



OFFICIAL REPORT
AITHISG OIFIGEIL

COVID-19 Committee

Friday 24 April 2020

Session 5



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Friday 24 April 2020

CONTENTS

	Col.
CONVENER	1
DEPUTY CONVENER	3
COVID-19 (SCOTTISH GOVERNMENT RESPONSE)	4
WORK PROGRAMME	34

COVID-19 COMMITTEE

1st Meeting 2020, Session 5

CONVENER

*The Convener (Murdo Fraser)

DEPUTY CONVENER

*Monica Lennon (Central Scotland) (Lab)

COMMITTEE MEMBERS

- *Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
- *Annabelle Ewing (Cowdenbeath) (SNP)
- *Ross Greer (West Scotland) (Green)
- *Shona Robison (Dundee City East) (SNP)
- *Stewart Stevenson (Banffshire and Buchan Coast) (SNP)
- *Adam Tomkins (Glasgow) (Con)
- *Beatrice Wishart (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Russell (Cabinet Secretary for the Constitution, Europe and External Affairs)

CLERK TO THE COMMITTEE

Jim Johnston

LOCATION

Virtual Meeting

Scottish Parliament

COVID-19 Committee

Friday 24 April 2020

[Stewart Stevenson opened the meeting at 10:00]

Convener

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I welcome members to the first meeting of the Covid-19 Committee.

I acknowledge that the committee exists only because of the extraordinary circumstances that we face. I record the committee's condolences to all those who have lost loved ones, and we applaud all those who are working tirelessly to save lives and those who are working to keep us safe and well in our homes.

I thank all members for their attendance today in these unusual circumstances. I also thank our parliamentary staff—in particular, the broadcasting office—for all their hard work in setting up this remote formal meeting of the committee.

As we are meeting remotely, I request that members speak only via the chair. No apologies have been received.

The first item that is listed on our agenda is declarations of relevant interests; members all have an entry in the published register of members' interests. However, given that we are meeting remotely, rather than go round each member individually now, I invite members to declare relevant interests when they speak for the first time. I have no relevant interests to declare.

Under agenda item 2, the committee's task is to choose a convener. The procedure is explained in paper 2 from the clerks.

The Parliament has agreed that only members of the Scottish Conservative and Unionist Party are eligible for nomination as convener of the committee. I understand that Murdo Fraser is that party's nominee for the post. No member objects to Murdo Fraser being chosen as convener. As there are no objections, we agree to his being chosen. I congratulate Murdo on his appointment, and now hand over the chair to him.

Murdo Fraser was chosen as convener.

The Convener (Murdo Fraser): I thank Stewart Stevenson for chairing the first two pieces of committee business, and I thank the committee for choosing me as its convener.

As Stewart Stevenson acknowledged, this committee would not exist if not for the pandemic that we are facing. I add my sympathy for those who have lost loved ones, and I express, on behalf of all the committee's members, our thanks to all those who are working so hard to keep us safe and well.

I also thank the people in the Parliament who have helped us to set up the committee meeting today. The committee is in a unique set of circumstances that will bring their own challenges in the time ahead.

The committee sees its role very much as being to support all those who are on the front line and in Government, through scrutiny of public policy.

I declare, as is in my register of interests, that I am a member of the Law Society of Scotland and that I have property interests that generate rental income.

Deputy Convener

10:03

The Convener: The committee's next task is to choose a deputy convener. Parliament has agreed that only members of the Scottish Labour Party are eligible for nomination as deputy convener of the committee. As Monica Lennon is the only Scottish Labour Party member of the committee, she has been nominated for that post. I have not heard that any member objects to Monica Lennon's being chosen as deputy convener, so we agree to her being chosen.

Monica Lennon was chosen as deputy convener.

The Convener: I congratulate Monica on her appointment as deputy convener.

Covid-19 (Scottish Government Response)

10:04

The Convener: We now move on to item 4, which is evidence from the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell, who will provide an update on the Scottish Government's response to the pandemic and the Government's future legislative programme.

