at distances of more than 2 metres.¹⁴

We know from contact tracing, international evidence and scientific research that a wide range of social, residential and workplace settings have been associated with transmission. The highest risks of transmission, including those

¹³ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹⁴ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{15,16}.

The Government recognises that transmission of the virus within households presents the highest risk, which is why gatherings in private dwellings was targeted first and will be restricted across all of the 5 levels.

However, other setting also have the potential to transmit the virus due to the risk factors. Understanding settings where multiple risk factors come together, and large outbreaks are likely to occur, is important in controlling the epidemic.

Risk Factors

High-risk factors associated with transmission of the virus¹⁷ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption¹⁸. Another risk factor is the when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing¹⁹. Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus²⁰.

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not²¹ or breathing heavily (e.g. due to exercising in gyms)²². Many of the sectors covered in this document rely on people from many households coming together for prolonged periods (e.g. in theatres or stadia) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering²³.

Each place an individual visits brings different risks depending on a range of factors, such as²⁴:

- the mix and number of people present,

¹⁵ Leclerc QJ FN, Knight LE. What settings have been linked to SARS-CoV-2 transmission clusters? [version 1; peer review: 1 approved with reservations]. Wellcome Open Res **2020**; 5:83

¹⁶ Dillon Adam PW, Jessica Wong et al. Clustering and superspreading potential of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infections in Hong Kong

¹⁷ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

¹⁸ [Collins A and Fitzgerald N \(2020\)](#)

¹⁹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

²⁰ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

²¹ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

²² SAGE papers 21 September 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot.pdf and

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925854/S0769_Summary_of_effectiveness_and_harms_of_NPIs.pdf

²³ SPI M paper 20 August 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916888/spi-m-o-statement-gatherings-s0704-sage-52-200819.pdf

²⁴ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

- the amount of time individuals are likely to spend there,
- the ability to maintain 2m distancing,
- the likelihood of pinch points where people might gather (e.g. toilets, entrances and exits),
- the standard and type of ventilation,
- the likelihood of people touching surfaces and goods, and
- the potential for significant aerosol projection activity [SAGE references included in this section].

The risk factors vary between these sectors and between different types of businesses operating within these sectors. Each sector's risk factors are considered in more detail within the relevant section of this document.

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{25 26}.

The Strategic Framework includes measures across a wide number of settings and provides a comprehensive approach to reducing infection rates and suppressing the spread of the virus. The specific measures, as set out in the Regulations and guidance, reflect the assessment of risk factors associated with a particular activity. Each of the Strategic Framework's levels are designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

Alcohol

It is well established that alcohol is a psychoactive substance which inhibits judgement. The WHO Global Strategy recognises that intoxication with alcohol is associated with high-risk behaviours²⁷. Alcohol intoxication is associated with a number of well-characterized changes in psychological function, including disinhibition and reduced consciousness²⁸, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as memory, divided attention, and planning²⁹. It can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not³⁰.

In relation to the specific risk of transmission of Covid-19, the direct effects of alcohol impair consumers' ability to comply with transmission control measures in hospitality settings. 'Drinking even small amounts of alcohol affects people's decision-making and lowers inhibitions. It can change the way people think and feel, and influence how they act. It impairs hearing, meaning people have to lean in closer to hear or shout, which increases aerosolisation of the virus. It impairs vision, affecting the ability to judge distances. It lowers the immunity to infection. It is a diuretic, resulting in people needing to urinate more frequently. Separately and together, these effects will reduce the ability (and potentially willingness) of people to physically distance and comply with safety measures, creating an increased risk of virus transmission.' All of these risks are thought to increase proportionately, the greater the amount of alcohol sold and consumed³¹.

²⁵ SAGE papers 21 September 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot.pdf and

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925854/S0769_Summary_of_effectiveness_and_harms_of_NPIs.pdf

²⁶ SPI M paper 20 August 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916888/spi-m-o-statement-gatherings-s0704-sage-52-200819.pdf

²⁷ <https://apps.who.int/iris/handle/10665/44395>

²⁸ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

²⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

³⁰ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

³¹ [Collins A and Fitzgerald N \(2020\)](#)

Given this evidence that alcohol consumption alters your thoughts, judgement, decision-making and behaviour, advice from the World Health Organisation during the Covid-19 pandemic is to ‘stay sober so that you can remain vigilant, act quickly and make decisions with a clear head, for yourself and others in your family and community’. It adds that ‘if you drink, keep your drinking to a minimum and avoid getting intoxicated’.³²

We understand that one of the key risks for marriages, civil partnerships and funerals as life events is in relation to ensuring individuals and household groups maintain physical distancing in a context where they are likely to know each other and want to interact. These are emotional or otherwise important life events and individuals will usually want to interact closely with others to comfort or to congratulate. There are also other risk elements such as sharing of food and the consumption of alcohol: these are particularly relevant to receptions.

Evidence published by SAGE has highlighted that “family celebrations” typically constitute a very high transmission risk.³³ SAGE has also published evidence noting that in Japan, China, South Korea, and Indonesia that some super-spreading events originated from wedding venues,³⁴ including that “Large outbreaks have been occurred in family, friend, work-related and other gatherings including weddings and birthday parties.”

Current position of life events: marriages, civil partnerships and funerals

In general, marriage ceremonies, civil partnership registrations and funeral services were (and remain under the regulations supporting the protection levels) an exception to the restrictions on gatherings in public and private. Receptions and wakes can also take place in regulated venues as another exception to the restrictions on public gatherings.

For public venues, and for marriage ceremonies/civil partnership registrations, funerals and their receptions and wakes, our guidance immediately prior to 2 November was that no more than 20 people should attend excluding the celebrant or registrar, any interpreter and venue staff. Our guidance discouraged marriage or civil partnerships indoors at a private dwelling (unless a party to the marriage or civil partnership was for example seriously ill) and receptions at private dwellings were not permitted.

This effectively remains the position in levels 1, 2 and 3 of the Strategic framework for marriages, civil partnerships and receptions and at levels 1, 2, 3 and 4 for funerals.

The guidance takes account of religious requirements for marriage identified during a consultation exercise involving 17 religious and belief bodies whose celebrants conduct marriages following the first regulations which had closed places of worship for example.. These key concerns were fed through as part of the consideration of the Strategic Framework.

Information about compliance with funeral restrictions is largely based on sector feedback. In the main the sector reports that businesses and members of the public generally adhere to restrictions, however, larger funerals (in excess of 20 people) have been reported to have taken place; this is particularly true in burial grounds, and physical distancing amongst those attending funerals can be forgotten. There some reported evidence of potential transmission linked to funerals and wakes.

Conclusion

Limiting social mixing as much of possible in all settings is the most effective measure against transmission of the virus until a vaccine and treatments become available.

However, it is widely recognised that wider health and wellbeing is impacted by our ability to mix with other people. The effects of loneliness are profound and increased markedly during lockdown, alongside increases in mental health problems.

³² [World Health Organisation: Alcohol and COVID-19: what you need to know](#)

³³ [SPI-M-O: Statement on events and gatherings](#); published 19 August 2020.

³⁴ [SARS-COV-2 TRANSMISSION ROUTES AND ENVIRONMENTS SAGE – 22 OCTOBER 2020](#)

In common with the wide range of other countries who have implemented similar measures, we know there will be significant financial hardships and risks for businesses as a result of any further protective measures that minimise the wider harm to our health and wellbeing as well as minimising the wider social and economic harms. The levels approach sets out proportionate action to address the harm from the virus whilst acknowledging the wider health, social and economic harms. When the risk of Covid rises, so too will the protective measures in these sectors. Similarly as the risk falls, the protective measures will ease.

Across all of the five levels we seek to balance:

- the positive impact on the transmission rate of the virus through restricting the opportunity for mixing
- enabling as many businesses as possible to remain open safely, in ways that enable firms to remain viable and reduce the likelihood of redundancies
- the important role that these businesses and venues play in maintaining our wellbeing
- the risk of people gathering elsewhere in less safe environments
- the economic costs, including wider costs and the impact on the supply chain.

On marriage ceremonies and civil partnership registrations, the Strategic Framework should, as far as possible, take account of religious and belief requirements and the right to marry under the European Convention on Human Rights,³⁵ in addition to recognising what we understand are the heightened transmission risks for these type of social gatherings. For receptions, the risks of transmission in hospitality settings where food, drink and alcohol may be consumed will also be relevant.

Funerals are important events and following funeral restrictions at a time of grief is extremely difficult, especially when many family and friends wish to pay their respects. Funerals should not be delayed and the funeral sector has worked extremely hard to ensure that funerals can take place safely during the COVID-19 pandemic.

However, funerals are highly emotional and incredibly difficult events and physical distancing is more likely to be forgotten. The Strategic Framework should as far as possible take account of the important role a funeral plays in the grieving process but should also recognise what we understand are the potentially heightened transmission risks for these type of social gatherings. For receptions, the risks of transmission in hospitality settings where food, drink and alcohol may be consumed will also be relevant.

Consultation

Public Consultation: Given the urgent timescales, there was no public consultation in relation to marriage, civil partnerships or funerals in advance of the protection levels in the Strategic Framework. However, the correspondence received from the public on marriage, civil partnerships and funerals both on the non-business aspects and the business aspects has been considered in developing our policies.

Business: Marriage and civil partnership

In relation to marriage and civil partnerships we sought views from:

Humanist Society Scotland (whose celebrants conducted 3276 marriages in Scotland in 2019 - higher than any other religious or belief group).

My Wedding Scotland, a wedding planning website in contact with both couples and a range of businesses in the supply chain.

³⁵ Paragraph 24 of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 also requires the Scottish Ministers, in conjunction with the Registrar General of Births, Deaths and Marriages for Scotland to take such steps as they consider necessary to ensure that the solemnisation of marriages and registration of civil partnerships continues to be available in Scotland whilst paragraph 24 is in force.

We also took account of the outcomes of an informal consultation exercise with 17 religious and belief bodies carried out in the summer of 2020 on the key concerns about the first restrictions affecting the potential to marry or civilly partner, and sought the views of National Records of Scotland, for their interest in the registration of marriage and civil partnerships.

The issues raised related to:

- the need for travel to remain permitted for marriages and civil partnerships;
- concerns around the existing guidance such as on who was included in the maximum headcounts including whether it should include children, others engaged by the couple and not already employed at the venue;
- matters about related services such as make-up and when close contact services would all be possible on a mobile basis;
- whether there needed to be exceptions for the serving of alcohol at receptions and to closing times if these were involved in the protection levels;
- the desire of couples for dancing and music to re-start at receptions; and
- concerns about the viability of businesses with an emphasis on smaller businesses such as photography and make up/beauticians.

In relation to funerals, views were sought from:

The Death Management Advisory Group – A UK industry led group with representation from the funeral sector UK trade associations and the Scottish Government’s Funeral Industry Core Stakeholders Group.

The issues raised related to:

- the cap on attendance at funerals and wakes should remain consistent across all levels where possible
- setting different caps for different levels could result in people arranging funerals outwith their local geographical areas to take advantage of the increased numbers able to attend.

Options:

This section sets out the range of options that have been considered, and we continue to work constructively with the industry to explore and assess alternatives.

Mitigations

There is a wide range of mitigations in use to allow for marriages, civil partnerships and funerals to continue, in addition to the measures in the protection levels:

- use of face coverings at ceremonies among guests/attendees (exemptions for the couple and celebrant and person providing the eulogy provided physical distancing in place) where a public indoor venue is used and the requirement for face covering in crematoriums, hospitality venues at the reception or wake;
- physical distancing required between households/extended households, the couple and the celebrant or registrar;
- at receptions, limiting table arrangements to households and maximum sizes, face coverings when not seated at a table;
- restrictions on singing, and also music (including background music) at funeral services and music and dancing at marriage/civil partnership receptions;
- encouraging quiet exchange of vows and conversation, rather than loud voices.
- encouraging short, outdoor ceremonies wherever possible;
- no food and drink during the ceremony, unless essential for religious or belief reasons.
- no use of material that is traditionally shared (for example, orders of service and hymn books)
- encouraging use of hygiene measures in relation to cultural symbolism as part of ceremony, such as the

exchange of rings.

- encouraging adherence to key legal elements of service and minimising religious or belief elements unless considered essential, such as passing of scarf in Sikh weddings between households;
- encouraging use of hygiene measures in relation to signing of the register with a shared pen or at a shared table;
- encouraging couples to submit notices of intention to marry/enter a civil partnership by post, to reduce the amount of face to face time in registration offices before the actual ceremony;
- where possible, advising against the attendance of those at particular risk; and
- for marriages and civil partnerships, guidance on travel encourages non-essential guests not to travel between areas of higher prevalence and areas of low prevalence.

Sectors and groups affected

The protection levels in the Strategic Framework on life events will affect:

- the Registrar General for Scotland and local authority registrars who deal with enquiries from couples and process their notices of intention to marry or enter a civil partnership;
- religious and belief celebrants and local registrars conducting ceremonies, services and registrations;
- couples and their guests;
- hospitality and other venues, and their employees, who providing venues and other services for ceremonies or registrations and receptions;
- local authorities providing registration offices for ceremonies or registrations;
- funeral directors;
- cremation and burial authorities; and
- funeral attendees

Our approach to assessing options

Within this BRIA we have compared the package of measures within each level against the baseline position of allowing 20 people at marriages, civil partnership registrations, funeral services and their associated receptions in place prior to 2 November 2020. This has allowed us, where appropriate, to present the clinical evidence for intervention at each level setting out the health benefits, whilst acknowledging the potential impacts on the life events sector. We have also set out any additional options considered at each level. Throughout these measures the Scottish Government has sought to develop the right package of measures overall to reduce circulation of the virus whilst limiting wider health, economic and social harms. More generally, marriages, civil partnerships and funerals have been treated as exceptions to the rules on gatherings because of their importance to those involved and to society more widely.

Our objective is to get all parts of the country to level 0 or level 1 and remain there if we can. Within these levels, we would expect to see low incidence of the virus with isolated clusters, and low community transmission. Broadly, these levels are the closest we can get to normality without a vaccine or effective treatment which would allow us to move to Phase 4 of the Route Map and then back to normality. They would be similar to the measures in place during the summer, once we reached Phase 3. The Baseline and Level 1 are designed to be sustainable for longer periods.

In general when assessing the relevant options for each level we considered current and previous restrictions, international best-practice and examples, clinical and sectoral input, and proposals from policy colleagues, industry, and experts. We analysed the relative impact of each of the options on the spread of the virus, as well as the additional costs and benefits.

Options for Level 0

Level 0 is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission. Broadly, this level is the closest we can get to normality, without a vaccine or effective treatment in place.

Options for level 0

- 1) Maintain baseline- numbers at 20 in line with Phase 3 of the route map and position immediately prior to 2 November 2020
- 2) Increase numbers who may attend to 50.

Option 2 was selected. The numbers who may attend a marriage or civil partnership, or a funeral, in an area affected by protection level 0 is higher than what was in place during Phase 3 of the Scottish Government route map in so far as it applied to marriages and civil partnerships³⁶ or for funerals as well as being much closer to normality, whilst reflecting that there is a pandemic. Marriages, civil partnerships, funerals and their associated receptions and wakes also remain exceptions to the restrictions on public and private gatherings. This would have positive effects for businesses servicing marriages and civil partnerships.

Options for level 1

Level 1 is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission.

Options considered

- 1) Maintain protection level 0 position- numbers at 50
- 2) Revert to baseline position- numbers at 20 in line with Phase 3 of the route map and position immediately prior to 2 November 2020

Option 2 was selected, as this reflected that there would be expected to be an increased level of transmission in an area at level 1, but still permitted receptions or wakes for the same number in hospitality venues. Level 1 on numbers for marriages, civil partnerships and funerals reflects the position prior to the protection levels. This option maintained the status quo prior to the new levels being introduced and therefore maintained consistency for businesses. Because the numbers permitted at a ceremony at level 1 (and other levels) is not restricted by general gatherings restrictions on number of households, there is potential for up to 20 individual households to attend a marriage, civil partnership registration or funeral. This brings increased risk of transmission between a significant number of individual households.

Conclusion

In considering the evidence around options for level 0 and level 1 Scottish Ministers weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, and the social and economic harms of intervention. They concluded that at level 0, a higher number of attendees than was the case under Phase 3 of the route map could, along with the full range of other measures, still contribute towards having the desired impact on the R rate. This recognises the societal importance of these life events including the right to marry, and the importance of these events to businesses. A lower number of attendees at Level 1 than baseline is justifiable as it would reflect that a level 1 area would have a higher R rate, but that receptions and wakes could still proceed for the same number of attendees and is in line with the present position.

³⁶ By 14 September, the rules were that there could be both ceremonies and receptions at regulated venues with up to 20 guests in attendance

Options for Level 2 and 3

Levels 2 and 3 are intended to apply for short periods of time.

Within Levels 2 and 3, we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. There would be a graduated series of protective measures to tackle the virus, focusing on key areas of risk – broadly, indoor settings where household mixing takes place with less, or less well-observed, physical distancing and mitigations.

The measures would be intended to be in place for relatively short periods (preferably less than 4 weeks), and only for as long as required to get the virus down to a low, sustainable level.

Options considered:

1) Maintain baseline position- numbers at 20 in line with Phase 3 of the route map and position immediately prior to 2 November 2020

2) Maintain baseline position- numbers at 20, but with additional related exceptions for closing times and service of alcohol for hospitality venues

Option 2 was selected. The selected option at levels 2 and 3 maintains the permitted numbers at marriages, civil partnerships and funerals in line with level 1 and allow their receptions and wakes to proceed in hospitality venues. There are exceptions in the regulations for receptions and wakes permitting the service of alcohol and allowing for later closing times than is otherwise the case for levels 2 and 3 restrictions on hospitality. This minimises the impact of the restrictions at level 2 and 3 overall for hospitality businesses. Premises only close at level 4 for the service of food and drink at receptions (not wakes).

