



The Scottish Parliament
Pàrlamaid na h-Alba

COVID-19 COMMITTEE

AGENDA

4th Meeting, 2021 (Session 5)

Thursday 4 February 2021

The Committee will meet at 10.30 am in a virtual meeting and broadcast on www.scottishparliament.tv.

1. **Ministerial statement: Covid-19; and Subordinate legislation:** The Committee will take evidence on the latest Ministerial statement on Covid-19; and the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/35) from—

Michael Russell, Cabinet Secretary for the Constitution, Europe and External Affairs, and Professor Jason Leitch, National Clinical Director, Scottish Government.

2. **Subordinate legislation:** Michael Russell, Cabinet Secretary for the Constitution, Europe and External Affairs to move—

S5M-23948— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/35) be approved.

Sigrid Robinson
Clerk to the COVID-19 Committee
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Edinburgh
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The papers for this meeting are as follows—

Note by the Clerk

CVD/S5/21/4/1

SPICe weekly briefing

CVD/S5/21/4/2

PRIVATE PAPER

CVD/S5/21/4/3 (P)



The Scottish Parliament
Pàrlamaid na h-Alba

Covid-19 Committee

4th Meeting, 2021 (Session 5), Thursday 04 February 2021

Ministerial Statement: Covid-19; and Subordinate Legislation

Introduction

1. At this meeting, the Cabinet Secretary for the Constitution, Europe and External Affairs ('the Cabinet Secretary'), Michael Russell MSP and Professor Jason Leitch, National Clinical Director for the Scottish Government, will give evidence under agenda item 1.
2. The Committee will take evidence on the policy announcements arising from the latest Ministerial statement on Covid-19, which will take place on 2 February 2021, under this agenda item.
3. The Committee will also take evidence on the following subordination legislation under agenda item 1, before it considers the corresponding motions, under agenda item 2—
 - [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 14\) Regulations 2021 \(SSI 2021/35\)](#) (from here on referred to as 'SSI 2021/35 – Reg No.14')

Ministerial statement on COVID-19: Tuesday 2 February 2021

4. On 23 October 2020, the Scottish Government published the [Coronavirus \(COVID-19\): Scotland's Strategic Framework](#), which came into effect on 2 November 2020. The Scottish Government reviews the latest guidance under the Strategic Framework on a weekly basis. Following the review, any changes to the guidance are published on the Scottish Government's [Coronavirus \(COVID-19\): protection levels - reviews and evidence](#) webpages.

Weekly SPICe Covid-19 Update

5. SPICe produces a weekly briefing entitled 'Weekly SPICe Covid-19 Update' (see **Paper 2**). This provides Members with links to the latest guidance and supporting information published by the Scottish Government, in addition to a selection of

websites providing information on wider health and social and economic indicators in Scotland.

Subordinate Legislation

Policy Background: SSI 2021/35 – Reg No. 14

6. SSI 2021/35 – Reg No.14 was laid on 22 January 2021 and came into force on 23 January 2021. A copy of the SSI and policy note is provided in **Annexe A** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to prohibit mortgage repossessions from taking place in Level 3 or 4 areas.”

7. The Scottish Government has provided the following associated impact assessments to accompany SSI 2021/35 – Reg No.14—

- [Equality Impact Assessment](#)
- [Business and Regulatory Impact Assessment](#)
- [Island Communities Impact Assessment](#)

8. The Committee took evidence on the draft version of SSI 2021/14 – Reg No. 14 at its meeting on [28 January 2021](#).

9. A SPICe briefing providing further information on SSI 2021/35 – Reg No.14 is included in the meeting pack as a private briefing (see **Paper 3**).

Parliamentary Procedure

10. SSI 2021/35 – Reg No.14 is subject to the made affirmative procedure.

Made affirmative instruments

11. The Coronavirus Act 2020 gives the Scottish Government emergency powers to lay regulations for ‘health protection’ measures, which can come into effect immediately. The measures introduced using this procedure can remain in force for 28 days without parliamentary approval. If the Scottish Government intends for the measures to be in force for longer than 28 days, parliamentary approval is required and must be obtained within the initial 28-day period.

12. This is explained in detail in the policy note for each made affirmative SSI, which states that the regulations are made “in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. The instrument is subject to the made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.” This provides that if Scottish Ministers consider that regulations need to be made urgently—

“the regulations (the “emergency regulations”)—

(a) must be laid before the Scottish Parliament; and

(b) cease to have effect on the expiry of the period of 28 days beginning with the date on which the regulations were made unless, before the expiry of that period, the regulations have been approved by a resolution of the Parliament.”