Cabinet secretary—thank you for making yourself available to the committee. Do you want to make an opening statement before we turn to questions?

The Cabinet Secretary for the Constitution, Europe and External Affairs (Michael Russell): I thank the committee for inviting me, and will start as you and Stewart Stevenson started, by reflecting on the fact that a tragedy—an individual tragedy for many people—has brought us together. All our thoughts and hearts will be with people who have suffered loss, and with those who are at present in anguish, with relatives and friends under treatment. They should be at the forefront of our thoughts, as should the people who are on the front line, defending the country and the people who live here against the pandemic. National health service staff must be mentioned first. We will all be applauding them, not just on Thursday nights, but regularly.

I pay tribute to the Scottish Government's staff, who have worked tirelessly and endlessly, and to my colleagues—in particular, the First Minister and the Cabinet Secretary for Health and Sport—who are doing an extraordinary job.

I also want to mention local authority staff. It might be unexpected from me, but I appreciate the work that is being done in every local authority in Scotland. These are extraordinary times for them. The staff who are dealing with grants are doing so under great pressure. I pay tribute to staff in my local authority area, Argyll and Bute, who are doing that and, more widely, to the trading standards staff, the environmental health staff, and all those who are having to do jobs that they never thought they would have to do, and are doing them with great dedication.

We will all be happy when the committee is no longer required; I look forward to that day, as I am sure the committee's members do. However, that is a considerable time away. In unprecedented circumstances, it is necessary to make unprecedented responses, and to allow unprecedented powers to be granted to the Government. The committee exists, at least in

part, to ensure that those powers are properly scrutinised before and after they go through the legislative process. The Scottish Government welcomes that scrutiny.

It is my responsibility to take forward the legislative part of the Scottish Government's response to the Covid-19 pandemic. With your permission, convener—I am open to being questioned on it—I want to outline briefly the approach that I and my colleagues are taking to that specific role.

I am undertaking four main strategies. The first is management of the overall legislative programme, and the second is development and management of further potential Covid-19 bills. The third is oversight of the public health regulations—the so-called lockdown regulations—and the fourth is co-ordination of reporting on implementation of Covid-19 legislation and regulations. I will touch on each of those, in turn.

The Minister for Parliamentary Business and Veterans, Graeme Dey, gave a statement to Parliament on 1 April, setting out the key principles that will guide the Scottish Government's approach to management of the legislative programme during the period. That supersedes any plans that were published previously. He made it clear that we will prioritise essential legislation—legislation on Covid-19 and non-Covid-19 legislation—above all else, and that we will make the best use of resources and parliamentary time.

The pressure on resources in drafting and passing primary and secondary legislation is considerable, especially given the demands of the emergency legislation. That will be even more difficult if the United Kingdom Government does not seek an extension to the Brexit timetable.

I can confirm that Graeme Dey is keeping delivery of the Government's legislative programme under active review in light of the pressures, and is consulting relevant conveners regularly.

During parliamentary scrutiny of the Coronavirus (Scotland) Bill, I said that a further bill will be necessary. I confirm that a second bill is likely to be introduced early in May. I hope to be able to outline the detailed contents of that bill in my parliamentary statement next week. The new bill is a product of further thinking within Government and of cross-party engagement, which I hope will lead to a bill that all parties can support. It is likely to be more modest and technical than the first bill, although it is still needed very much.

I hope that it will be helpful if I mention three types of item that are being considered for inclusion in the bill. First, there will be proposals for statutory timescales, such as relaxing

deadlines that apply to the establishment of the citizens assembly on climate change. Secondly, there will be items that will make medium-term changes, primarily to reflect the reality—it is a reality—that the consequences of the current situation will, to a greater or lesser degree, be felt for some considerable time. For example, we will have to make the legislative changes that are necessary to reflect the postponement of UEFA Euro 2020 until 2021. Finally, there will be responses to commitments that were made during the passage of the previous bill and the legislative consent motion on the UK Coronavirus Act 2020—for example, on giving landlords more time to submit audited accounts.