Conclusion

In considering the evidence around levels 2 and 3, Scottish Ministers weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, and the social and economic harms of intervention. They concluded that continuing to allow for the same number of attendees at marriage ceremonies, civil partnerships and funerals and their associated receptions and wakes could, along with other measures, still contribute towards having the desired impact on the R rate. The approach at levels 2 and 3 is consistent with level 1 and reflects the importance of these events to those involved, to society more widely and to the supply chain of businesses and individuals who service this sector.

Options for Level 4

Level 4 will be deployed only if absolutely necessary as a short, sharp intervention to address extremely high transmission rates.

Within this level we would expect to see very high or rapidly increasing incidence, and widespread community transmission which may pose a threat to the NHS to cope. It is likely that this level would see the introduction of measures close to a return to full lockdown. Measures would be designed to be in place for a short period, to provide a short, sharp response to quickly suppress the virus. Measures introduced in level 4 would be to control and suppress the spread of the virus, reduce transmission rates, hospital admissions, deaths, allow key services to continue such as education and avoid overwhelming of the NHS

At level 4, food and drinks businesses and other venues are required to close, but can remain open to host a marriage ceremony or civil partnership. The impact of closure of hospitality premises and other venues at level 4 is considered more generally in individual sectoral BRIAs.

Options considered

Marriage and civil partnership

- 1) Maintain baseline
- 2) Reduce the numbers who may attend marriage ceremonies and civil partnership registrations to the legal minimum of 5 or if an interpreter is required, 6 and the closure of hospitality premises for receptions; or
- 3) Reduce the numbers who may attend marriage ceremonies and civil partnership registrations to 15 from 20 (at levels 1-3) and the closure of hospitality premises to wedding receptions.

The selected option was Option 3, as this took account of the right to marry and the requirements of certain religions and beliefs on who must attend a marriage, as well as further reducing the numbers attending and remove the possibility of a reception, thereby reducing the potential transmissions at a marriage ceremony or civil partnership registration.

Funerals

- 1) Maintain levels at 1-3 (20 people can attend a funeral and wake)
- 2) Reduce the numbers able to attend a funeral and wake to reduce potential for virus to be transmitted between up to 20 households
- 3) Maintain funeral service numbers at 20 but reduce or suspend wakes

The selected option was Option 1. Even with increased incidence of the virus at Level 4, this option takes into account the importance of funerals and wakes in the grieving process.

Scottish Firms Impact Test:

There has been engagement with Scottish life events businesses in developing the provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA.

Will it have an impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world?

We do not have data on the proportion of businesses in the wedding industry operating in Scotland that are registered in Scotland.

At present, the lock down restrictions in England mean that only emergency weddings can proceed- this means where one of the couple is terminally or seriously ill. This is due to last until 2 December. In Northern Ireland at present up to 25 people can attend a marriage ceremony or subsequent reception and in Wales for the ceremony the maximum who can attend is determined by venue capacity but up to 15 people can attend a reception.

Couples may try to marry in countries where higher numbers of people can attend, or they may try to marry in Scotland if they can have a higher number here, for example in a level 0 area. However, it is unclear yet whether there will be any immediate change in the pattern. Marriages and civil partnerships are usually planned some time in advance.

Data on the funeral sector, including estimated number of businesses etc. is set out above.

At present, up to 30 people can attend a funeral and wake in England. Only 25 people can attend a funeral in NI and no wakes are permitted. In Wales, there are no restrictions on the numbers that can attend a funeral as long as the venue can safely accommodate attendees. No wakes are permitted in Wales. It is not foreseen that funeral restrictions in Scotland will disadvantage Scottish companies within the UK, or elsewhere in Europe.

• How many businesses and what sectors is it likely to impact on?

Marriages and civil partnerships

The measures to reduce the likelihood of transmission of COVID-19 at marriages and civil partnerships and receptions are likely to continue to impact on a wide range of businesses, small or large, but we do not have reliable data on this. Some of these businesses will be impacted less significantly by the range of measures being taken because they are not solely involved in serving the wedding industry. Some businesses may be significantly impacted by the continuation of the restrictions on numbers at

It's apparent that many couples have chosen to postpone their weddings as a result of their inability to have a wedding of their choice or to plan for such a wedding in the immediate future. Couples may also lack the confidence to make a booking for the immediate future because of the potential that restrictions may change at short notice. The protection levels 1, 2, 3 and 4 are similar to the position immediately prior to implementation of the Strategic Framework which may provide some level of consistency and confidence for couples to make bookings. Levels 0 and 4 do not yet apply in any area of Scotland. We have tried to minimise the impact of our guidance on businesses, including small businesses more generally by:

- providing exceptions relevant to businesses in the hospitality food and drink sector for these life events;
- not limiting the numbers attending a wedding or funeral according to number of households, which for example allows a couple marrying to choose to engage a singer, musician or photographer; and
- recognising the importance of marriage and civil partnership, and funerals in travel guidance exceptions.

Funerals

The measures to reduce the likelihood of transmission of COVID-19 at funerals and wakes/post-funeral gatherings are likely to continue to impact cremation authorities, burial authorities and funeral directors businesses. There may also be an impact on hospitality businesses although this impact is more difficult to quantify.

However, because funerals and wakes can continue to be held across each of the levels, albeit with lower numbers of attendees, the negative impact on the funeral sector is likely to be less than in other sectors.

• What is the likely cost or benefit to business?

Marriage and civil partnership

Protection levels 1, 2 and 3 are very similar to be position immediately prior to the implementation of the Strategic Framework. The costs associated with Strategic Frameworks decisions in relation to marriage and civil partnership will impact primarily on the businesses providing services to support the marriage and civil partnership ceremonies rather than on those performing the ceremonies. If the potential value of the wedding industry to the economy on an annual basis of £519 million is accurate then the reduction of at least 75% in the number of marriages and civil partnerships taking place suggests that the continuing need for restrictions on marriage and civil partnership to contribute to efforts to suppress COVID-19 may have cost around £200 million and therefore impact on businesses. These losses seem likely to continue while restrictions remain and if sufficient support is not available, further business losses, and potential business closures, could be expected.

A move to level 0 for any area or areas may be helpful in providing greater confidence for couples.

Funerals

Protection levels 1-4 are consistent with the position immediately prior to the implementation of the Strategic Framework. We do not therefore consider that the Strategic Framework decisions in relation to funerals and wakes to further impact this sector.

Competition Assessment:

Our view is that the measures for marriages, civil partnerships or funerals in the protection levels would not impact in themselves on competition between businesses. If an area moves into level 0 this may result in a preference among couples intending to marry for a venue based in that area given the substantial increase in numbers who can attend in such an area.

• Will the measure directly or indirectly limit the number or range of suppliers?

Marriage and civil partnership

We are aware of reports that some venues have ceased trading during the period of the restrictions. Others have suggested that they are increasingly unviable. At present our guidance on the numbers who may attend a marriage or civil partnership is inclusive of those a couple engage to bring to their ceremony such as a musician or photographer. Venue staff do not count nor do third party catering staff at a reception. This guidance was in place before the protection levels, but it is possible that this may be affecting smaller businesses where couples choose to prioritise the attendance of family and friends at their wedding. We will review this going forward to consider whether it is possible to allow for further attendees employed directly by the couple.

Funerals

The protection levels within the strategic framework are unlikely to lead to businesses ceasing trading and are unlikely to impact disproportionately on certain types of businesses.

• Will the measure limit the ability of suppliers to compete?

Travel guidance exceptions permit travel between different areas for attending a wedding or funeral which means that a venue in a lower transmission area can attract business from elsewhere but also allows for continuing competitiveness between all venues.

• Will the measure limit suppliers' incentives to compete vigorously?

If an area moves into level 0 this may affect the ability of venues elsewhere at different levels to attract business.

• Will the measure limit the choices and information available to consumers?

The measures do not limit the choices available to consumers- exceptions to travel guidance permit travel between different areas for attending a wedding or funeral.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of the life events sector measures within the Strategic Framework on consumers.

• Does the policy affect the quality, availability or price of any goods or services in a market?

The restrictions which have been in place and the continuing restrictions under the protection levels have resulted in higher costs to businesses for example venues which must comply with COVID-19 hygiene requirements and increased costs of PPE. These costs may have been passed onto consumers. BRIA for relevant sectors (such as hospitality sector) should be referred to.

• Does the policy affect the essential services market, such as energy or water?

There is no expected impact on markets for essential services.

• **Does the policy involve storage or increased use of consumer data?**

No.

• **Does the policy increase opportunities for unscrupulous suppliers to target consumers?**

This is unlikely to occur as a consequence of the strategic framework.

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

Enforcement, sanctions and monitoring: The guidance pertaining to the numbers permitted to attend marriages, civil partnerships and funerals will continue to be reviewed regularly. Regulations have been put in place to support the implementation of the measures. Monitoring and enforcement will be undertaken by Local Authority Environmental Health Officers and, in some cases, Police Scotland.

Implementation and delivery plan and post-implementation review:

Regulations and guidance have been put in place to support the implementation of the measures contained within the Strategic Framework. These regulations came into effect from the 2nd November 2020. We are continuing constructive engagement with the sector and other stakeholders.

Summary and recommendations:

Introduction

This BRIA has examined the life events (marriages, civil partnership and funerals) measures within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

The Scottish Government's strategic framework includes a package of measures which collectively are designed to suppress transmission of the virus.

Whilst this BRIA is focused on life events (marriages, civil partnership and funerals), measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view these measures in the context of this wider package of actions.

Options Appraisal

The Strategic Framework includes a range of actions designed to suppress virus transmission. In taking action a careful balance needs to be struck between protecting health and minimising the negative impacts on business, jobs and livelihoods.

It compares these measures against the baseline option (up to 20 people attending a marriage, civil partnership or funeral). More detailed discussion of each of the levels and the options that have been considered by Scottish Ministers within levels is contained within the main body of this document.

Level 0

For marriage and civil partnership and funerals, level 0 of the Strategic Framework) of permitting up to 50 people to attend a marriage or civil partnership or funeral and a reception or wake would have a positive economic impact on hospitality and other venues through their revenue generation, employment of staff, and on supply chain businesses, as it would increase the numbers permitted on the baseline option of 20 in effect prior to 2 November 2020. However this is likely to be off-set by the health risks associated with increased opportunities for virus transmission in hospitality settings and there could be impacts for staff illness and a need for more staff to self-isolate.

Levels 1, 2 and 3

For marriage and civil partnership and funerals, levels 1, 2 and 3 there is a benefit in consistency with the position prior to the strategic framework in permitting up to 20 to attend, and familiarity with the application of the guidance. This continuity may allow for confidence among some couples who want to marry or civil enter a civil partnership. Exceptions are in place allowing for alcohol to be served and for longer opening hours to support business at levels 2 and 3.

Health risks remain and there are continuing losses arising for businesses servicing weddings through cancellations and postponements of ceremonies or registrations and their receptions arising as a result of the need to restrict numbers attending. However this would be off-set by the health risks associated with increased opportunities for virus transmission in hospitality settings and there could be impacts for staff illness and a need for more staff to self-isolate.

Maintaining level 0 permitted numbers of 50 would have maintained economic benefits, but would potentially substantially increase the rates of transmission in higher prevalence areas as well as encouraging further travel and that would increase costs including to business.

Level 4

For marriage and civil partnership, at level 4 receptions are not possible and numbers at ceremonies and registrations would be reduced, but to 15 rather than to 5 or 6 under the alternative option considered. Venues can open to host ceremonies or registrations. This does reduce the impact for business, whilst also being expected to contribute towards a rapid reduction in infection rates. The BRIA for the hospitality sector contains evidence on the impact of general hospitality closure in level 1.³⁷

For funerals, the position at level 4 is consistent with that at levels 1-3.

Conclusion

This BRIA has set out the relative costs and benefits of options for the life events sector (marriage, civil partnership and funerals) with the intended effect of suppressing the virus whilst acknowledging and minimising the economic harms faced by businesses.

It is also important to be aware that there is a comprehensive package of financial support from the UK Government and the Scottish Government for businesses to mitigate the negative impacts of the restrictions. Subsequent to the regulations supporting the strategic framework commencing on 2nd November, there have been changes to the financial support package, notably the extension of the UK Government Coronavirus Job Retention Scheme until the end of March 2021.

The new Scottish Government financial support will apply across all the relevant levels and will provide:

³⁷ The University of Edinburgh's Business School has assessed that if a second full Lockdown occurred, it could see the loss of 90,000 jobs in the hospitality and tourism sector, which equates to 1 in 4 jobs.

- A grant of £2,000 or £3,000 (depending on rateable value) for business required to close by law, payable every four weeks for the duration protective measures are in place
- A hardship grant of £1,400 or £2100 (depending on rateable value) for businesses that remain open but are specifically required to modify their operations by protective measures, payable every four weeks for the duration measures are in place

These grants will be provided regardless of level, to eligible businesses, and paid in fortnightly instalments (subject to discussions with local authorities).

This support is in addition to the UK government Coronavirus Job Retention Scheme whereby employees working for businesses will receive 80% of their salary paid for by government.

- This applies to all countries and regions of the UK and is not linked to specific tiers or restrictions.
- The Government will fund 80% of wages for hours not worked with employers' contributions initially limited to employers' NICs and pension costs – reflecting the terms and conditions of the CJRS applicable in August 2020. Employer contributions will be reviewed in January.
- All employees who were on the payroll as of 30th October are now eligible.
- Employees that were on the payroll as at 23 September but have since been made redundant can be re-employed and claimed for

The UK Government also announced increased support for the self-employed who will also receive 80% of their average trading profits for November to January, with a further, as yet unspecified, grant to follow covering February to April.

The UK Government has also announced (2 November):

- An extension of the coronavirus business interruption loan schemes until the end of January.
- Additional funding for Local authorities to support their local health response worth £500 million
- An extension of mortgage and consumer credit payment holidays, lasting 6 months

All these support measures are designed to support businesses and mitigate the negative impacts of the restrictions which have been identified and considered. We will continue to engage with the businesses affected on the impact of the measures, and the level of support available, as they are implemented.

Title: Scotland's Strategic Framework: Early Learning and Childcare and Formal Childcare

Purpose and intended effect:

The objective of Scotland's Strategic Framework is to set out a sustainable response to the pandemic to be implemented until either a vaccine or highly effective treatments to the virus are developed. The Framework covers the four key harms of the virus, how we will work to suppress the virus, and sets out our proposal to move to a strategic approach to outbreak management based on five levels of protection.

This BRIA is focused on the set of Early Learning and Childcare (ELC) and formal childcare measures included within Scotland's Strategic Framework. However, individual measures need to be viewed within the broader context of the package of measures within each level, with the strategic framework taking a four harms approach to considering which interventions are introduced at each level through assessment of:

- direct health harms associated with COVID-19
- broader health harms
- social harms

- economic harms

The Strategic Framework includes measures across a wide number of settings and provides a comprehensive approach to reducing infection rates and suppressing the spread of the virus. Each of the levels is designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

A strategic decision was taken at early stage not to close Early Learning and Childcare, formal childcare and schools except as a last resort where all other measures had been taken and were proving cumulatively ineffective.

The key measures relating to ELC and formal childcare are set out in the table below:

Early Learning & Childcare and formal childcare Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
ELC/Formal Childcare	Open – with standard protective measures in place	Open – with standard protective measures in place	Open – with standard protective measures in place	Open – with enhanced protective measures in place	Open – subject to targeted intervention which may impact on capacity

Background

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 first regulations”), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. They came into force on Thursday 26 March 2020.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 came into force on 14 September 2020 and revoked and replaced the first regulations. They make provision which is substantially similar to the first regulations, as amended at the date on which they were revoked.

On 9 October 2020, the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Restrictions) Regulations 2020 (“the additional temporary restrictions”) set out additional restrictions, both nationally and specific to the central belt. These regulations suspended the effect of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 while the additional temporary restriction regulations were in force. The additional temporary restriction regulations were due to expire on 26 October but were extended by amendment until 6.00 am on 2 November to allow for consultation on the levels-based approach.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 implement the new Strategic Framework and will be published on 30th October and come into effect on 2 November.

Scotland’s Strategic Framework

Decision-making under the new Strategic Framework system is intended to be straightforward and transparent. It will build on existing structures and processes, will be informed by clinical advisers and evidence, and will continue the engagement with local leadership as decisions to move up and down levels are taken.

Decisions will continue to be made by Ministers, with input from relevant advisers, as implementing the restrictions

outlined in the levels is the exercise of a statutory power for the protection of public health, for which Ministers are responsible and accountable.

Regular reviews of the levels system will take place and as soon as Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the spread of COVID-19, they must revoke that restriction or requirement.

Purpose and intended effect: Scotland's Strategic Framework ELC and Formal Childcare Protections

Introduction

The ELC and formal childcare sector is a very important part of Scotland's economy and society.

Maintaining and widening access to affordable and high quality childcare provision is a critical enabler of economic recovery in the short term in particular through supporting parents and carers to work or study. In the longer term the childcare sector forms a crucial part of a wellbeing economy which provides opportunities for all to flourish.

Regulated childcare services are currently subject to [public health guidance](#) in order to operate. There is a core guidance document for [day care of children services](#). There are separate guidance documents for [childminding services](#), and [school aged childcare services](#). Whilst these documents are aligned with the core guidance document they include variations to reflect the unique nature of these services.