Delegated Powers and Law Reform Committee ('DPLR') Consideration

13. The DPLR Committee will consider SSI 2021/35 – Reg No.14 at its meeting on 2 February 2021. Should the DPLR Committee have any points to raise, these will be highlighted to the Committee in advance of its meeting.

Subordinate Legislation (Motion S5M-23948)

14. Under agenda item 2, the Cabinet Secretary will be invited to move the following motion—

- [S5M-23948](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/35) be approved.

Next steps

15. The Committee will publish a report setting out its consideration of the motions under agenda item 2 in due course.

**Committee Clerks
2 February 2021**

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 35

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021

<i>Made</i>	- - - -	<i>at 1.30 p.m. on 22nd January 2021</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>at 3.30 p.m. on 22nd January 2021</i>
<i>Coming into force</i>	- -	<i>23rd January 2021</i>

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 and come into force on 23 January 2021.

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Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2) are amended in accordance with regulations 3 and 4.

Amendment to schedule 4: residential properties (eviction)

3. In schedule 4 (level 3 restrictions), in paragraph 9A(3)—

(a) the cross-heading of paragraph 9A becomes “Residential properties (eviction)”, and

(b) in sub-paragraph (4)—

(i) for the definition of “a charge for removing”, substitute—

““a charge for removing” means a charge to remove from subjects or premises, as required by section 216(1) (service of charge before removing) of the 2007 Act(4) in the case of a decree for removing from heritable property”, and

(ii) for the definition of “a decree for removing from heritable property”, substitute—

““a decree for removing from heritable property” means a decree, order or warrant of a type mentioned in any of the following paragraphs of section 214(2) of the 2007 Act(5)—

(a) paragraph (a) or (b), where the decree or warrant is obtained by a creditor in a security over land used to any extent for residential purposes following an application under either or both—

(i) section 5(1) (power to eject proprietor in personal occupation) of the Heritable Securities (Scotland) Act 1894(6), or

(ii) section 24(1B) (application by creditor to court for remedies on default) of the Conveyancing and Feudal Reform (Scotland) Act 1970(7),

(b) paragraph (f),

(c) paragraph (g), or

(d) paragraph (k).”.

Amendment to schedule 5: residential properties (eviction)

4. In schedule 5 (level 4 restrictions), in paragraph 10A(8)—

(a) the cross-heading of the paragraph becomes “Residential properties (eviction)”, and

(b) in sub-paragraph (4)—

(i) for the definition of “a charge for removing”, substitute—

(2) [S.S.I. 2020/344](#), amended by [S.S.I. 2020/347](#), [S.S.I. 2020/374](#), [S.S.I. 2020/389](#), [S.S.I. 2020/392](#), [S.S.I. 2020/400](#), [S.S.I. 2020/415](#), [S.S.I. 2020/427](#), [S.S.I. 2020/439](#), [S.S.I. 2020/452](#), [S.S.I. 2020/471](#), [S.S.I. 2021/1](#), [S.S.I. 2021/3](#), [S.S.I. 2021/17](#) and [S.S.I. 2021/25](#).

(3) Paragraph 9A was inserted by [S.S.I. 2021/17](#).

(4) Section 216(1) was amended by paragraph 92(a) of schedule 5 of the Criminal Finances Act 2017 (c.22).

(5) Section 214(2) was relevantly amended by paragraph 10(2)(b) of schedule 4 of the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19) and [S.S.I. 2019/51](#).

(6) [1894 c.44](#). Section 5 was renumbered as section 5(1) by section 3(1)(a) of the Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6).

(7) [1970 c.35](#). Section 24(1B) was inserted by section 2(2) of the Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6).

(8) Paragraph 10A was inserted by [S.S.I. 2021/17](#).

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““a charge for removing” means a charge to remove from subjects or premises, as required by section 216(1) (service of charge before removing) of the 2007 Act in the case of a decree for removing from heritable property,” and

(ii) for the definition of “a decree for removing from heritable property”, substitute—

““a decree for removing from heritable property” means a decree, order or warrant of a type mentioned in any of the following paragraphs of section 214(2) of the 2007 Act—

(a) paragraph (a) or (b), where the decree or warrant is obtained by a creditor in a security over land used to any extent for residential purposes following an application under either or both—

(i) section 5(1) (power to eject proprietor in personal occupation) of the Heritable Securities (Scotland) Act 1894, or

(ii) section 24(1B) (application by creditor to court for remedies on default) of the Conveyancing and Feudal Reform (Scotland) Act 1970,

(b) paragraph (f),

(c) paragraph (g), or

(d) paragraph (k).”.