I am grateful to the parties that are represented on the committee for making suggestions, which are also in the mix. I hope that it will be possible to agree an expedited timetable for the bill. Powers will not be sought unless they are imminently required. Of course, I am keen to ensure that we can agree as much as possible of the bill and, as ever, to improve the bill during its passage, by means of constructive challenge and amendment. I am trying to devise a timetable, subject to Parliamentary Bureau agreement, that will allow for a degree of committee scrutiny, which will probably involve consideration of parts on two days in the chamber, rather than doing everything on a single day. My aim is to have the bill ready for royal assent in the last week of May.

Alongside that work, as members know, the Cabinet Secretary for Justice is consulting on proposals in relation to solemn court proceedings. When that process is complete, it will be clear whether a parallel process for a stand-alone justice bill will be required. However, I can confirm that the proposals relating to jury trials will not feature in the upcoming coronavirus bill. I am happy to undertake to keep the committee informed as that thinking develops, and I am also committed to continuing dialogue with the other parties on the content and conduct of the legislation.

I turn to the public health regulations that every member will have been involved in seeing implemented in their areas. The First Minister announced the outcome of the first review on 16 April, and we made small adjustments on 21 April. The next three-week review period for the regulations ends on 7 May.

Yesterday, the First Minister published the Scottish Government's thinking on the basis for carrying out future reviews. That paper, which sets out the criteria and factors that should be considered, and the framework on which decisions might be based, is a key focus for the Government in shaping our response. A copy of the paper was sent to you, convener, on publication, and was

announced to Parliament by way of a written answer to a parliamentary question. I am sure that members have a copy of it.

Finally, as members will know, the Coronavirus (Scotland) Act 2020 places a duty on the Scottish ministers to report on implementation to the Scottish Parliament every two months, with the first report being due on 31 May. When the LCM on the UK Coronavirus Act 2020 was being debated, I gave a commitment to report in the same way to Parliament on actions that are being taken under that act. It is my intention to combine both into a single report and, moreover, to add the items that will require reporting under the forthcoming bill, which will be coterminous in its review and renewal timings.

I have given careful thought to the content of the report. More than 40 items relating to the LCM and the first bill will require a measure of reporting—but, of course, they are not all the same in terms of what is necessary, desirable or even possible. The criteria by which we judge those in considering the information that the committee, Parliament and the people of Scotland will wish to see and question will be important, and I am happy to hear views on that matter today.

Obviously, the impact on vulnerable groups and the implications of measures for human rights will be important considerations, as will be the concerns that members raised during consideration of the LCM and the Coronavirus (Scotland) Bill, and those that they will raise during consideration of the forthcoming bill. The Scottish Government wants, and intends, to be as transparent and helpful to Parliament and the committee as we can be. We want and need the people of Scotland to have confidence that the measures are essential and are being used properly and proportionately, and—which is equally important—that they are not being used when they are no longer needed. We also want to avoid placing undue pressure on people who are on the front line, who need to be providing life-saving care and essential practical help to individuals, communities and businesses, rather than writing reams of reports.

I hope that the convener and other members have found those comments to be helpful. I emphasise that I am committed to helping the committee to discharge its remit effectively. You will speak to other cabinet secretaries who will have detailed knowledge of their policy areas, and I know that you will give careful consideration to how best to work with other committees and to take a proactive and proportionate approach to your work. I am happy to help you with that in any way that I can.

The Convener: Thank you, cabinet secretary, for that helpful introduction to the topics.

We intend to have a reasonably wide-ranging discussion. You have covered some of the areas that members are interested in asking questions about, such as how the regulations that derive from the existing legislation are being implemented and enforced, as well as the forthcoming legislation—I appreciate that you will make a statement to Parliament on that next week, but members might have questions on the details. There is also interest in the paper that the First Minister published yesterday on when, and on what basis, the lockdown provisions might end.