Given the wider benefits, both to children and families and to supporting economic recovery, the Strategic Framework clearly sets out an intention to prioritise keeping schools and regulated childcare, including early learning and childcare, open while ensuring the safety of children and young people and the staff who have worked hard to keep settings open. This is in recognition of the unique impacts of the pandemic on children and young people, coupled with the necessity to ensure it does not prevent them receiving the best start in life. With regards to childcare, and in particular funded ELC, it is recognised that the earliest years of life are crucial to a child's development and have a lasting impact on outcomes in health, education and employment opportunities later in life. It is widely acknowledged that the provision of universally accessible and high quality early learning and childcare (ELC) can play a vital role in helping to close the poverty-related attainment gap³⁸.

The measures recommended up to Level 3 of the Strategic Framework would enable ELC and formal childcare services to continue to operate safely without significant impact on accessibility and capacity, so that:

- Children can access childcare options safely in order to support their learning and wellbeing
- Families are supported to continue or return to work and other responsibilities; and
- The childcare workforce is supported to work in a safe environment.

At Level 4 the Strategic Framework, while retaining a commitment to keep ELC and formal childcare open, highlights that any targeted measures required could impact on capacity in ELC and formal childcare services, as settings would at this Level be subject to interventions which could include the targeted use of measures previously in force in regulated childcare, from 15 July to 9 August. These measures may have an impact on capacity in services. This would be based on the evidence of transmission in ELC and formal childcare, and the need to protect and support those who are most at risk.

The targeted measures previously in place included:

- Caring for children in small groups
- Minimising contact between those groups
- Strict restrictions on blended placements, whereby children could not access childcare provision in more than one

³⁸ More information can be found in [Expansion of early learning and childcare: Quality Action Plan](#).

location in a day

- Strict restrictions on staff movement across settings

We know from sectoral engagement (with more information set out below) that these measures had the impact of reducing capacity in individual childcare services, depending on their layout, staffing and delivery model, meaning it could be the case that fewer children and families would be able to benefit from childcare provision at current levels if such measures were reintroduced.

Overview of ELC and the Formal Childcare Sector in Scotland

The formal childcare sector in Scotland operates as a mixed economy model with a mixture of public, private, third and childminding sector providers. The formal childcare sector delivers services to both children aged 5 and under and to school-aged children (through, for example, out of school care provision and childminders).

As of October 2020 there were approximately 1,840 private and third sector childcare settings, including out of schools care settings, 1,750 local authority nurseries and around 4,390 childminders registered with the Care Inspectorate.

In Scotland all children aged 3 and 4, and eligible 2 year olds, are entitled to funded Early Learning and Childcare (ELC). Many providers in the private and third sector deliver this service on behalf of the public sector, and receive payments from their local authority for the delivery of these hours. Local authorities currently have a statutory duty to ensure that 600 hours of funded ELC is available to all eligible children in their area. The sector had been working towards the expanded ELC entitlement of 1140 hours being introduced in August 2020. Following the impact of the COVID pandemic the statutory roll-out of 1140 hours has been paused. However, all local authorities are currently offering more than 600 hours of funded ELC, whilst some local authorities are offering the full 1140 hours to some or all families in their areas

Around 60% of private and 41% of third sector day care of children providers are currently estimated to deliver the funded Early Learning and Childcare (ELC) entitlement. On average the payments that these providers receive from their local authority for delivery of these hours are estimated to account for around a third of a private funded provider's total income, and around 60% of a third sector provider's total income – although there can be significant variations across providers. The remainder of their income comes from fees charged to parents and carers for non-funded hours (e.g. to children aged 0-2 or for additional wrap-around hours for children receiving a funded ELC).

Whilst there have been increasing numbers of childminders offering the funded ELC entitlement the numbers remain relatively low (the Scottish Childminding Association's [Early Learning and Childcare Audit 2019](#) reported that in July 2019 around 13% of childminders had been approved to offer funded ELC to 3 and 4 year olds).

The majority of staff working in ELC and the formal childcare sector are women: around 100% of registered childminders are women, 96% of staff in day care of children services³⁹ and 94% of teachers delivering funded ELC are women.⁴⁰

COVID-19 and ELC and Formal Childcare Sector

COVID-19 has impacted on formal childcare services in a number of ways:

- declines in income from private sources from March 2020 as services either closed or operated at reduced capacity (if they remained open to deliver critical childcare);
- increased costs due to the requirements of the public health guidance for the sector; and

³⁹ <https://data.sssc.uk.com/images/WDR/WDR2018.pdf>

⁴⁰ <https://www.gov.scot/publications/summary-statistics-schools-scotland-no-10-2019-edition/>

- restrictions on capacity in order to operate in line with public health guidance.

The Scottish Government undertook a survey of providers between 19-24 June in order to better understand the potential impacts of the reopening guidance on their settings. The survey included questions regarding changes in costs, capacity and private income generation. This was intended to focus mainly on the impact of the reopening guidance for day care of children settings published on 15 June (which enabled these services to reopen from 15 July if they chose to do so), but replies were also received from some childminders regarding the impacts of the specific guidance for childminding settings⁴¹. Childminding settings, along with fully outdoor day care of children settings, were able to reopen from 3 June 2020 and separate specific guidance for these settings were published on 1 June 2020.

There were 651 responses to the survey with 430 from private and third sector providers, and 221 from childminders and showed that:

- 52% of private and third sector respondents indicated that they expected an increase in staffing requirements.
- 79% of private and third sector respondents reported that they expected average costs to increase upon reopening compared to business as usual.
- 80% of private and third sector respondents reported that they expected capacity to decrease upon reopening compared to business as usual.
- 81% of private and third sector respondents expected their capacity for private income generation to decrease upon reopening compared to business as usual.
- 65% of childminder respondents indicated that they expected no change in costs or for costs to decrease.
- 49% of childminders responding to the survey expected no change, or an increase, in overall capacity.
- 45% of childminders responding to the survey expected no change, or an increase, in overall private income generation compared to business as usual.

An analysis of the survey results can be found at: <https://www.gov.scot/publications/survey-of-childcare-providers-on-impact-of-reopening-guidance-summary/>.

Formal childcare providers, as with organisations in other sectors of the economy, will have been able to access support through a range of measures introduced by the Scottish and UK Governments. The Coronavirus Job Retention Scheme has been a key support measure for the sector. 90% of private and 66% of third sector day care of children respondents to the Scottish Government survey of providers in June 2020 indicated that they had drawn on support from the Coronavirus Job Retention Scheme.

Childminders have been able to draw on support from the Self-employed income support scheme (SEISS) or the Scottish Government's Newly Self-employed hardship grant. We do not have figures for the number of childminders who have been able to draw on support through these schemes, however the Scottish Childminding Association (SCMA) have indicated that some childminders struggled to access support or received relatively low levels of support through the SEISS.

In order to support the childcare sector, additional specific support has been made available:

- The Scottish Government and Local Authorities guaranteed that payments for the statutory early learning and childcare entitlement continued for the duration of closures, regardless of whether providers were open or closed (up until 10 August 2020).
- To support day care of children providers in the private, voluntary/not for profit sectors with additional costs associated with meeting the public health guidance the Scottish Government introduced a £11.2 million Transitional Support Fund.
- Support is also being provided to childminders through the Childminding Workforce Support Fund (CWSF), which

⁴¹ This guidance was in place until 9 August 2020.

has provided grants up to a maximum of £350 to help support childminders who have struggled to access support through other routes. The Scottish Government has provided £420,000 to the Scottish Childminding Association to support delivery of this Fund.

Policy Objective

In common with the other countries who have implemented similar measures⁴² the objective of the restrictions set out within the Strategic Framework is to ensure that the operation of ELC and formal childcare settings is appropriate to the level of COVID-19 risk within the Local Authority area, also taking into account the other restrictions in place. Any restrictions on operations are intended to help control and suppress the spread of the virus, ultimately minimising transmission rates, hospital admissions, deaths and the potential overwhelming of the NHS.

Rationale for Government Intervention

Strategic Intent

COVID-19 threatens health and life, but also how we live our lives, and our shared prosperity. The Scottish Government, in common with other UK Nations, is committed to suppressing the virus to the lowest possible level, and keeping it there, until we have a vaccine and/or effective treatments, and the virus is no longer the threat it is now. There is no acceptable number of people we are willing to let become infected.

The evidence base around transmission for this new virus is still emerging, so we are committed to taking decisive action based on the best evidence available to us, while keeping this under constant review.

We have considered a wide range of evidence in developing the Strategic Framework, incorporating information from a variety of sources.

Transmission

SARS-CoV-2 can be transmitted by three main routes: close-range respiratory droplets and aerosols, longer range respiratory aerosols, and direct contact with surfaces contaminated with virus. Transmission is strongly associated with proximity and duration of contact in indoor environments. It is possible for SARS-CoV-2 to be transmitted at distances of more than 2 metres.⁴³

We know from contact tracing, international evidence and scientific research that a wide range of social, residential and workplace settings have been associated with transmission. The highest risks of transmission, including those from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{44,45}.

The Government recognises that transmission of the virus within households presents the highest risk, which is why gatherings in private dwellings was targeted first and will be restricted across all of the 5 levels.

However, other settings also have the potential to transmit the virus due to the risk factors. Understanding settings where multiple risk factors come together, and large outbreaks are likely to occur, is important in controlling the

⁴² For example, Denmark and Norway prioritised the reopening of childcare services, initially with a focus on small groups, but to ensure appropriate protective measures.

⁴³ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁴⁴ Leclerc QJ FN, Knight LE. What settings have been linked to SARS-CoV-2 transmission clusters? [version 1; peer review: 1 approved with reservations]. Wellcome Open Res **2020**; 5:83

⁴⁵ Dillon Adam PW, Jessica Wong et al. Clustering and superspreading potential of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infections in Hong Kong

epidemic.

Scientific evidence on coronavirus transmission and children shows that younger children appear to have a limited role in the transmission of the virus. The risk of transmission from children to children and children to adults in primary school and day care settings appears low, particularly when infection control measures are in place⁴⁶.

Test and Protect

Understanding where transmission takes place and the modes of transmission is a very challenging task. Data from contact tracing provides initial clues as to the environments where people spend time, but does not give definitive information on where, when and how transmission occurred.

Test and Protect data in Scotland is examined on a weekly basis to analyse attendance of a range of settings, including shopping, 'personal care', exercising, entertainment and day trips, and sporting events. It of course does not cover sectors which have not yet reopened. It is important to note that due to the way the data is collated, there may be some overlap between settings and whilst a case mentions that they have been at a particular venue or gathering event this does not imply nor guarantee that they acquired infection at that location.

The following table is taken from the details of interviews that have been completed as part of Test and Protect up to week ending 1st November 2020. It includes places, events or activities relevant to this BRIA, it does not include other interactions such as with family / friends or eating out.

Place / event / activity	Number of cases that had visited these places	% of cases interviewed
Shopping	2663	29.9%
Personal Care	1900	21.4%
Exercising	570	6.4%
Entertainment and day trips	476	5.3%
Sport events	134	1.5%

Table showing information from Test and Protect interviews week ending 1 November 2020⁴⁷

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others⁴⁸.

Current position of Early Learning and Childcare and Formal Childcare

Regulated childcare services in Scotland were required to close from 23 March unless they were involved in the delivery of critical childcare to the children of key worker families.

From 3 June 2020 childminding settings and fully outdoor day care of children settings were able to reopen. Separate guidance⁴⁹ for each of these types of settings was published on 1 June 2020. The guidance for childminders included

⁴⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916891/phe-susceptibility-transmission-children-s0717-sage-53-200819.pdf

⁴⁷ <https://beta.isdscotland.org/find-publications-and-data/population-health/covid-19/covid-19-statistical-report/>

⁴⁸ Qiu X, Nergiz AI, Maraolo AE, Bogoch II, Low N, Cevik M. Defining the role of asymptomatic SARS-CoV-2 transmission: a living systematic review. medRxiv 2020: 2020.09.01.20135194.

⁴⁹ The latest guidance for childminders can be found at: <https://www.gov.scot/publications/coronavirus-covid-19-childminder-services-guidance/>. Fully outdoor services for children aged 5 and under are now subject to the guidance for all day care of children

restrictions on the number of households that children attending their service could come from and restricted blended placements (where, for example, a child would attend more than one service during the day).

Day care of children settings were able to reopen from 15 July 2020 with guidance for these services published on 15 June⁵⁰. This guidance placed a number of restrictions on how childcare was delivered in these settings, in particular through the requirement to operate separate consistent cohorts/bubbles with small numbers of children in them.

Following updated public health and scientific advice, less restrictive guidance for all childcare providers was published on 30 July and took effect from 10 August.

Further updated guidance for the sector was published on 30 October⁵¹.

On the 10 November, 5% of active private day care of children providers, 10% of third sector, and 3% of local authority day care of children providers, and 17% of childminding services had reported to the Care Inspectorate that they were closed due to COVID-19 related factors. These figures represent a mixture of services that are closed temporarily due to COVID-19 related factors and some that are yet to reopen following the required closure period that commenced on 23 March 2020.

Conclusion

Maintaining and widening access to affordable and high quality childcare provision is a critical enabler of economic recovery in the short term in particular through supporting parents and carers to work or study. In the longer term the childcare sector forms a crucial part of a wellbeing economy which provides opportunities for all to flourish, in particular by ensuring that children have the best start in life with lasting outcomes in health, education and employment opportunities.

Weighing these wider social and economic benefits, over the short and long term, against the transmission risk factors, which, as highlighted, indicate that younger children have a limited role in the transmission of the virus, the Strategic Framework sets out an intention to prioritise keeping schools and regulated childcare, including early learning and childcare, open while ensuring the safety of children and young people and the staff who have worked hard to keep settings open.

Consultation

Public Consultation:

The Scottish Government undertook, over the period 19-24 June, a survey of childcare providers to better understand the potential impacts of the reopening guidance for childcare services. This was intended to focus mainly on the impact of the reopening guidance for day care of children settings that was published on 15 June, but replies were also received from some childminders regarding the impacts of the specific guidance for childminding settings (which was published on 1 June).

The guidance documents at the time of the survey placed more restrictions on regulated childcare services compared to the current public health guidance.

The survey included questions regarding expected changes in staffing, costs, capacity and private income generation.

services. The [latest guidance for day care of children](#), published on 30 October 2020, replaces the stand-alone guidance for fully outdoor services that was published in August 2020.

⁵⁰ The most recent version of the guidance for day care of children services can be found at: <https://www.gov.scot/publications/coronavirus-covid-19-early-learning-and-childcare-services/>.

⁵¹ The last recent versions of the guidance documents can be found at: [guidance for day care of children services](#) and [guidance for childminding services](#).

The survey results formed an important part of the evidence base used to determine where additional support for providers, to meet the requirements of the public health guidance, may be required. In particular the creation of the [Transitional Support Fund](#) for day care of children providers.

There were 651 responses to the survey with 430 from private and third sector day care of children providers, and 221 from childminders.

The Scottish Government prepared the survey in collaboration with the Scottish Early Years member organisations: Care and Learning Alliance (CALA), Early Years Scotland (EYS), National Day Nurseries Association (NDNA), Scottish Childminding Association (SCMA), and Scottish Out of School Care Network (SOSCN).

These member organisations have been working closely with the Scottish Government and COSLA, through the ELC and Childcare Sector Recovery Group, to look closely at the financial sustainability of the sector throughout the pandemic response, and to inform guidance for the sector.

A summary analysis of the survey responses is available on the [Scottish Government web site](#). As set out in the Purpose and Intended Effect section of this BRIA the survey results formed an important part of the evidence base used to determine where additional support for providers, to meet the requirements of the public health guidance, may be required. This included the creation of the [Transitional Support Fund](#) to support day care of children services meet the additional costs of meeting the public health guidance.

Business:

In addition to the June 2020 survey of childcare providers the Scottish Government has continued to engage with childcare provider representative bodies (both individually and through the ELC and Childcare Sector Recovery Working Group⁵²) and childcare providers.

This has included receiving comments and input from these groups, and a small number of providers, on drafts of the various public health guidance documents for the sector. This feedback has, in particular, focussed on the importance of making sure that the guidance documents are clear and in helping to understand key practical constraints and challenges for providers resulting from the guidance.

The Scottish Government will continue to engage with the representative bodies and, where possible, providers on any further updates to the guidance documents.

Options:

This section sets out the range of options that have been considered, and we continue to work constructively with the sector to explore and assess alternatives as and when guidance changes. We will update guidance for regulated childcare services, if required, in line with scientific and public health advice

Guidance for regulated childcare providers will be informed by judgements based on the scientific and public health advice available at the time of writing. This [Advisory Sub-Group on Education and Children's Issues Group](#) who provide advice to support and inform the development of operational guidance for providers of learning, childcare and children's services.

This will ensure that all regulated childcare services – regardless of whether they are delivered by local authorities, private and third sector providers, or by childminders – are delivered in a manner which is consistent with wider efforts to control transmission of the virus and protects the health of children, their families, and the staff group.

⁵² The ELC and Childcare Sector Recovery Working Group membership comprises Care and Learning Alliance (CALA), Early Years Scotland (EYS), National Day Nurseries Association (NDNA), Scottish Childminding Association (SCMA), and Scottish Out of School Care Network (SOSCN), as well as Scottish Government, COSLA and Care Inspectorate.

Sectors and groups affected

These regulations will affect:

- Children and their parents, carers and wider family members
- All childcare settings
- All staff/volunteers that work within childcare
- Students on placements within childcare settings

The key measures relating to ELC and formal childcare are set out in the table below:

Early Learning & Childcare and formal childcare Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
ELC/Formal Childcare	Open – with standard protective measures in place	Open – with standard protective measures in place	Open – with standard protective measures in place	Open – with enhanced protective measures in place	Open – subject to targeted intervention which may impact on capacity

Our approach to assessing options

Within this BRIA we have compared the package of measures within each level against the baseline approach of level 0. This has allowed us to present the clinical evidence for intervention at each level setting out the health benefits, whilst acknowledging the potential impacts on Early Learning and Childcare and Formal Childcare. We have also set out some other key options considered at each level. Throughout these measures we have sought to develop the right package of measures to reduce circulation of the virus whilst limiting wider health, economic and social harms.