St Andrew’s House,
Edinburgh
At 1.30 p.m. on 22nd January 2021

AILEEN CAMPBELL
A member of the Scottish Government

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”). These Regulations come into force on 23 January 2021.

Regulation 3 amends schedule 4 of the Local Levels Regulations to prevent, in a level 3 area, attendance at a dwelling house for the purpose of serving a charge for removing or executing a decree for removing from a residential property where a creditor under a standard security is seeking to eject a debtor who is residing in the property.

Regulation 4 amends schedule 5 of the Local Levels Regulations to prevent, in a level 4 area, attendance at a dwelling house for the purpose of serving a charge for removing or executing a decree for removing from a residential property where a creditor under a standard security is seeking to eject a debtor who is residing in the property.

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 14) REGULATIONS 2021

SSI 2021/35

The above instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.

These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to prohibit mortgage repossessions from taking place in Level 3 or 4 areas.
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Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. Under that Act, the Scottish Government made regulations (in force from 26 March) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October those regulations were suspended and replaced by the Health Protection (Coronavirus) Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020. A new levels-based approach was introduced on 2 November, when the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the principal regulations”) came into force and revoked the previous regulations.

Policy Objectives

Mortgage repossession evictions

2. The emergence of a new variant of the virus has significantly altered the public health landscape and led to the First Minister’s announcement that from Tuesday 5 January, mainland Scotland would move to a temporary lockdown, with new guidance to stay at home except for essential purposes.

3. The continued rise in cases caused by the new variant of the virus means that we must continue to take unprecedented action to ensure everyone is protected from the health, social and economic harms of the virus by being able to remain in their homes during this time.

4. Therefore, this change will ensure mortgage repossessions cannot be executed within an area under level 3 or 4 restrictions. These provisions will provide home owners with similar protection as those in the rented housing sector. The key purpose in stopping mortgage repossessions at this time is to prevent households becoming at risk of homelessness and being forced to enter (possibly multiple) other households at a time when that is prohibited.

Consultation

5. There has been no public consultation in relation to this instrument.

Impact Assessments

6. An Equality Impact Assessment, an Island Communities Impact Assessment and a Business and Regulatory Impact Assessment have been prepared for this instrument. Other Impact Assessments have not been prepared for this instrument. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
22 January 2021

SPICe **The Information Centre** An t-Ionad Fiosrachaidh

COVID-19 Committee

Tuesday 2 February 2021

SPICe COVID Update Paper

Introduction

This note provides links to a selection of sites with the latest available data, charts and interactive maps on COVID-19 in Scotland, plus wider health and wider social and economic indicators.

Updates

- **Scottish Government** - [latest protection levels: daily data for Scotland](#) and [analysis of the epidemic as at 4 January 2021](#) behind the decision to move to lockdown.
- **Vaccinations data** – published on the [Public health Scotland COVID-19 statistical report](#) from 23 December onwards.

SPICe levels information

- **SPICe** – blogs on local [protection levels](#), [cases at a local level](#) and [latest available data](#) on testing, deaths, hospital admissions, and NHS absences, and blog on protection (NB please open using google chrome).
- **Public Health Scotland** - [Daily dashboard](#) (includes daily update, cases by neighbourhood, trends and demographics, and data table).
- **Public Health Scotland** - [Wider health impacts dashboard](#) - includes analysis of summary trends (e.g. hospital admissions, ambulance figures, excess deaths), cardiovascular statistics, child health, mental health and pregnancy.
- **Scottish Government** [four harms interactive dashboard](#) – provides data and visuals on a range of indicators relating to the four harms: direct impact of COVID-19, other health effects, economic effects and social impacts.
- **Improvement Service** - [Dashboard on economic impacts](#) in Scotland.
- **Transport Scotland** - [Information on transport trends and public attitudes](#) towards transport for the pandemic period.

Further Background

- **SPICe blogs** – [links to key sources](#) and [timeline](#).
- **Scottish Government** [equality evidence finder](#).
- **Public Health Scotland** – [Open Data](#) includes analysis by age, sex, are and deprivation. And [Weekly report](#) (NB: published Wednesdays).