Our objective is to get all parts of the country to level 0 or level 1 and remain there if we can. Within these levels, we would expect to see low incidence of the virus with isolated clusters, and low community transmission. Broadly, these levels are the closest we can get to normality without a vaccine or effective treatment which would allow us to move to Phase 4 of the Route Map and then back to normality. They would be similar to the measures in place during the summer, once we reached Phase 3. The Baseline and Level 1 are designed to be sustainable for longer periods.

In assessing the relevant options for each level we considered current and previous restrictions, international best-practice and examples, clinical and sectoral input, and proposals from policy colleagues, industry, and experts. We analysed the relative impact of each of the options on the spread of the virus, as well as the additional costs and benefits.

Options for 'Baseline'

The Baseline (Level 0) is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission. Broadly, this level is the closest we can get to normality, without a vaccine or effective treatment in place.

The protective measures set out in the non-statutory guidance documents – with separate guidance for [day care of children services](#); [childminding services](#); and [school aged childcare services](#) – represent the ‘core’ or standard protective measures that should be in place in all settings across all five protection levels. These measures have been augmented in line with scientific and public health advice in the current context of rising prevalence levels. Implementation and adherence to these measures is essential to ensuring the ongoing safety of children and young people, as well as the staff who have worked hard to keep settings open.

These standard protective measures represent the full suite of measures required at the Baseline (Level 0) and include:

- face coverings should be worn by all adults when physical distancing is not possible, but not when interacting with children
- specific guidance on singing in ELC settings; children sing in the course of activities and play, and should not be discouraged from doing so
- advice on the number of children in a group setting has been brought in line with primary class size numbers increasing to a maximum of 33 children. This does not change staffing requirements or ratios
- the approaches to shielding, support for specific groups, test and protect and outbreak management are aligned with the most up to date public health advice and approaches across education
- guidance on ventilation and temperature control
- peripatetic staffing and movement of staff between settings should be kept to a minimum and for essential purposes only

In addition to the implementation of these mitigations, at any protection level, settings may be asked to respond to local issues, and specifically to local outbreaks. The measures put in place in wider society at different levels of the Strategic Framework have been designed to reduce community transmission sufficiently to allow schools and regulated childcare settings to remain open safely. However, there may be circumstances in which, based on clear evidence and public health considerations, specific settings require either to close, or to implement additional restrictions, for a defined period of time. All such decisions will be made in line with the independent advice of local Directors of Public Health, who will take account of wider public health considerations according to their statutory duties.

Any intervention is to ensure that regulated childcare services are delivered safely and in line with the latest scientific and public health advice. This guidance will evolve as required in accordance with the evidence.

Options for Levels 1 and 2

Level 1 is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission. Level 2 is intended to apply for short periods of time.

The options for ELC and formal childcare under levels 1 and 2 are:

- Option A: Baseline (Level 0) measures
- Option B: Additional protective measures to Baseline (Level 0)

Although the prevalence of coronavirus in Scotland continues to evolve, we now know that young children are less likely to be affected by or transmit the virus. Advice from the Advisory Sub-Group on Education and Children’s Issues states: *children in the age groups accessing early learning and childcare [N.B. 0-5 year olds] have a low susceptibility to COVID-19 infection, they also have a low likelihood of onward transmission.*

Therefore, subject to surveillance and mitigations being in place, it is judged that the baseline (Level 0) measures will

continue to apply at Levels 1 and 2.

However, as highlighted in the section on the Baseline (Level 0) settings may be asked to respond to local issues, and specifically to local outbreaks at any level of the Strategic Framework. The measures put in place in wider society at different levels of the Strategic Framework have been designed to reduce community transmission sufficiently to allow schools and regulated childcare settings to remain open safely. However, there may be circumstances in which, based on clear evidence and public health considerations, specific settings require either to close, or to implement additional restrictions, for a defined period of time. All such decisions will be made in line with the independent advice of local Directors of Public Health, who will take account of wider public health considerations according to their statutory duties.

Options for Level 3

Level 3 is intended to apply for short periods of time.

Within level 3, we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. There would be a graduated series of protective measures to tackle the virus, focusing on key areas of risk – broadly, indoor settings where household mixing takes place with less, or less well-observed, physical distancing and mitigations.

The measures would be intended to be in place for relatively short periods (preferably less than 4 weeks), and only for as long as required to get the virus down to a low, sustainable level.

The options for ELC and formal childcare under Level 3 are:

- Option A: Baseline (Level 0) measures
- Option B: Additional enhanced protective measures to Baseline (Level 0)

Option A would see ELC and formal childcare services operate in-line with the standard protective measures that apply in the Baseline and Levels 1-2.

However, the evidence indicates that additional specific mitigations should be put in place to provide enhanced protection where services are located in areas designated at protection level 3 of the Strategic Framework. These enhanced protective measures will aim to tackle specific areas of higher potential risk as prevalence increases, including for those people most clinically at risk.

Under level 3 regulated childcare services are open with enhanced protective measures.

These enhanced measures will augment the standard protective measures in place for levels 0-2, while providing additional protective measures that do not further restrict capacity and therefore restrict access to childcare.

These enhanced measures are in addition to the suite of protective measures outlined throughout the core guidance. These measures have been designed to enhance protections in areas where evidence suggests there may be higher potential risks as prevalence increases, including for those people who are at the highest clinical risk. It is important to note that these measures are in addition to, not instead of, the protective measures set out in the main guidance (and which apply for areas in levels 0-2).

Any intervention is to ensure that regulated childcare services are delivered safely and in line with the latest scientific and public health advice. The enhanced measures for level 3 are:

- parents or guardians should discuss with their GP or clinician whether children with the highest clinical risk should still attend.
- the majority of workplaces can be made safe for staff. To ensure this remains the case, employers should ensure that individualised risk assessments for setting staff members with the highest clinical risk are in place and updated

appropriately, and staff should speak to their employer to ensure all appropriate protections are in place.

- decisions on appropriate protections should be informed by individual risk assessments, and may include protective measures in the workplace, mitigations such as working remotely (e.g. at home or in different settings), or carrying out different tasks within their usual workplace. If protections cannot be put in place, they can discuss whether they need a fit note with their GP or clinician.
- settings should review use of peripatetic staff, to ensure that staff who by nature of their role support multiple settings only attend settings in person where it is demonstrably in support of the health and wellbeing of young children.
- staff with a single employer should only work across more than one childcare setting or service when it is absolutely necessary. Risk assessments should be carried out where staff are employed by more than one childcare provider.

Whilst Option B would require services to introduce enhanced measures it is not expected that these measures would result in impacts on capacity or income for formal childcare services. The measures may, however, result in certain services being required to make adjustments to their delivery models where required.

Ministers therefore judged that, on balance, additional enhanced protective measures (Option B) are required for Early learning and childcare and formal childcare services under Level 3 of the Strategic Framework.

Options for Level 4

Level 4 will be deployed only if absolutely necessary as a short, sharp intervention to address extremely high transmission rates.

Within this level we would expect to see very high or rapidly increasing incidence, and widespread community transmission which may pose a threat to the NHS to cope. It is likely that this level would see the introduction of measures close to a return to full lockdown. Measures would be designed to be in place for a short period, to provide a short, sharp response to quickly suppress the virus. Measures introduced in level 4 would be to control and suppress the spread of the virus, reduce transmission rates, hospital admissions, and deaths, allow key services to continue such as education and avoid overwhelming of the NHS.

The options for ELC and formal childcare under Level 4 are:

- Option A: Enhanced protective measures as apply at Level 3;
- Option B: Targeted interventions in addition to those at Level 3.

As set out previously, it was judged that, on balance, enhanced protective measures would be required for early learning and childcare and formal childcare services under Level 3 of the Strategic Framework.

Option B for regulated childcare services under Level 4 of the Strategic Framework would be for services to be open, but potentially subject to targeted intervention which may impact on capacity.

This could include targeted use of measures previously in force in regulated childcare, which may have an impact on capacity in services. For example, previous guidance documents for childcare services published in June 2020 placed a higher level of restrictions on service delivery in order to meet public health requirements.

Any targeted interventions would be based on the evidence of transmission in early learning and childcare (ELC) and wider childcare provision, and the need to protect and support those who are most at risk. The measures put in place in wider society at different levels of the Strategic Framework have been designed to reduce community transmission sufficiently to allow settings to continue to operate. However, there may be circumstances in which, based on clear evidence and public health considerations, these measures will be required. All such decisions will be made in line with the independent advice of local Directors of Public Health.

To enable this further government interventions for regulated childcare services are expected under level 4 including:

- settings should be prepared to engage with enhanced testing responses to COVID-19 outbreaks, where recommended by the Incident Management Team. This may include more testing of people who do not have symptoms to support outbreak management, and address areas where we are concerned about transmission. This includes undertaking more testing of close contacts of confirmed cases when recommended by our local health protection teams and more intensive use of other asymptomatic testing.
- to provide additional assurance, the Chief Medical Officer will issue a letter which is similar to a fit note that will last for as long as the local area is under Level 4 restrictions. This letter can be used in the few cases where, following updating of risk assessments and discussions with employers, it is not possible to make a workplace safe for staff.
- children on the shielding list should not attend in person.
- settings in areas in level 4 may be asked to implement additional public health measures that may affect capacity. These may include for example, consistent small cohorts, minimising contact between cohorts, and restriction of blended placements. Moving to level 4 does not automatically require the use of these additional measures. The measures put in place in wider society at different levels of the Strategic Framework have been designed to reduce community transmission sufficiently to allow settings to continue to operate. However, there may be circumstances in which, based on clear evidence and public health considerations, these measures will be required. All such decisions will be made in line with the independent advice of local Directors of Public Health.
- the majority of workplaces can be made safe for staff. To ensure this remains the case, employers should ensure that individualised risk assessments for school staff members with the highest clinical risk are in place and updated appropriately, and staff should speak to their employer to ensure all appropriate protections are in place.
- decisions on appropriate protections should be informed by individual risk assessments, and may include protective measures in the workplace, mitigations such as working remotely (e.g. at home or in different settings), or carrying out different tasks within their usual workplace.

Under Option B some services may have to introduce targeted protective measures that could result in impacts on capacity and income, particularly if these measures are more closely in-line with the restrictions for day care of children services in previous guidance published in June 2020. The evidence, as set out in the Purpose and intended effect section of this BRIA, indicated that this guidance was expected, for most day care of children providers, to increase costs, and reduce both capacity and private income generating potential. Some of the cost pressures associated with meeting the requirements of more restrictive guidance, should already have been met by many providers due to physical adaptations that they will already have made (in order to reopen in July 2020) – and support to help them meet these cost pressures has been provided through the Transitional Support Fund. However, the Transitional Support Fund was not intended to cover lost income, and, although dependent on the nature of any further restrictions, it is expected that providers could face further capacity and income constraints.

Ministers judged that, on balance, additional enhanced protective measures (Option B) are required for Early learning and childcare and formal childcare services under Level 4 of the Strategic Framework in order to allow these services to continue to operate safely.

Scottish Firms Impact Test:

There has been engagement with Scottish Early Learning & Childcare and formal childcare businesses in developing the provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA.

How many businesses and what sectors is it likely to impact on?

The majority of regulated childcare businesses are registered in Scotland. Most of the businesses operating in the regulated childcare sector are small or medium sized. There are a small number of larger number of businesses who operate a number of regulated childcare services across the country. The sector also includes around 4,400 childminders who are self-employed.

An overview of the operation of the regulated childcare sector in Scotland is set out within the Purpose and Intended Effect section of this BRIA. The table below provides an overview of the different types of regulated childcare services in Scotland.

Table: Registered childcare services as at 31 October 2020

Type of service	Number of registered services
Day Care of Children services	
Health Board	3
Local Authority	1,752
Private sector	1,066
Voluntary or not for Profit	775
Total Day care of children services	3,596
Childminding Services	
	4,394

Source: Care Inspectorate

The Scottish Social Services Council (SSSC) [Report on 2019 Workforce Data](#) reports that at the end of 2019 there were 37,370 people employed in day care of children services in Scotland (excludes childminders). This comprises of 17,520 employed in local authority services; 13,730 in private sector services, and 6,120 in voluntary/not for profit services.

Targeted interventions on regulated childcare services could have direct impacts on these providers through reductions in capacity and income generation, and potential additional operating costs. The potential impacts of more restrictive guidance were summarised in the Purpose and Intended Effect section of this BRIA, and more details are set out below.

Further targeted interventions on regulated childcare services would also be expected to impact on businesses in other sectors if they lead to reduce workers ability to access childcare.

What is the likely cost or benefit to business?

Under Level 4 of the Strategic Framework regulated childcare providers may be subject to interventions that could impact on their capacity, dependent on decisions made in line with the independent advice of local Directors of Public Health. Such interventions could, for example, be similar to those in previous guidance documents for childcare services published in June 2020 which placed a higher level of restrictions on service delivery in order to meet public health requirements.

If such interventions were to be introduced then the impacts on regulated childcare businesses could be in line with those identified in the survey of providers in June 2020. These results are summarised in the Purpose and Intended Effect section of this BRIA, and indicated that most private and third sector day care of childcare providers would expect to see their average costs of delivery increase, and for their capacity and income generation to decrease. The size of these impacts vary across different types of providers, including whether or not they deliver the funded ELC entitlement. In contrast childminders were less likely to expect costs to increase, but around half of the respondents to the survey expected reductions in capacity and income.

Changes to guidance can also create challenges for private and third sector ELC and formal childcare providers. Throughout lockdown and recovery, we have worked with the sector to support providers, and will continue to do so.

The regulated childcare sector, like many sectors of the economy, has experienced considerable financial pressures since March 2020 due to the reductions in private income flows in this period. The pandemic also hit at a time when the sector was in the final stages of preparing for the statutory roll-out of the expanded ELC entitlement of 1140 hours

in August 2020. As part of this preparation a number of providers offering funded ELC will have undertaken additional investment to expand their settings in order to deliver the increased entitlement.

Support for businesses facing restrictions

There is a comprehensive package of financial support from the UK Government and the Scottish Government for businesses to mitigate the negative impacts of the restrictions. Subsequent to the regulations commencing on 2nd November, there have been changes to the financial support package, notably the extension of the UK Government Coronavirus Job Retention Scheme until the end of March 2021.

Through the UK government Coronavirus Job Retention Scheme employees working for businesses will receive 80% of their salary paid for by government.

This applies to all countries and regions of the UK and is not linked to specific tiers or restrictions.

- The Government will fund 80% of wages for hours not worked with employers' contributions initially limited to employers' NICs and pension costs – reflecting the terms and conditions of the CJRS applicable in August 2020. Employer contributions will be reviewed in January.
- All employees who were on the payroll as of 30th October are now eligible.
- Employees that were on the payroll as at 23 September but have since been made redundant can be re-employed and claimed for

The UK Government also announced increased support for the self-employed who will also receive 80% of their average trading profits for November to January, with a further, as yet unspecified, grant to follow covering February to April.

The UK Government also announced (2 November):

- An extension of the coronavirus business interruption loan schemes until the end of January.
- Additional funding for Local authorities to support their local health response worth £500 million
- An extension of mortgage and consumer credit payment holidays, lasting 6 months

All these support measures are designed to support businesses and mitigate the negative impacts of the restrictions which have been identified and considered. We will continue to engage with the businesses affected on the impact of the measures, and the level of support available, as they are implemented.

It is also important to note that the Scottish Government has also set out a comprehensive package of financial support for businesses to mitigate the negative impacts of the restrictions.

In addition, specific support for regulated childcare providers has been made available:

- To support providers the Scottish Government and Local Authorities guaranteed that payments for the statutory early learning and childcare entitlement continued for the duration of closures, regardless of whether providers were open or closed (up until 10 August 2020).
- To support day care of children providers in the private, voluntary/not for profit sectors with additional costs associated with meeting the public health guidance the Scottish Government introduced a £11.2 million Transitional Support Fund. The Fund closed to applications on 9 October 2020. The support provided through the Transitional Support Fund will have helped providers to meet, at least some of, the additional cost pressures, particularly in relation to physical adaptations to settings, resulting from more restrictive guidance.
- Support has also being provided to childminders through the Childminding Workforce Support Fund, which has

provided grants up to a maximum of £350 to help support childminders who have struggled to access support through other routes. The Scottish Government has provided £420,000 to the SCMA to support delivery of this Fund. The second round of applications to the Fund closed on 19 October 2020.

Competition Assessment:

As highlighted above the childcare sector operates as a mixed economy model with childcare providers in the public, private, third and childminding sectors.

All regulated day care of children services are subject to the same public health guidance regardless of whether they are in the public or private/third sector, whilst childminders are subject to separate guidance (which is aligned with the core guidance document for day care of children services).

Some of the potential enhanced and targeted protective measures at Level 4 could disproportionately impact some types of providers, due to differences in their delivery models. For example, restrictions on blended placements could disproportionately impact on childminding services.

The [survey of childcare providers](#) undertaken in June 2020, also indicates that the impacts – on costs, capacity, and income – of the enhanced protective measures will vary across providers. This reflects the differences across providers in the sector regarding the physical layout of buildings, relative ease of access to outdoor space, service delivery models, and staffing models.

There may also be potential impacts on services reliant on significant levels of attendance from children in another local authority area and where there are differences in the Level of the Strategic Framework that each authority is set at. This could restrict flows of children to services in another local authority area that is currently subject to a higher Level of the Strategic Framework.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of the Early Learning and Childcare and formal childcare measures within the Strategic Framework on consumers.

Under the baseline and levels 1 and 2 it is expected that regulated childcare services are operating in line with standard protective measures. As highlighted above this is not expected to result in any significant measures for regulated childcare services beyond those already in place. It is therefore expected that under the baseline and level 1 there should be no, or very limited, additional impacts on families accessing ELC and wider childcare services from regulated childcare providers.

Under level 3 some enhanced protective measures may be required, and any additional requirements or changes in service delivery will need to be clearly communicated to families.

At Level 4 any restrictions on capacity as a result of targeted interventions that may be considered would be expected to impact on the level of paid for childcare provision that families can access.

It may also impact on the amount of funded ELC that can be accessed, dependent on the models of delivery in place across different providers and on local circumstances.

At all levels delivery of ELC and formal childcare will be in line with the latest public health guidance.

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

Enforcement, sanctions and monitoring: Regulations have been put in place to support the implementation of the measures. Monitoring and enforcement will be undertaken by Local Authority Environmental Health Officers and, in some cases, Police Scotland.

Implementation and delivery plan and post-implementation review:

Regulations and guidance have been put in place to support the implementation of the measures contained within the Strategic Framework. These regulations will come into effect from the 2nd November 2020. We are continuing our constructive engagement with the sector.

Summary and recommendations:

Introduction

This BRIA has examined the Early Learning and Childcare and formal childcare measures within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

The Scottish Government's strategic framework includes a package of measures which collectively are designed to suppress transmission of the virus.

Whilst this BRIA is focused on Early Learning and Childcare and formal childcare, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view Early Learning and Childcare and formal childcare measures in the context of this wider package of actions.

Options Appraisal

The Strategic Framework includes a range of actions designed to suppress virus transmission. In taking action a careful balance needs to be struck between protecting health and minimising the negative impacts on business, jobs and livelihoods.

The text and table below brings together the benefits and costs by option as set out in this BRIA. The summary table below brings together the benefits and costs of:

- Enhanced protective measures under Level 3; and
- Targeted protective measures under Level 4.

It compares these measures against the baseline / level 0 option. More detailed discussion of each of the levels and the options that have been considered by Scottish Ministers within levels is contained within the main body of this document.

Option A: Baseline and Levels 1 to 2

The baseline option (level 0 of the Strategic Framework) would see regulated childcare services operate in line with the current 'core' or standard protective measures that are set out in the non-statutory guidance documents – with separate guidance for [day care of children services](#); [childminding services](#); and [school aged childcare services](#). These measures have been augmented in line with scientific and public health advice in the current context of rising

prevalence levels. Implementation and adherence to these measures is essential to ensuring the ongoing safety of children and young people, as well as the staff who have worked hard to keep settings open.

Under the baseline option, and Levels 1-2, it is expected that, in general, regulated childcare services will not be subject to constraints on capacity and income. However, at any of these levels services may be asked to respond to local issues, and specifically to local outbreaks. Where this results in circumstances in which, based on clear evidence and public health considerations, specific settings require either to close, or to implement additional restrictions, for a defined period of time then there may be impacts on capacity, income and operating costs. All such decisions will be made in line with the independent advice of local Directors of Public Health, who will take account of wider public health considerations according to their statutory duties.

Option B: Potential Enhanced protective measures under Level 3 and targeted interventions under Level 4 of the Strategic Framework

Measure	Benefits	Costs
Enhanced protective measures (Level 3)	<p>These enhanced protective measures would allow regulated childcare services to continue to remain open, and to be delivered safely and in-line with the latest scientific and public health advice.</p> <p>This will provide benefits to children by enabling them to continue to attend childcare services.</p> <p>As regulated childcare services can remain open it is expected that there will be continued economic benefits from continuing to support parents and carers to work and study.</p>	<p>Whilst this would require services to introduce enhanced measures it is not expected that these measures would result in impacts on capacity or income. The measures may, however, result in certain services being required to make adjustments to their delivery models where required.</p> <p>Whilst it is not expected that the enhanced protective measures under Level 3 should impact on capacity, there is a time cost for services as they need to understand and implement any additional measures contained in the guidance.</p>
Targeted interventions (Level 4)	<p>By enabling regulated childcare services to remain open this will continue to benefit children and families, whilst ensuring the safety of children and young people and the staff who have worked hard to keep settings open.</p> <p>There would also be wider economic benefits as access to regulated childcare services can help support parents and carers to work and study.</p>	<p>Services may have to introduce measures that could result in impacts on capacity and income, particularly these measures are more closely in-line with the restrictions for day care of children services in previous guidance published in June 2020.</p> <p>Some of the cost pressures associated with meeting the requirements of more restrictive guidance should already have been met by most providers due to physical adaptations that they will already have made – and support to help them meet these cost pressures has been provided through the Transitional Support Fund. However,</p>

		the Transitional Support Fund was not intended to cover lost income, and, although dependent on the nature of any further restrictions, it is expected that providers could face further capacity and income constraints.	
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Conclusion

This BRIA has set out the relative costs and benefits of options with the intended effect of suppressing the virus whilst acknowledging and minimising the economic harms faced by businesses.

It is also important to note that we have set out a comprehensive package of financial support for businesses in the Early Learning and Childcare and formal childcare sector to mitigate the negative impacts of the restrictions.

As set out in the Scottish Firms Impact Test section of this BRIA there is a comprehensive package of financial support from the UK Government and the Scottish Government for businesses to mitigate the negative impacts of the restrictions. Subsequent to the regulations commencing on 2nd November, there have been changes to the financial support package, notably the extension of the UK Government Coronavirus Job Retention Scheme until the end of March 2021.

Additional targeted support has also been made available by the Scottish Government for regulated childcare providers.

Title: Scotland's Strategic Framework: Informal Childcare

Purpose and intended effect:

The objective of Scotland's Strategic Framework is to set out a sustainable response to the pandemic to be implemented until either a vaccine or highly effective treatments to the virus are developed. The Framework covers the four key harms of the virus, how we will work to suppress the virus, and sets out our proposal to move to a strategic approach to outbreak management based on five levels of protection.

This BRIA is focused on the set of **informal childcare** measures included within Scotland's Strategic Framework. However, individual measures need to be viewed within the broader context of the package of measures within each level, with the strategic framework taking a four harms approach to considering which interventions are introduced at each level through assessment of:

- direct health harms associated with COVID-19
- broader health harms
- social harms
- economic harms

The Strategic Framework includes measures across a wide number of settings and provides a comprehensive approach to reducing infection rates and suppressing the spread of the virus. Each of the levels is designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

The key measures relating to **Informal Childcare** are set out in the table below:

Informal Childcare Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Informal Childcare	Permitted in line with household/numbers restrictions	Essential informal childcare only. (see guidance)			

Background

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 first regulations”), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. They came into force on Thursday 26 March 2020.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 came into force on 14 September 2020 and revoked and replaced the first regulations. They make provision which is substantially similar to the first regulations, as amended at the date on which they were revoked.

On 9 October 2020, the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Restrictions) Regulations 2020 (“the additional temporary restrictions”) set out additional restrictions, both nationally and specific to the central belt. These regulations suspended the effect of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 while the additional temporary restriction regulations were in force. The additional temporary restriction regulations were due to expire on 26 October but were extended by amendment until 6.00 am on 2 November to allow for consultation on the levels-based approach.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 implement the new Strategic Framework and will be published on 30th October and come into effect on 2 November.

Scotland’s Strategic Framework

Decision-making under the new Strategic Framework system is intended to be transparent and straightforward. It will build on existing structures and processes, will be informed by clinical advisers and evidence, and will continue the engagement with local leadership as decisions to move up and down levels are taken.

Decisions will continue to be made by Ministers, with input from relevant advisers, as implementing the restrictions outlined in the levels is the exercise of a statutory power for the protection of public health, for which Ministers are responsible and accountable.

Regular reviews of the levels system will take place and as soon as Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the spread of COVID-19, they must revoke that restriction or requirement.

Purpose and intended effect: Scotland’s Strategic Framework Informal Childcare Protections

Introduction

Informal childcare is a very important part of Scotland’s economy and society.

Informal childcare encompasses care provided by families, neighbours and friends, which may be paid or unpaid. It also includes care provided on a paid basis by nannies (whether agency or self-employed) and babysitters. Nannies and babysitters sit within the informal childcare category due to the fact that they do not need to be registered via the Care Inspectorate or the Scottish Social Services Council (SSSC) and their services are not regulated. Generally this care is taking place in the place of residence of the child (or children) concerned, but it may take place in the home of the caregiver, or between multiple residences for example where friends or relatives share childcare.

Informal childcare is essential for many families, enabling parents (and women in particular) to work and families with a disabled child or parent to access vital support and respite.

The Strategic Framework allows for informal childcare arrangements to continue, in line with socialising/household restrictions, up to and including Level 3. This means that for levels 1-3 a caregiver can look after children from one other household. This might impact on some families where childcare is shared (e.g. one grandparent looks after 2 sets of grandchildren at the same time).

We assess the overall impacts of the Strategic Framework at the Baseline Level through to Level 3 as being positive for

children and families, as the measures recommended for each of these levels would enable informal childcare to continue so that:

- Children can access childcare options with trusted adults beyond their household, supporting their wellbeing
- Families are supported to continue or return to work and other responsibilities
- Families with a disabled child or parent can continue to access childcare needed for respite.

At Level 4, the Strategic Framework only allows informal childcare for those employed in permitted workplaces and in these cases only children should enter another household for informal childcare in order to limit contacts between adults. This measure would have negative impacts on those families, potentially affecting parent's ability to continue to work in non-essential roles and/or limiting contact between children and their extended families or networks. Informal childcare may also be used in different ways to formal childcare – e.g. someone helping to look after the children while the parent is at home (e.g. after the birth of a new sibling) and can provide a source of support for parents.

The new restriction at level 4 of children having to go to the home of the caregiver may also impact on some families, if this isn't an option for them. E.g. if the caregiver's home is not safe/appropriate for children, or the travel makes it difficult (e.g. if it is normally the grandparent that drives 45 minutes to provide childcare, and the parent doesn't drive so isn't able to drop the children off), or if their employment contract (in the case of nannies working for a childcare agency) doesn't allow it. In such cases, the normal informal childcare arrangements wouldn't be possible even if the parents are permitted to travel to work.

If a household has only one adult living in it, this household (including, where applicable, any children who live with the single adult), and the members of one other household (of any size) can agree to form an 'extended household'. The guidance on extended households remains the same across all levels of the strategic framework, therefore, where families have formed an extended household, they will be able to access informal childcare with this other household from the Baseline Level through to Level 4. There are, however, many families for whom this is not applicable as they are not part of an extended household.

COVID-19 and Informal Childcare

Prior to the reopening of all childcare providers in July, the position was that informal childcare could not be used, other than for key workers where it was essential and a last resort. This had a number of economic and social impacts and several groups within the population have been adversely affected by the restrictions on childcare. Benefits of reopening informal childcare included economic benefits through enabling service users to return to work as well as improvements in wellbeing due to being able to share childcare responsibilities.

As informal childcare is unregulated there is no mechanism to accurately assess the degree to which it is used normally, or likely to be used in any easing of the lockdown restrictions. The Scottish Household Survey data suggests that around a quarter of families with a two to five year old (not yet at school) use informal childcare, alongside other types of childcare provision.

Informal childcare fulfils many of the high-risk criteria for COVID-19 transmission, as transmission of SARS-CoV-2 is most strongly associated with close and prolonged contact in indoor environments. The highest risks of transmission are in crowded spaces over extended periods.⁵³ This has formed the basis for consideration of introducing tighter measures under the strategic framework, including around informal childcare, in response to the recent increases in COVID-19 cases and transmission experienced across Scotland.

Policy Objective

In common with the wide range of other countries who have implemented similar measures, the objective of the

⁵³ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

restrictions set out within the Strategic Framework is to ensure that the operation of informal childcare is appropriate to the level of COVID-19 risk within the Local Authority area, also taking into account the other restrictions in place. Any restrictions on operations are intended to help control and suppress the spread of the virus, ultimately minimising transmission rates, hospital admissions, deaths and the potential overwhelming of the NHS.

Rationale for Government Intervention

Strategic Intent

COVID-19 threatens health and life, but also how we live our lives, and our shared prosperity. The Scottish Government, in common with other UK Nations, is committed to suppressing the virus to the lowest possible level, and keeping it there, until we have a vaccine and/or effective treatments, and the virus is no longer the threat it is now. There is no acceptable number of people we are willing to let become infected.

The evidence base around transmission for this new virus is still emerging, so we are committed to taking decisive action based on the best evidence available to us, while keeping this under constant review.

We have considered a wide range of evidence in developing the Strategic Framework, incorporating information from a variety of sources.

Transmission

SARS-CoV-2 can be transmitted by three main routes: close-range respiratory droplets and aerosols, longer range respiratory aerosols, and direct contact with surfaces contaminated with virus. Transmission is strongly associated with proximity and duration of contact in indoor environments. It is possible for SARS-CoV-2 to be transmitted at distances of more than 2 metres.⁵⁴

We know from contact tracing, international evidence and scientific research that a wide range of social, residential and workplace settings have been associated with transmission. The highest risks of transmission, including those from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{55,56}.

The Government recognises that transmission of the virus within households presents the highest risk, which is why gatherings in private dwellings was targeted first and will be restricted across all of the 5 levels.

However, other settings also have the potential to transmit the virus due to the risk factors. Understanding settings where multiple risk factors come together, and large outbreaks are likely to occur, is important in controlling the epidemic.

In younger children, most infections are likely to be acquired in household settings. There is little evidence that they transmit more widely, even in educational settings, suggesting that closer, intimate contact is required for transmission from children to other children and adults to occur. This would suggest that children in bubbles and classes are at relatively low risk and that the highest risk is among staff members⁵⁷.

⁵⁴ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁵⁵ Leclerc QJ FN, Knight LE. What settings have been linked to SARS-CoV-2 transmission clusters? [version 1; peer review: 1 approved with reservations]. Wellcome Open Res **2020**; 5:83

⁵⁶ Dillon Adam PW, Jessica Wong et al. Clustering and superspreading potential of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infections in Hong Kong
⁵⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916891/phe-susceptibility-transmission-children-s0717-sage-53-200819.pdf

Current position of Informal Childcare

The current position of informal childcare is that it is allowed to continue at levels 0-3, as long as those delivering the care do so within the [guidance](#) set out in the strategic framework. At level 4 it is restricted to essential workers and those in permitted industries who cannot work from home.

Conclusion

The Strategic Framework clearly sets out an intention to ensure that informal childcare is allowed to continue throughout the Covid-19 pandemic however this needs to be in line with the regulations within the new levels system.

Consultation

Public Consultation: We have had some correspondence from families that use nannies, stating the importance of them being able to use their nanny for childcare. We also received correspondence from nannies themselves who are concerned about their business viability and ability to care for families.

Business: We have had some engagement with nanny agencies about the impact of earlier restrictions on nannies. This has informed policy development and communication, ensuring that we are clear about when nanny services can take place and that decisions on when to restrict those services is based on evidence of impact. We have ensured that in our guidance on Parent Club that it is clear what is relevant for nannies.

Options:

Informal Childcare Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Informal Childcare	Permitted in line with household/numbers restrictions	Essential informal childcare only. (see guidance)			

Level 0 - baseline option:

The Baseline (Level 0) is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission. Broadly, this level is the closest we can get to normality, without a vaccine of effective treatment in place.

At this level, in-home socialising is generally not permitted. An exception has therefore been made to allow informal childcare. The restrictions on indoor meeting at this stage are up to 3 households and 8 individuals. There is likely to be very limited impact on informal childcare (or non-registered childcare) and almost all families (perhaps all) would be able to access informal childcare, where necessary, in the same way as they had previously. While some families may share childcare, this is likely to be limited to children from 2 households, and a caregiver from a third household. We do not have information about shared informal childcare, but it is unlikely that many families would be impacted by the restriction to 3 households due to the unlikelihood of childcare responsibilities being shared across four households

Level 1:

Level 1 is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of

the virus with isolated clusters, and low community transmission.

Option A: Baseline option – informal childcare permitted with limits of up to 3 households and 8 people (as above).

This would involve the mixing of households being greater for informal childcare. This option was rejected due to public health view that at this level household mixing should be more limited. Given the need to reduce mixing in households due to the increase in transmission risk, allowing informal childcare to exceed the general limits could cause confusion undermining the overall message. However the eventual option chosen did allow for informal childcare so it was not unduly restrictive.

Option B: Permit informal childcare in line with the wider ‘indoor socialising’ limits – in this case, 6 people from up to 2 households.

This involves exceptions from the ‘no in home socialising’ rule apart from the island communities. This option would permit informal childcare for most families, and allow most nannies and other informal childcare providers to proceed as previously. There would be an impact on some childcare arrangements where there was shared childcare in place (e.g. a nanny-share, or a grandparent caring for more than one set of grandchildren at a time). This option is likely to impact on some families for this reason, but, on balance, there are likely to be sufficient childcare options for families given the ability for someone to care for the children of another household (which may include continuing to care for their own children as well).

Option C: Permit informal childcare but limit to 6 people from 2 households, and permit only the children to travel to the other household.

Limiting the childcare in this way, so that it has to take place in the caregivers home, would impact on many informal childcare arrangements in place, as it is common for children to be cared for in their own home. Nannies, in particular, are expected to work in the home of the family. For other families, the travel may make it impossible for them to access the same childcare in the home of the caregiver – e.g. if a grandparent currently drives 45 minutes to look after her grandchildren, this could potentially add 3 hours to the work day for the parent, if they are required to drive their children to the grandparent’s home. For parents that don’t drive or have access to a car, then the journey might not be possible. This option has been rejected at this stage because of the negative impact on many families compared to the public health benefits of restricting household interaction in this way, given that within the level household mixing is allowed in general within the limits. This could have a particularly negative impact on lower income families or shift workers who are more likely to rely on family for informal childcare.