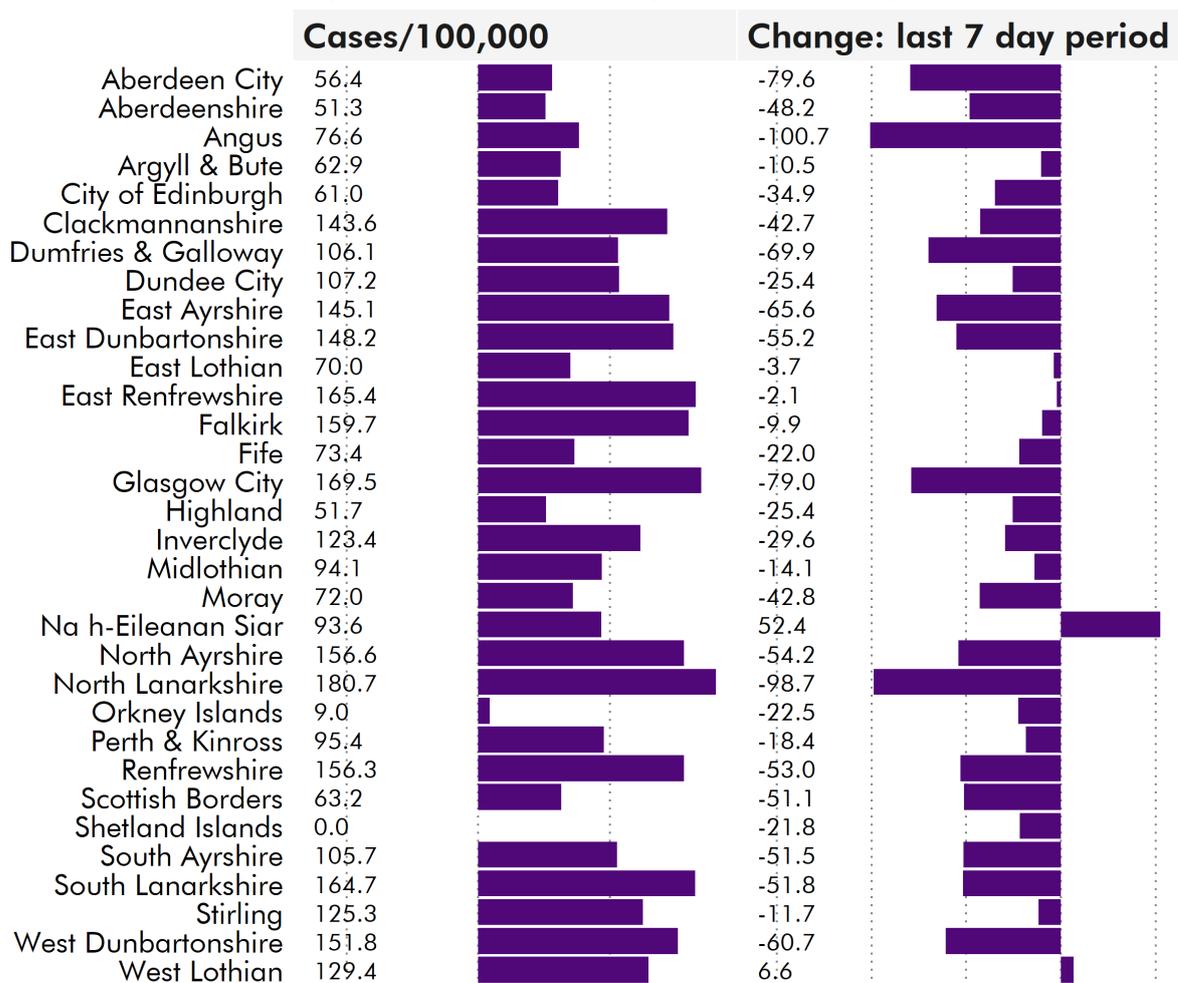
- **Scottish Government** (as at 28 October) – [Allocations of Levels to local authorities](#) from Monday 2 November (including modelling paper/slide pack).
- **SPICe blog** - [Coronavirus \(COVID-19\): Vaccinations in Scotland – latest data](#) provide breakdowns of who has been vaccinated by age, sex, health board and eligibility criteria.