Conclusion

At level 1, Ministers have concluded that Option B is appropriate. The exceptions to the in-home meeting for informal childcare will allow most informal childcare to continue and, on balance, there are likely to be sufficient childcare options available for those impacted by the 2 household rule.

OPTIONS FOR LEVEL 2 AND 3

Levels 2 and 3 are intended to apply for short periods of time.

Within Levels 2 and 3, we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. There would be a graduated series of protective measures to tackle the virus, focusing on key areas of risk – broadly, indoor settings where household mixing takes place with less, or less well-observed, physical distancing and mitigations.

The measures would be intended to be in place for relatively short periods (preferably less than 4 weeks), and only for as long as required to get the virus down to a low, sustainable level.

Level 2:

Option A: Baseline option – considered but rejected for reasons above.

Option B: Permit informal childcare but limit to 6 people from 2 households - as above.

Option C: Permit informal childcare but limit to 6 people from 2 households, and permit only the children to travel to the

other household. As above. This option has been rejected for the reasons set out at level 1.

Conclusion

At level 2, Ministers have concluded that Option B is appropriate. The exceptions to the in-home meeting for informal childcare will allow most informal childcare to continue and, on balance, there are likely to be sufficient childcare options available for those impacted by the 2 household rule.

Level 3:

Option A: Baseline option – considered but rejected for reasons above.

Option B: Permit informal childcare but limit to 6 people from 2 households - as above.

Option C: Permit informal childcare but limit to 6 people from 2 households, and permit only the children to travel to the other household. As above. This option has been rejected for the reasons set out at level 1.

Conclusion

At level 3, Ministers have concluded that Option B is appropriate. The exceptions to the in-home meeting for informal childcare will allow most informal childcare to continue and, on balance, there are likely to be sufficient childcare options available for those impacted by the 2 household rule.

Level 4:

Level 4 will be deployed only if absolutely necessary. It is intended to be a short, sharp intervention to address extremely high transmission rates.

Within this level we would expect to see very high or rapidly increasing incidence, and widespread community transmission which may pose a threat to the NHS to cope. It is likely that this level would see the introduction of measures close to a return to full lockdown. Measures would be designed to be in place for a short period, to provide a short, sharp response to quickly suppress the virus. Measures introduced in level 4 would be to control and suppress the spread of the virus, reduce transmission rates, hospital admissions, deaths, allow key services to continue such as education and avoid overwhelming of the NHS

Option A: Baseline option – considered but rejected for reasons above. Significant risk at this stage.

Option B: Permit informal childcare but limit to 6 people from 2 households.

This option was rejected due to the increased risk of transmission at level 4. At level 4 the public health concern is paramount, given the high incidence of the virus, wide spread community transmission and higher risks associated with transmission within households and outweighs the economic and social benefits associated with Option B. Including allowing families to receive the support of help with childcare, enabling parents to work, enabling nannies to continue to provide their services

Option C: Limit essential informal childcare to those in industries that are permitted to operate (and only where home working is not possible), and require the children only to move from one household to the other.

This option means that informal childcare will be possible for those who are required to travel to work. Where the caregiver normally travels to the home of the children, different arrangements may be required (in order to limit the risk of transmission from adults being in a different household). For some families/caregivers, this may make it difficult or impossible for them to access their normal childcare arrangements. However, this level is only intended to be a temporary measure and not be in place long term. Having the children travel to the caregiver also limits the risk to the caregiver.

Conclusion

At level 4, Ministers have concluded that option C is appropriate, given the risk of transmission at this level. Although there is likely to be an impact on some families and on nannies, this level is designed to be temporary, and the public health concern outweighs the economic and social impact due to the risk of in-home transmission.

Scottish Firms Impact Test:

Permitting the use of informal childcare by families and carers, which may be paid or unpaid. In informal childcare the person(s) providing that care are not registered as formal providers with the Care Inspectorate or any other official body. Such care may take the form, for example, of family members looking after children, sharing childcare with friends and neighbours, or paid babysitting. Generally this care is taking place in the place of residence of the child/ren concerned.

Typically this would include nannies in this category, as (unlike childminders) they are not regulated as daycare of children services by the Care Inspectorate although childcare agencies, some of which provide nannies, are registered.

There is limited information about the number of paid for babysitters or nannies operating in Scotland, as they do not require to be registered. Nannies can be self-employed or could work via an agency. Nanny agencies are registered with the Care Inspectorate as Childcare Agencies. There are currently 19 registered Childcare Agencies.

Some nannies operate as 'nanny shares' across 2 families. This involves the children of one family travelling to the home of the other family. Such arrangements would not be possible in levels 1-3 as that would involve 3 houses. This may impact on the income of nannies.

Nannies operate in the homes of the family. This means at level 4 they would not be able to operate which would impact on their income.

Competition Assessment:

N/A

Consumer Assessment:

For families that use nannies for childcare, they are unlikely to be affected in levels 0-3. Some families may use a 'nanny share' which wouldn't be possible at levels 1-3. This could have a significant impact on families who rely on nannies for childcare.

At level 4, most families won't be able to use nannies for childcare, as children will be required to go to the home of the care giver. This may impact on some families that use babysitters or informal childcare, if the caregiver's home is not suitable for childcare.

Families that use informal childcare – friends or family looking after children – may do so for a number of reasons. This could be to enable them to work, to strengthen the bond between the children and the family members (e.g. grandparents), or to provide support to the parents. In some cases, the childcare may take place while the parent(s) is in the home. The guidance, which is shared via Parent Club, suggests that informal childcare should only be used for certain reasons. This means that families that do not require 'necessary childcare' (e.g. for work or medical appointments) should not be using it.

Information about the changes is being communicated to families through social media and the Parent Club website, and also distributed via partners.

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

Enforcement, sanctions and monitoring:

Regulations have been put in place to support the implementation of the measures. Monitoring and enforcement will be undertaken by Local Authority Environmental Health Officers and, in some cases, Police Scotland.

Implementation and delivery plan and post-implementation review:

Regulations and guidance have been put in place to support the implementation of the measures contained within the Strategic Framework. These regulations will come into effect from the 2nd November 2020.

Summary and recommendations:

Retaining childcare options for families is an important priority for government, recognising the importance of support to families with childcare including where that supports parents to work. That priority needs to be balanced against the importance of controlling the transmission of COVID-19, reflecting that in-home meetings have been a concern in relation to spread of the virus in the autumn.

The Strategic Framework is likely to have some impact on families, and on nannies, particularly at level 4.

Nannies will be able to operate in levels 0-3, albeit nanny shares won't be possible at levels 1-3. This balances the importance of families having access to childcare, alongside public health risk posed by inter-household meetings in the context of different levels of community transmission. The level of restriction on informal childcare is therefore largely aligned with the prevailing limits on household meetings within the guidance.

At level 4, there will be a significant impact on informal childcare, but at this level, this is outweighed by the public health priority. Those still required to work outside of the home will still be permitted to use informal childcare, albeit the children will have to travel to the home of the caregiver, which may require changes to existing arrangements. This reflects the significant transmission risk present at level 4 and therefore considers it important to minimise that by restricting adult interactions.

A summary of the benefits and costs of the measures in the Strategic Framework is included below:

Measure	Benefits	Costs
Baseline (Level 0) Permitted in line with household/numbers restrictions (8/3)	Informal child care can continue, enabling parents (and women in particular) to work and allowing families with a disabled child or parent to access vital support and respite. The eight people from three households rule allows flexibility in informal child care arrangements, including nanny sharing between two households and grandparents looking after two sets of grandchildren.	
Levels 1-3	Informal childcare can	The six people from two

<p>Permitted in line with household/numbers restrictions (6/2)</p>	<p>continue with following benefits: - children can access childcare with trusted adults beyond their household, supporting their wellbeing - families are supported to continue to work or return to work and other responsibilities - families with a disabled child or parent can continue to access childcare needed for respite</p>	<p>households rule will impact on informal child care arrangements where child care is shared between more than one household, for example, where one grandparent looks after two sets of grandchildren or a nanny is shared between two households. This may have impacts on parents ability to work and on their ability to access childcare needed for respite, with all the attendant economic and social impacts.</p>	
<p>Level 4</p> <p>Essential informal childcare only</p> <p>With guidance that requires that only children should enter another household for informal childcare to limit contacts between adults</p>	<p>This allows people in essential and permitted occupations to continue to access informal childcare, with all the benefits set out in level 1-3 above.</p> <p>There is an opportunity where there are single adults in the household to form an extended household, which could then allow access to informal child.</p>	<p>For those working in non-essential roles and occupations that are not permitted, the lack of access to informal child care may impact on the ability to work, or to return to work and may limit contact between children and families and networks, with negative impacts on wellbeing.</p> <p>The requirement for children to enter the other household only will reduce work opportunities for nannies, who generally operate from the children's home, and may make some essential informal child care arrangements difficult to sustain due to the amount of travel required.</p>	

Title: Scotland's Strategic Framework: Transport

Purpose and intended effect:

The objective of Scotland's Strategic Framework is to set out a sustainable response to the pandemic to be implemented until either a vaccine or highly effective treatments to the virus are developed. The Framework covers the four key harms of the virus, how we will work to suppress the virus, and sets out our proposal to move to a strategic approach to outbreak management based on five levels of protection.

This BRIA is focused on the set of transport measures included within Scotland's Strategic Framework. However, individual measures need to be viewed within the broader context of the package of measures within each level, with the strategic framework taking a four harms approach to considering which interventions are introduced at each level through assessment of:

- direct health harms associated with COVID-19
- broader health harms
- social harms
- economic harms

The Strategic Framework includes measures across a wide number of settings and provides a comprehensive approach to reducing infection rates and suppressing the spread of the virus. Each of the levels is designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

The measures within the Strategic Framework include using active modes of travel where possible, avoiding car sharing with those outwith your household wherever possible, wearing face masks on public transport and avoiding non-essential use of public transport. The guidance is published at <https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/advice-on-how-to-travel-safely>. Other restrictions and guidance may also impact on the operation of the transport sectors. This includes:

- The regulations and guidance relating to travel.
- The restrictions on socialising, in particular the rules for different households socialising.
- The hospitality, retail and accommodation restrictions, which lead to some businesses having to close at particular Levels

Each of the transport measures are likely to reduce the amount of travel and the demand for public transport. This impact will vary across the country and at different times depending on what levels are being applied to the Local Authority area.

The key measures relating to transport are set out in the table below:

Transport Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4

Transport	Active travel (walk, run, cycle, wheel) where possible	Active travel (walk, run, cycle, wheel) where possible	Active travel (walk, run, cycle, wheel) where possible	Active travel (walk, run, cycle, wheel) where possible	Active travel (walk, run, cycle, wheel) where possible
Transport	Avoid car sharing with people outside extended household wherever possible	Avoid car sharing with people outside extended household wherever possible	Avoid car sharing with people outside extended household wherever possible	Avoid car sharing with people outside extended household wherever possible	Avoid car sharing with people outside extended household wherever possible
Transport	Face coverings compulsory on public transport	Face coverings compulsory on public transport	Face coverings compulsory on public transport	Face coverings compulsory on public transport	Face coverings compulsory on public transport
Transport				Avoid non-essential use of public transport	No use of public transport, except for essential purposes

Legislative Background

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 first regulations”), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. They came into force on Thursday 26 March 2020.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 came into force on 14 September 2020 and revoked and replaced the first regulations. They make provision which is substantially similar to the first regulations, as amended at the date on which they were revoked.

On 9 October 2020, the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Restrictions) (Scotland) Regulations 2020 (“the additional temporary restrictions”) set out additional restrictions, both nationally and specific to the central belt. These regulations suspended the effect of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 while the additional temporary restriction regulations were in force. The additional temporary restriction regulations were due to expire on 26 October but were extended by amendment until 6.00 am on 2 November to allow for consultation on the levels-based approach.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 implement the new Strategic Framework and were published on 30th October and came into effect on 2 November. Schedule 7 of these Regulations include the provisions which set out the requirement to wear face coverings on public transport.

Scotland’s Strategic Framework

Decision-making under the new Strategic Framework system is intended to be straightforward and transparent. It will build on existing structures and processes, will be informed by clinical advisers and evidence, and will continue the engagement with local leadership as decisions to move up and down levels are taken.

Decisions will continue to be made by Ministers, with input from relevant advisers, as implementing the restrictions outlined in the levels is the exercise of a statutory power for the protection of public health, for

which Ministers are responsible and accountable.

Regular reviews of the levels system will take place and as soon as Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the spread of COVID-19, they must revoke that restriction or requirement.

Purpose and intended effect: Scotland's Strategic Framework Transport Protections

Introduction

The transport sector is a very important part of Scotland's economy and society. There are approximately 200 businesses in the public transport sector in Scotland and approximately 25,000 people are employed in public transport businesses in Scotland. Public transport supports all sectors of the economy by connecting businesses with their staff and customers, enabling people to travel to work, to education and healthcare services and to retail and leisure activities.

Public transport also has wider social benefits by helping people to maintain social connections, and by improving the affordability and availability of transport options for those groups who do not have access to their own private transport. The National Transport Strategy⁵⁸ highlights that the most important factor cited by those on low incomes as the greatest transport-related barrier is cost.

People in low income households are more likely to travel by bus, while those in higher income households are more likely to travel by car. Public transport is important to those on low incomes to allow them access to services and facilities they need and has a role to play in reducing levels of social isolation. TATIS shows that in 2019 train use was higher in higher income households. Forty three per cent of those interviewed with a household income of over £50,000 had used the train in the last month, compared to between 21 and 23 per cent for the categories up to £20,000. In contrast, people in low income households are more likely to travel by bus, while those in higher income households are more likely to travel by car. 41% of people living in a household with less income than £10,000 use a bus at least once per week, compared to 15% of people living in a household with annual income greater than £50,000.⁵⁹

Public transport is important to a wide cross section of the population. Transport and Travel in Scotland (TATIS)⁶⁰ shows that prior to the pandemic in 2019, and estimated thirty per cent of the population used the train in the previous month, with 39% reporting using the bus. In total there were 366 million bus journeys made in Scotland in 2019 and 96.4 million rail journeys.

COVID-19 and the Transport Sector

In the immediate period of lockdown that started in March, demand for public transport dropped by 90%. As the economy gradually reopened, demand increased to 30-50% of 2019 levels, but has begun to fall back as additional measures have been introduced in recent weeks. By the week ending 1 November demand had fallen by between 50% (for ferries) and 80% (for rail) compared to the same period last year.⁶¹

Public Transport services which were initially reduced are now providing near 'normal' levels of service, although the ongoing need for physical distancing means that the effective capacity of most public transport services remains in the 25-40% range. While service levels have been largely maintained, patronage has remained low.

⁵⁸ <https://www.transport.gov.scot/media/47052/national-transport-strategy.pdf>

⁵⁹ <https://www.transport.gov.scot/media/47052/national-transport-strategy.pdf>

⁶⁰ <https://www.transport.gov.scot/publication/transport-and-travel-in-scotland-2019-results-from-the-scottish-household-survey/public-transport-and-aviation/>

⁶¹ Transport Scotland has been monitoring trends in transport usage during the pandemic. See <https://www.transport.gov.scot/publication/covid-19-transport-trend-data-2-8-november-2020/> for the latest figures.

To support the guidance to use active travel, £39 million of active travel funding has been committed to Spaces for People; to support local authorities to put in place the temporary measures that are needed to allow people to physically distance during transition out of the Covid-19 lockdown.

Overall, based on the changing demand for public transport since March, the patterns suggest that compliance with the guidance to only make essential journeys or at some points in time/geography to avoid using public transport has been very good. For example, during the period from 23 March to 29 May, when the advice was to avoid all but essential use of public transport, rail passenger numbers were down by over 90% compared to 2019. The latest Transport Scotland public attitudes survey data shows that 88% of people reported wearing a face covering whilst using public transport in the previous seven days.⁶²

Transport Scotland has published advice on how to travel safely when walking, wheeling (wheeling refers to travelling by wheelchair), cycling, or travelling in private vehicles or on public transport during the COVID-19 outbreak in Scotland. This, as well guidance related to the requirement to wear face coverings on public transport, includes advice on how to travel safely in private vehicles such as limiting car sharing to members of your own or extended household. The guidance is designed to provide advice for travellers on situations where the risk of transmission is elevated on how to reduce the risks of travelling via different modes including using active travel where possible, avoiding busy services and being aware of signage and instructions to help maintain physical distancing.

Transport Scotland has also published Covid-19 guidance for transport operators⁶³ which includes the following key elements:-

- Produce COVID-19 risk assessment, in consultation with staff and trade unions, share it with them and keep it under review
- Help staff to work from home, wherever possible
- Help staff plan their journey to work and follow appropriate guidance
- Adhere to physical distancing, wherever possible, for staff and passengers on the transport network
- Implement measures to manage transmission risk, reinforce cleaning procedures and promote good hygiene regimes
- Communicate how safety measures are being implemented to staff and passengers and make clear what is expected of them

International Examples

A wide range of other countries have implemented similar measures. WHO recommend wearing facemasks especially in indoor settings and/or where it isn't possible to physically distance.⁶⁴

Over the course of the pandemic most countries in Europe, including Germany⁶⁵ and the Netherlands⁶⁶, plus countries such as Japan⁶⁷ and Canada⁶⁸ have made facemasks mandatory on public transport as well as physical distancing where possible.

A number of countries such as Italy⁶⁹ and Ireland⁷⁰ have asked that public transport be reserved for essential uses such as travelling to work, study or health reasons only.

⁶² <https://www.transport.gov.scot/publication/covid-19-public-attitudes-survey-data-wave-9/>

⁶³ <https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/guidance-for-transport-operators/#>

⁶⁴ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

⁶⁵ <https://www.bahn.com/en/view/home/help/corona.shtml>

⁶⁶ <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/basic-rules-for-everyone>

⁶⁷ <https://www.gov.uk/foreign-travel-advice/japan/coronavirus>

⁶⁸ <https://tc.canada.ca/en/initiatives/covid-19-measures-updates-guidance-issued-transport-canada/covid-19-information-travellers>

⁶⁹ <https://www.gov.uk/foreign-travel-advice/italy/coronavirus>

Policy Objective

The objective of the restrictions set out within the Strategic Framework is to ensure that the operation of transport settings is appropriate to the level of COVID-19 transmission risk within the Local Authority area, whilst also ensuring that essential workers can still access services. Any restrictions on operations are intended to help control and suppress the spread of the virus, ultimately minimising transmission rates, hospital admissions, deaths and the potential overwhelming of the NHS.

Rationale for Government Intervention

Strategic Intent

COVID-19 threatens health and life, but also how we live our lives, and our shared prosperity. The Scottish Government, in common with other UK Nations, is committed to suppressing the virus to the lowest possible level, and keeping it there, until we have a vaccine and/or effective treatments, and the virus is no longer the threat it is now. There is no acceptable number of people we are willing to let become infected.

The evidence base around transmission for this new virus is still emerging, so we are committed to taking decisive action based on the best evidence available to us, while keeping this under constant review. We have considered a wide range of evidence in developing the Strategic Framework, incorporating information from a variety of sources.

Transmission and Risk Factors

SARS-CoV-2 can be transmitted by three main routes: close-range respiratory droplets and aerosols, longer range respiratory aerosols, and direct contact with surfaces contaminated with virus. Transmission is strongly associated with proximity and duration of contact in indoor environments. It is possible for SARS-CoV-2 to be transmitted at distances of more than 2 metres.^{71 72}

Risk Factors

High-risk factors associated with transmission of the virus⁷³ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption⁷⁴. Another risk factor is the when a 2 metre distance cannot be maintained, as evidence suggests that 1 metre distancing carries between 2 and 10 times the risk of 2 metre distancing⁷⁵.

Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus. The virus is not likely to survive for long periods of time on outdoor surfaces in sunlight, although it may survive for more than 24 hours in indoor environments. Outdoors, face to-face exposure (e.g. ≤ 2 metre for a prolonged period) should still be considered a potential risk for transmission via respiratory droplets.⁷⁶

⁷⁰ <https://www.transportforireland.ie/news/covid-19-information/>

⁷¹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁷² <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

⁷³ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

⁷⁴ [Collins A and Fitzgerald N \(2020\)](#)

⁷⁵ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁷⁶ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

Each place an individual visits, including transport settings, brings different risks depending on a range of factors⁷⁷, such as:

- the mix and number of people present,
- the amount of time individuals are likely to spend there,
- the ability to maintain 2 metre distancing,
- the likelihood of pinch points where people might gather (e.g. toilets, entrances and exits),
- the standard and type of ventilation,
- the likelihood of people touching surfaces and goods, and
- the potential for significant aerosol projection activity⁷⁸.

Transmission risks in transport settings

There is a good body of evidence to associate public transport with transmission of respiratory infections from a mixture of epidemiological studies and modelling studies⁷⁹, with the overall weight of evidence towards an increased risk of infection among public transport users. Depending on the setting, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as doors, bus stops) all contribute to risk. Keeping surfaces clean and regulating movement throughout the transport settings and vehicles is a further challenge. Understanding settings where multiple risk factors come together is important in controlling the epidemic.⁸⁰

Transport settings which are attended by people, typically from different households, and sometimes for long periods of time, all amplify the risk of transmission. For example, a car sharing setting is indoors, it is unlikely that a 2 metre distance can be maintained, and there is a high likelihood of people touching common surfaces. In public transport settings, there could be a range of risk factors including: the mix and number of people present; individuals spending more than 15 minutes there, the ability to maintain 2 metre distancing, the likelihood of pinch points where people might gather, and the likelihood of people touching surfaces and goods. It is important to understand that the number of potential transmission events increase much more quickly than the number of people gathered in a setting⁸¹.

Test and Protect Data

Understanding where transmission takes place and the modes of transmission is a very challenging task. Data from contact tracing provides initial clues as to the environments where people spend time, but does not give definitive information on where, when and how transmission occurred. In May, SAGE reported emerging evidence from analysis of COVID-19 outbreaks that public transport is one of the environments where transmission is more frequently reported⁸². In October, SAGE found that there is evidence that increased

⁷⁷ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

⁷⁸ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

⁷⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888755/4b.EMG-Transport_Overview_18502020-updated_S0407.pdf

⁸⁰ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

⁸¹ SPI M paper 20 August 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916888/spi-m-o-statement-gatherings-s0704-sage-52-200819.pdf

⁸²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888755/4b.EMG-Transport_Overview_18502020-updated_S0407.pdf

frequency of exposure to public spaces, including public transport, is associated with increased risk of acquiring acute respiratory infections, suggesting a possible import role of casual contact in these settings⁸³.

The following table is taken from the details of interviews that have been completed as part of Test and Protect up to week ending 1st November 2020. It includes events and settings related to travel and commuting. It does not include other interactions, which can be found within the referenced publication.

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others⁸⁴.

Setting	Number of cases that had visited this setting	% of cases interviewed
Car Share	850	9.6%
Public transport - bus	273	3.1%
Other - unspecified	191	2.1%
Taxi	182	2.0%
Train - domestic	119	1.3%
Other small vehicles	96	1.1%
Flight - international	62	0.7%
Public transport - underground/tram	30	0.3%
Other ⁸⁵	77	0.9%

Table showing information from Test and Protect interviews week ending 1 November 2020⁸⁶. In this week, 8,897 newly cases were added to CMS of those 6,167 (69.3%) cases that reported one or more events.

The First Minister has regularly asked people to refrain from car sharing in her daily Covid-19 updates. On 28 October, she explained: ‘...more than 1,000 people who tested positive for Covid in the previous week, reported sharing a car. Now that doesn’t mean that’s where they all got the virus... But it is possible that some of these people got the virus from someone they were sharing a car with.’⁸⁷

Conclusion

Limiting social mixing as much of possible in all settings is the most effective measure against transmission of the virus until a vaccine and treatments become available. In common with the wide range of other countries who have implemented similar measures, the Strategic Framework contains a range of transport related measures. The levels approach sets out proportionate action to address the harm from the virus whilst acknowledging the wider health, social and economic harms. When the risk of COVID-19 rises, so too will the transport restrictions affecting the transport sectors and those people who rely on them. Similarly as the risk

⁸³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933225/S0824_SARS-CoV-2_Transmission_routes_and_environments.pdf

⁸⁴ Qiu X, Nergiz AI, Maraolo AE, Bogoch II, Low N, Cevik M. Defining the role of asymptomatic SARS-CoV-2 transmission: a living systematic review. medRxiv **2020**: 2020.09.01.20135194.

⁸⁵ Other includes - Public Flight domestic, Coach domestic, Public Transport Other, Cruise/Ship, Coach international, Eurostar/International train.

⁸⁶ <https://beta.isdscotland.org/find-publications-and-data/population-health/covid-19/covid-19-statistical-report/4-november-2020/>

⁸⁷ <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-28-october/>

falls, transport restrictions will ease. Each of the Strategic Framework's levels are designed to reflect the relative severity of the area it is being applied to, with progressively heightened restrictions implemented as necessary.

Across all of the five Levels we seek to balance:

- The positive impact on the transmission rate of the virus through restricting opportunities for transmission, and
- The important role that both public and private transport and other transport methods play in supporting the economy and maintaining our wellbeing.

Consultation

There has been significant engagement across the transport sector and close working with local authorities since the start of the pandemic. We are regularly in contact with the transport sector stakeholders – including transport operators, passengers, Local Authorities, Regional Transport Partnerships (RTPs), representative bodies, and third sector, education, health and businesses. This engagement was chaired by Transport Scotland as it is responsible for providing advice to Scottish Ministers on the potential implications of changing status of the COVID-19 pandemic. This advice was informed by the feedback received on the adoption, and easing of, restrictions on travel. Following publication of the draft Strategic Framework, we engaged with stakeholders in the run up to the Strategic Framework being finalised

We have established a Transport Transition Plan National Advisory Group⁸⁸ with the purpose being to align approaches and share knowledge across national, regional and local transport planning activity as we continue to develop our strategic approach. National stakeholder representatives include the Conventions of Scottish Local Authorities (COSLA); Regional Transport Partnerships (RTP's); poverty group representation, Mobility and Access Committee for Scotland (MACS), business umbrella groups, and academics.

At a transport operational level, Transport Scotland is engaging with local authorities in South East Scotland⁸⁹ and the Glasgow City region⁹⁰, due to the scale of the public transport challenge in these areas and the requirement for joined up working to manage the interactions between the strategic (rail and trunk roads) and local transport (local road, cycle / walking routes and local public transport services e.g. Subway and Tram in Edinburgh) networks.

Recognising the challenges specific to our rural areas, other cities and areas of the country, which have included the initial contraction of both the bus and rail services due the lack of demand plus the need to accommodate the need for physical distancing on buses and within rail carriages. While in a number of locations across the country, local authorities have implemented on-street measures to allow pedestrians and cyclists to physical distance more easily. Transport Scotland is continuing to identify issues through the Transport Transition Plan National Advisory Group. These include the need to balance the demand for travel for those returning to work, school and university against the continuing need to physically distance. Planning has continued with Local Authorities and RTPs as they, and Transport Scotland, consider what input that this changing demand will place on the transport network, including the bus, rail, cycle / pedestrian and road networks. The work of this group has also covered the measures introduced around the October school half-term break and the more recently changes to the wider Strategic Framework and the implications for people's travel.

Public Consultation:

To support the development and implementation of the Transport Transition Plan the Transport Equality

⁸⁸ <https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/engaging-with-stakeholders/>

⁸⁹ City of Edinburgh, East, Mid plus West Lothian and Fife Councils.

⁹⁰ Glasgow City, North and South Lanarkshire, East Dunbartonshire, East Renfrewshire, Inverclyde Council, Renfrewshire Council and West Dunbartonshire Councils.

Network was established as a mechanism for engaging with citizens and their representative groups on the equality and economic impacts of transport restrictions. The group has representation from the following groups:

- Poverty and Inequality Commission;
- Poverty Alliance
- MACS;
- Disability Equality Scotland;
- Equality and Human Rights Commission;
- Young Scot
- Engender; and
- BEMIS.

To date the majority of the feedback provided by the group has focussed around the accessibility challenges presented by transport infrastructure amendments to accommodate social distancing, rising from the actions being undertaken through the Transport Transition Plan. However, members of the group have also advised that transmission on public transport remains a key concern and that this is dissuading citizens to use public transport. The group recognise that precautions are being taken forward by public transport operators as required (supported by guidance).

Business:

In addition to the above Transport Scotland is working with a range of large and medium sized employers, the Federation of Small Businesses and Edinburgh and Glasgow Chambers of Commerce to assist with managing the messaging and in turn the demand for travel as the economy has restarted. This support, whilst also being applied across the wider work on transport system, has also provided specific support to businesses and employers. The work on the Travel Demand Management (TDM) strategy, which was developed in June 2020, was instigated by Transport Scotland to support and help businesses across Scotland and was based on previous experience of undertaking similar work before/during the Glasgow Commonwealth Games in 2014. This work has seen the development of:

- Messaging and narrative development – based on the data from the previous week, messaging was updated and distributed to partners on a weekly basis.
- Communications - A communications plan was developed including website updates, social media and commercial radio adverts.
- Stakeholder and business engagement – We have engaged with partners in the form of existing regional groups (Glasgow & Edinburgh – where the challenge has been greatest) set up to address transport related COVID-19 issues. We have also engaged with employers in the central belt through a series of workshops (9 on-line) to help them align their own internal messaging and advice to staff on how to travel safely. There were a total of 49 workshop attendees, representing 24 organisations for a total potential reach of over 267,000 individuals. Businesses represented included Scottish Power, Tesco Bank and legal firm Ashurst.

The aims and objectives of the TDM Strategy and in turn the advice that is being offered to businesses can be defined as helping:

- To understand where pressures exist on the transport network and identify how people should travel to ensure that supply matches demand in a post COVID-19 transport scenario;
- To help balance the transport network by influencing the way people travel – specifically through the development of messages and information that will resonate with the traveller;
- To support all travellers to make informed travel choices by disseminating these messages through appropriate channels, including via the business community by ensuring that their employees are aware of anticipated impacts on the transport network.

Options:

A range of options have been considered, and we continue to work constructively with the sector to explore and assess alternatives. The overriding principle of the approach for Transport is to operate a safe transport

service, mitigating risks where possible for those using our transport network and for our transport operators. Guidance on travelling within Scotland and how to travel safely ⁹¹ has been published on Transport Scotland's website.

Our Transport Transitions Plan sets out how we have worked with industry and stakeholders to ensure a joined up approach across the sector⁹². To help reduce the risk of transmission and to reduce the burden on public transport the advice is to use active travel where possible, and avoid car sharing where possible. The wearing of face coverings is now mandatory on public transport, unless one of the exceptions applies⁹³ Specific restrictions then apply in Levels 3 and 4.

Sectors and groups affected

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 will affect:

- Public transport operators – bus, ferries, rail and light rail
- Businesses and individuals who rely on the public transport system. The impact will vary by area and for different groups of people. For instance, people in lower income groups are less likely to have access to a car and more likely to rely on buses and people living in the Islands are reliant on ferry services to connect them to the mainland and other islands.
- Employers and service providers whose customers/clients use public transport to access them

Our approach to assessing options

Within this BRIA we have compared the package of measures within each level against the baseline approach of Transport usage in the equivalent month of 2019. This has allowed us to present the clinical evidence for intervention at each level setting out the health benefits, whilst acknowledging the potential impacts on the Transport sector. Throughout these measures we have sought to develop the right package of measures to reduce circulation of the virus whilst limiting wider health, economic and social harms.

We have assessed, for Levels 0,1, and 2:

- Option A: Baseline – this is represented by Transport usage in the equivalent month from 2019. This takes account of the fact that Transport usage varies during the year as a result of factors such as school holidays, tourism and seasonal weather patterns.
- Option B: Use active travel, wear face masks, no car sharing

For Level 3:

- Option A: Baseline
- Option B: As for Levels 0-2 plus avoiding non-essential use of public transport

For Level 4

- Option A: Baseline
- Option B: As for Level 3 plus no non-essential use of public transport

OPTIONS FOR LEVEL 0, LEVELS 1 AND 2

The rationale for the Options is based on the risk of transmission in transport settings as set out in the Transmission and Risk section on pages 5 and 6.

⁹¹ <https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/guidance-on-travelling-within-scotland/#overview>

⁹² <https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/>

⁹³ <https://www.legislation.gov.uk/ssi/2020/344/contents>

Our objective is to get all parts of the country to level 0 or level 1 and remain there if we can. Within these levels, we would expect to see low incidence of the virus with isolated clusters, and low community transmission. Broadly, these levels are the closest we can get to normality without a vaccine or effective treatment which would allow us to move to Phase 4 of the Route Map and then back to normality. They would be similar to the measures in place during the summer, once we reached Phase 3. The Baseline and Level 1 are designed to be sustainable for longer periods.

Level 2 is intended to apply for a short period of time. Within Level 2, we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. The measures would be intended to be in place for relatively short periods, and only for as long as required to get the virus down to a low, sustainable level.

Option A – No restrictions

This would represent a return to the pre-pandemic position with no advice on using active travel avoiding car sharing or restrictions on the use of public transport such as requirements for face coverings or physical distancing. This would have had an initial positive impact on public transport operators as it would have allowed them provide services at full capacity, however it would have had negative consequences for the containment of the virus with the increased transmission and anxiety about the risks of contracting the virus eroding demand for public transport.

This would not have contributed to the Scottish Government's efforts to control the spread of the virus and would have run contrary to efforts being made in other sectors. This would have had negative health impacts for public transport user and employees of operators. The risk of transmission has been found to increase in indoor settings, with people in close proximity and where they are together for more than 15 minutes. All of these factors potentially exist when using public transport.

Option B – Use active travel, avoid car sharing, wear face coverings on public transport

Under this option, public transport operators can offer close to full timetabled services, but the continued need for physical distancing means even with the move to one metre physical distancing, the capacity on public transport could be in the region of 40% (although this figure varies across modes and depends on the configuration of vehicles and vessels).

The restriction on car sharing will reduce the risks of transmission within this high risk environment, as demonstrated by the test and protect data. This will have a positive health benefits. The access to a physically distanced/reduced capacity services will enable people to still use public transport. This will have economic benefits for the operators (reducing lost relative to that seen in the spring). It will also deliver economic benefits for travellers who use the service and can access employment. It will deliver wider social benefits, as travellers will be able to use public transport to maintain important social connections. Car sharing may take place where there is no alternative and those doing so follow the requirement to wear face coverings. This is particularly important for shift workers, key workers and those in rural areas.

Conclusion

Option B was considered to balance the economic and social need to maintain transport services with the need to reduce the risk of transmission of Covid-19 and the subsequent harm to health and associated costs to economy and society, The measures allow for continued operation of transport services to provide connectivity for those requiring to travel to work, healthcare, education and essential shopping. They also ensure that the risk of transmission is reduced by seeking to encourage people to use of active travel where possible and if not to reduce contact with other households when travelling by car and to protect travellers and employees on public transport by the wearing of facemasks.