Summary of Indicators

Due to the decision to move to lockdown there is no weekly protection level document published. We have provided analysis of the number of cases by 100,000 of the population and test positivity by local authority. The data in the following charts are based on the methodology used by [Public Health Scotland in their daily dashboard](#).

Positive cases per 100,000 of the population by local authority

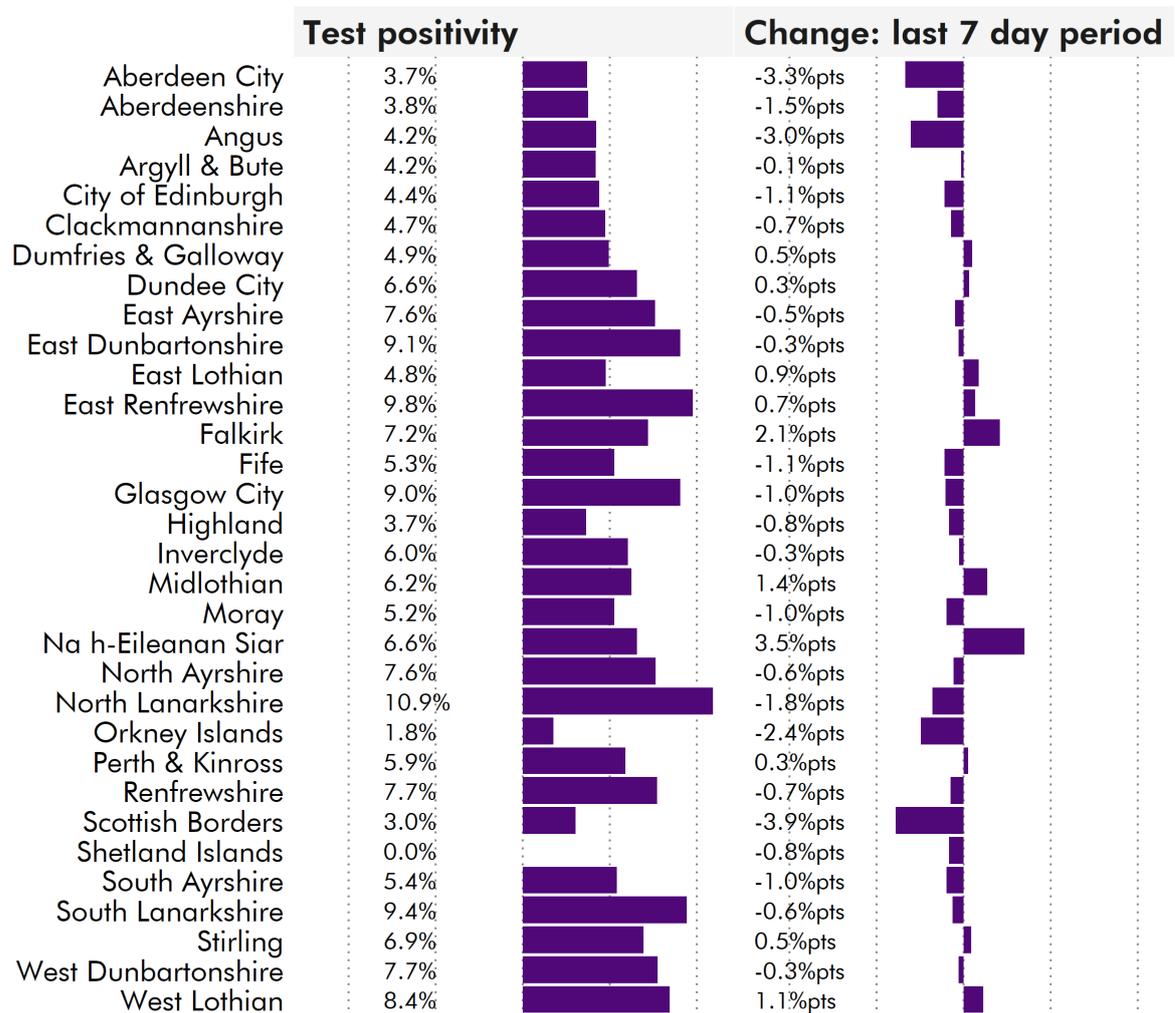
Data for the seven days between 26 January and 1 February 2021



Source: Public Health Scotland

Test positivity by local authority

Data for the seven days between 26 January and 1 February 2021



Source: Public Health Scotland

Simon Wakefield and Andrew Aiton, SPICe; (2 February 2021)