OPTIONS FOR LEVEL 3

In Level 3 of the Strategic Framework we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission.

Option A – No restrictions

This would represent a return to a pre-pandemic position. The same arguments apply as set out above in the equivalent option considered for levels 0, 1 and 2.

This would have had an initial positive impact on public transport operators as it would have allowed them provide services at full capacity, however it would have had negative consequences for the containment of the virus with the increased transmission and anxiety about the risks of contracting the virus eroding demand for public transport. This would not have contributed to the Scottish Government's efforts to control the spread of the virus and would have run contrary to efforts being made in other sectors. This would have had negative health impacts for public transport user and employees of operators. The risk of transmission has been found to increase in indoor settings, with people in close proximity and where they are together for more than 15 minutes. All of these factors potentially exist when using public transport.

Option B - As for Levels 0-2 plus avoiding non-essential use of public transport

Level 3 maintains the advice from Levels 0-2 to use active travel, avoid car sharing, wear face coverings on public transport, but additionally includes advice to avoid non-essential use of public transport. This is a return to the position that held from 23 March until 29 May and is designed to reduce the risk of transmission via public transport whilst ensuring that services are available for those who need to use them to travel to work or education, or for essential shopping or caring reasons.

The intention of the additional restriction is to reduce the number of people using public transport services in level 3 areas, this making physical distancing easier and reducing the transmission for those people making essential journeys along with employees of public transport operators.

The impact of Level 3 is likely to see a reduction in revenue to public transport operators as passenger numbers fall closer to those seen in prior to the reopening of the economy in July. It may also include a reduction in connectivity for users, especially for those with no access to private transport, which includes lower income groups who rely, in particular on bus services to access employment, education and health services as well as shopping and leisure.

Conclusion

The restrictions on transport will mitigate against the high risk factors associated with the transmission of the virus. The approach in Option B recognises that the increased health risks in Level 3 from the spread of Covid-19 outweigh the immediate consequences of lower demand for public transport services and the possible loss in connectivity for users.

OPTIONS FOR LEVEL 4

In Level 4 we would expect to see very high or rapidly increased incidence of the virus, with widespread community transmission

Option A – No restrictions

This would represent a return to the pre-pandemic position with no advice on using active travel, avoiding car sharing or restrictions on the use of Public Transport such as requirements for face coverings or physical distancing. This option would have meant a reduction in the restrictions at Level 4 compared with the restrictions under Level 3. This would not have contributed to the Scottish Government's efforts to control the

spread of the virus and would have run contrary to efforts being made in other sectors. This would have had negative health impacts for public transport user and employees of operators. This would have run contrary to the aim of areas moving in to Level 4 and was not considered further.

Option B – As for Level 3 plus no non-essential use of public transport

At Level 4, public transport operators can offer close to full timetabled services, but the continued need for physical distancing means even with the move to one metre physical distancing, the capacity on public transport could be in the region of 40% (although this figure varies across modes and depends on the configuration of vehicles and vessels). There should be ‘no use’ of public transport services except for essential purposes. This seeks to balance the need to maintain public transport services for purposes such as key workers and for people accessing health services, with the need to limit the numbers in close contact from using these services.

This reflects the measures initially introduced following lockdown on 23 March. In the period following 23 March, use of public transport fell by as much as 90%, although services continued to operate to provide for essential journeys. The further restriction of public transport usage during this period helped contribute to the suppression of the virus, whilst maintaining access for key workers and others who relied on services. The impact of these restrictions will be further lost revenue for public transport operators over and above those seen in Level 3 and will also reduce connectivity for users, especially for those with no access to private transport. People in lower income groups are more likely to rely in public transport – especially buses – and hence are more likely to negatively affected by this option, as are people in rural areas.

Conclusion

The additional restriction on public transport will likely minimise the high risk factors associated with the transmission of the virus. The approach in Option B recognises that the increased health risks in Level 4 from the spread of Covid-19 outweigh the immediate consequences of lower demand for public transport services and the possible loss in connectivity for users.

Scottish Firms Impact Test:

There has been engagement with the Scottish transport sector in developing the provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA.

What proportion of businesses are registered in Scotland?

Table 1 shows for each of the sectors the share of Scottish business sites in UK totals and the share of employment in GB total.

	% of UK Total Sites	% of GB Total Employment
Transport (rail, ferry, bus)	11%	9%
Hospitality (pubs, restaurants, cafes, takeaways, licenced clubs)	8%	8%
Accommodation (Hotels, caravan & camp sites, bed & breakfast, self-catering accommodation, hostels)	15%	12%
Shopping (retail)	7%	8%

Stadia & Events (sports facilities, convention & trade show organisers, art facilities)	8%	8%
Sports & Exercise	9%	9%
Leisure & Entertainment (adult entertainment, night clubs, funfairs, theatre & music venues, cinemas, bingo & casino, arcades, bowling & snooker halls)	7%	8%
Visitor Attractions (museums, historical sites, botanical and zoological gardens, nature reserve)	13%	14%

• **How many businesses and what sectors is it likely to impact on?**

The transport restrictions in the Strategic Framework will primarily impact upon businesses in the Public Transport sector who are affected by the reduced demand as people opt for active travel and (at the Levels 3 and 4) only use Public Transport for essential journeys. There may be additional impacts on businesses in other sectors such as hospitality, retail, leisure and tourism, particularly in Levels 3 and 4 where customers/users might not be able to access these businesses due to the restrictions on using public transport. However, in some cases, some of this loss of activity may be offset by a shift to businesses within the locality (e.g the advice to shop local). Estimated numbers of businesses and employees are set out in the following table:

Table 2 Businesses and Jobs Impacted by Transport Restrictions

Sector	Number of Sites (IDBR 2019)	Employee Head Count (BRES 2018)
Transport (rail, ferry, bus)	905	24000
Hospitality (pubs, restaurants, cafes, takeaways, licenced clubs)	12170	125000
Accommodation (Hotels, caravan & camp sites, bed & breakfast, self-catering accommodation, hostels)	3110	51100
Shopping (retail)	22340	233000
Stadia & Events (sports facilities, convention & trade show organisers, art facilities)	1055	16150
Sports & Exercise	2920	35000
Leisure & Entertainment (adult entertainment, night clubs, funfairs, theatre & music venues, cinemas, bingo & casino, arcades, bowling & snooker halls)	3135	40750
Visitor Attractions (museums, historical sites, botanical and zoological gardens, nature reserve)	380	9500

Table 3 – Breakdown by mode of Businesses and Jobs in Transport sector impacted by Transport Restrictions

Transport sector	Number of Sites (IDBR 2019)	Employee Head Count (BRES 2018)
4910 : Passenger rail transport, interurban	155	5,000
4931 : Urban and suburban passenger land transport	220	10,000
4939 : Other passenger land transport n.e.c.	370	7,000
5010 : Sea and coastal passenger water transport	140	1,500
5030 : Inland passenger water transport	20	125
Passenger Transport (Rail, Ferry, Bus Total)	905	24,000

There will be additional impacts on businesses in other sectors (e.g. retail and hospitality) from the restrictions on the use of Public Transport in levels 3 and 4 as they will be likely to lead to fewer people moving in and out of areas under those restrictions. Furthermore, there are also now restrictions on travel into and out of Level 3 and 4 areas. This could affect businesses in the following categories depending on the status of the outbreak across different parts of Scotland, and the rest of the UK depending on the extent to which they provide trade for Scottish businesses:

- Category 1 - Businesses that rely on people using public transport to travel to work. Demand for businesses in these categories is anticipated to fall as a result of restrictions on travel and transport. This includes businesses in the transport operating sector but may also include businesses in other sectors.
- Category 2 - Businesses that rely from people using public transport to travel from other areas that may fall into Level 3 or 4. Once an area falls into Level 3 or 4, there is advice against use of public transport for non-essential services. Businesses in this category are likely to see their trade decline, if they are able to continue operating because they are not required to close. This would be the case for a business in an area that remains in Level 0, 1 or 2, but which gets its clients from use of public transport from areas that fall into Levels 3 or 4. This is likely to include businesses in accommodation and food services, events, visitor attractions and some aspects of retail.

The impacts of the Transport measures on businesses outwith the Transport sector are likely to be similar to those discussed in the Travel BRIA, but will be subsumed within the overall impacts of reduced travel. Hence they are not set out in detail in this BRIA.

• What is the likely cost or benefit to business?

The nature, scale and distribution of costs and benefits to businesses in Scotland depends largely on how many areas in Scotland and the rest of the UK go into Level 3 or Level 4 of the Framework. The assessment of costs and benefits to businesses is therefore provided for scenarios reflecting different parts of Scotland or the rest of the UK falling into different levels. This BRIA focusses on the impact on the Transport sector. A further BRIA examines the impact each Level of the Framework on Travel, and that provides more detail on the wider impact on businesses of fewer people moving between areas.

Scenario 1: All areas fall into Levels 0 to 2

As long as all areas in Scotland fall into Levels 0 to 2 and regions of other regions of the UK fall into equivalent levels, using public transport to travel across areas is permitted. In this scenario public health measures relate mainly to minimising risk of spreading the COVID virus when using different modes of transport, e.g. – physical distancing requirement and use of face covering on public transport and limiting car sharing to members of households and extended households.

Under this scenario costs of measures affecting Transport will fall largely on operators of public transport. The measures in place mostly have the effect of reducing demand for public transport, which will have impact on their income. Following the lockdown in March the use of public transport has generally remained low as people complied with guidance in place. Public transport operators have continued to operate services during this period despite the reduced levels of demand. This has resulted in reduced fare revenue whilst operators have continued to incur the costs from operating services. To mitigate against this, SG has provided financial support to Public Transport operators.

There might be some costs to businesses that rely on the use of public transport for their footfall, e.g. – in city and town centres and out of town shopping malls. The costs are likely to fall largely on businesses in the non-essential retail or food services sectors, given the Framework would still allow for essential travel, including for essential shopping.

Overall, the **additional costs** to business as a result of travel measures in the Framework are assessed to be **low** as long as all parts of Scotland remain in Levels 0 to 2.

Scenario 2: Some parts of Scotland fall into Levels 3 or Level 4

Once any part of Scotland falls into Level 3 or 4 of the Framework, transport and travel restrictions will start affecting the movement of people across areas. People that live in areas that remain in Levels 0 to 2 are, at the time of writing this BRIA, advised against travelling to areas that fall into areas Levels 3 or 4. Similarly, people that live in areas 3 or 4 are advised not to travel out of their local authority regions, nor should they use public transport. In this scenario, the movement of people across regions is expected to decline and the impacts of businesses start to extend beyond the operators of public transport to those businesses that rely on people traveling into their regions. This includes businesses in sectors accommodation, hospitality, non-essential retail, visitor attractions and events, that rely on people travelling from other regions.

Generally, the overall impact on businesses increases the more there are regions that fall into Level 3 and Level 4. The more areas that fall into Level 3 and 4, the fewer people are permitted to use public transport and travel across regions and the lower will be trade for businesses that rely on customers travelling in. However, the distributional impacts will differ across regions, depending on which level they fall into and other public health restrictions that apply to them. For instance, while businesses in regions that fall into Levels 0 to 2 will be affected by loss of customers who would have travelled from Level 3 and 4 areas, businesses in Level 3 and 4 areas are affected not just by travel restrictions but by other measures that apply at those levels.

Competition Assessment:

The restrictions on use of public transport will reduce demand for those services. The focus from Transport Scotland (TS)/the Scottish Government (SG) has been to provide financial support to operators to offset the loss of revenue from passenger numbers. This has amounted to around £546 million to date and has helped to mitigate the impact of lower demand and enabled operators to continue to provide services and connectivity to support the economy and society.

• Will the measure directly or indirectly limit the number or range of suppliers?

TS/SG financial support is aimed at mitigating the negative impact of the Framework on public transport operators due to lower than normal levels of demand as set out in Covid and the Transport Sector section (on page 3).

• Will the measure limit the ability of suppliers to compete?

The focus of TS/SG support is to enable public transport operators to continue to provide services despite lower levels of demand. The aim is to protect services and connectivity at this time rather than to promote competition between operators or modes. The measures apply equally to all operators in the public transport sector so there

shouldn't be an impact on competition between operators, although the impact will vary by area and over time depending on what level of restrictions are in force

• **Will the measure limit suppliers' incentives to compete vigorously?**

see above/previous answer

• **Will the measure limit the choices and information available to consumers?**

The support provided by SG/TS is designed to protect services and connectivity for individuals and businesses. The requirement for physical distancing limits the available capacity on public transport to around 25-40%. However, the evidence since lockdown in March is that demand levels have been suppressed by other restrictions on activities (e.g. limits on hospitality and entertainment sectors) and changes in behaviour (e.g. increased working from home), has meant that services have been able to cope with demand.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of the transport sector measures within the Strategic Framework on consumers.

• **Does the policy affect the quality, availability or price of any goods or services in a market?**

The restrictions have had no impact on the price of public transport. The financial support from TS/SG is designed to enable operators to continue to provide services and connectivity to individuals and businesses. The physical distancing restrictions reduce the available capacity of public transport to no more than 40% of normal, but the advice to avoid using public transport coupled with the wider restrictions of activities and the numbers of people still working from home, means that demand is unlikely to exceed supply at this time.

• **Does the policy affect the essential services market, such as energy or water?**

There is no expected impact on markets for essential services.

• **Does the policy involve storage or increased use of consumer data?**

No

• **Does the policy increase opportunities for unscrupulous suppliers to target consumers?**

This is unlikely to occur as a consequence of the Strategic Framework

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

Enforcement, sanctions and monitoring: Regulations have been put in place to support the implementation of the measures. Monitoring and enforcement will be undertaken by Local Authority Environmental Health Officers and, in some cases, Police Scotland.

Implementation and delivery plan and post-implementation review:

Regulations and guidance have been put in place to support the implementation of the measures contained within the Strategic Framework. These regulations will come into effect from the 2nd November 2020. We are continuing our constructive engagement with the sector.

Summary and recommendations:

Introduction

This BRIA has examined the transport measures within each level of the Strategic Framework and compared

these measures with the baseline approach of transport usage in the equivalent month of 2019.

Background

The Scottish Government’s Strategic Framework includes a package of measures which collectively are designed to suppress transmission of the virus.

Whilst this BRIA is focused on transport, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view transport measures in the context of this wider package of actions, in particular those restrictions that apply to travel, the tourism, hospitality and retail settings, as well as the guidance to work at home.

Options Appraisal

The Strategic Framework includes a range of actions designed to suppress virus transmission. In taking action a careful balance needs to be struck between protecting health and minimising the negative impacts on business, jobs and livelihoods.

Option 1: Baseline

The baseline option will have a somewhat positive economic impact on Scotland’s transport sector, through the increased use of public transport to access employment, education and health services and retail and leisure activities. However, this would be off-set by the health risk associated with increased opportunities for virus transmission when using public transport.

Transport is characterised by many of the high-risk factors associated with the transmission of the virus (see Transmission and Risk section on page 5 for more details). The health risk posed when using public transport would increase as the R rate increased meaning there would be potential for increased community transmission.

Option 2: Strategic Framework

Measure	Benefits	Costs
Active travel (walk, run, cycle, wheel) where possible (all levels)	Increased levels of active travel has health benefits to individuals. This also reduces the pressure on public transport services whilst capacity is limited due to physical distancing. An increase in journeys made by active travel would potentially have positive impacts for the environment if it led to fewer vehicles on the road (so reduced emissions and lower congestion)	May reduce demand for public transport, and hence revenue for operators.
Avoid car sharing with people outside extended household wherever possible (all levels)	Reduces risks of transmission between households and individuals.	
Face coverings compulsory on	Reduces risk of transmission between individuals. Protects	Small costs to individuals to purchase face coverings

public transport (all levels)	customers and staff. Reassures users that services are safe to use.	
Avoid non-essential use of public transport (Level 3)	Reduces levels of travel for all but essential purposes. Protects public transport services for those who need to use them	Reduces demand for public transport, and hence revenue for operators. Requires increased TS/SG support for operators to offset lost revenue. May lead to increased private car use with consequent negative impacts for emissions and congestion levels.
No use of public transport, except for essential purposes (Level 4)	As for level 3	As for level 3

Conclusion

This BRIA has set out the relative costs and benefits of options with the intended effect of suppressing the virus whilst acknowledging and minimising the economic harms faced by businesses.

- The Scottish Government has provided significant funding to support public transport operators through the Covid-19 crisis, with £546 million already committed in order to ensure services can continue to run.
- Emergency Measures Agreements (EMAs) have been put in place for the ScotRail and Caledonian Sleeper franchises until 10 January 2021. These agreements temporarily vary the franchises in order to minimise disruption to passengers and rail employees caused by the Covid-19 outbreak and ensure the continued operation of rail passenger services. Discussions are underway with operators to seek to agree a longer term plan for our contractual arrangements.
- A £13 million package of support has been agreed for Glasgow Subway and Edinburgh Trams from July until the end of December.
- To support bus services, we are maintaining concessionary travel reimbursement and Bus Service Operator Grant payments at pre COVID-19 levels where we would normally spend over £260 million and we have committed up to £162.3 million additional support to bus operators through to 17 January 2021.
- We have also re-purposed almost £39 million of active travel funding for Spaces for People; this is enabling local authorities to put in place the temporary measures such as pop-up cycle lanes and widening walkways that are needed to allow people to physically distance during transition out of the Covid-19 lockdown.
- In the longer-term, we are looking at a range of measures to ensure that the public transport system in Scotland is sustainable.

Declaration and publication

Sign-off for BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the measures set out in the regulations and guidance. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Michael Russell

Date: 18th November 2020

Minister's name: Michael Russell

Minister's title: Cabinet Secretary for Constitution, Europe and External Affairs.