I will start off on the subject of the lockdown paper that was published yesterday, which was helpful in framing the debate. The Government has been very clear that now is not the right time to relax the existing restrictions, and a number of options are being considered, including the phased easing of restrictions. Can you clarify for the committee what the options for a phased easing of restrictions might include and whether some of that is likely to be prioritised?

10:15

Michael Russell: I think that it is important that we have as broad a view as possible—the First Minister has also indicated that. In a sense, nothing is excluded. If I were to start to list issues of geography or other issues, that would start the process of exclusion. The First Minister has tried very hard to say what the main issues are, she has listed six priority points, and she has asked how we will move forward with those in mind. It is up to the debate to start to fill in those points in the light of scientific advice.

The First Minister has said that the document is, in a sense, a first draft. That is probably one of the key elements of the document. As with all first drafts—we are all familiar with the process—things will be added. More information, views and scientific advice will be added, and what we can and cannot do will become clearer.

There has been speculation about whether there should be geographical lockdown. If we look at the daily figures on outbreaks in different parts of the country, we can come to conclusions about that, but we need to have a debate about it. It would be wrong of me to say that that is where the debate is going, but that is what people want to think about.

The First Minister made a really important point this morning—I think that you also made that point on the radio this morning. We must not introduce too much complexity into what we are trying to do, because people need to absorb and observe the simple message. We have said consistently to people, “Stay at home, protect the NHS, save lives”. That is a powerful message, and it

encompasses what people need to do. Equally, the regulations have not been complicated. People will have asked all of us for our interpretation of the regulations, but that can be reasonably easily set out. The regulations are quite clear: there is less than a page that affects what people should and should not do, and what they should do in their homes.

We should move forward in that way. Let us have a discussion. I hope that every member of the committee will contribute to that discussion. I am not here with the answers to that discussion; I am here to be part of it.

The Convener: I agree. That is a very helpful answer.

I want to follow up on two issues that you have touched on. First, you mentioned the complexity of messaging. The Scottish Government has recognised that decisions might be taken in Scotland that are different from those that are taken in other parts of the United Kingdom. Indeed, decisions might be taken in Scotland about different geographic areas making different choices to reflect the local situation—for example, rural or island communities might feel that their situation is different. However, that has to be weighed against any confusion of messaging. Two or three weeks ago, we saw issues to do with confusion in the construction industry because the UK Government was saying one thing and the Scottish Government was saying something different. How will the Scottish Government reconcile those two demands and ensure that we do not confuse the messaging?

Michael Russell: Those demands are reconciled by the science and the evidence. The First Minister has repeatedly said that she will take decisions according to the best advice that she has for the best outcome for the people of Scotland. That is the definition, and that is what guides us. It is quite clear that trying to avoid confusion is an element of that. If we look at the scientific advice and the decision-making process and ask whether something will help or hinder what we are trying to achieve, one element that we would consider is whether there would be a danger of confusing messages.

I represent a large number of island communities—there are 23 inhabited islands in the Argyll and Bute constituency. On some islands, it would be comparatively simple for people to say, “We don’t have a coronavirus case; we had one, but it has passed. Can we do something different here?” However, there would be issues. For example, although the First Minister might be happy with that, she might have to say, “My message applies to everybody, except for viewers on such and such an island, who should look away now.” That would not be sensible.

This will take a bit of time and a bit of getting used to, but the core of the issue is very simple: what is the best thing for the people of Scotland, and how do we implement that? It is not surprising that that would be the First Minister’s primary thought, because that is her primary duty.

The Convener: Thank you for that answer. There is just one more question from me. So far, we have seen substantial levels of public support for the lockdown measures that Governments have taken. To a large extent, the population has been self-policing in relation to the restrictions that have been introduced. In general, people have listened to admonitions from those in public office, from chief scientific advisers and from chief medical officers, and have adhered to them, which is very welcome.

How will the Scottish Government ensure that the public are taken along with the decisions that are being made? Although that is happening now, two or three months down the road, people might start to get frustrated with the situation. Do you agree that public buy-in and consent are absolutely vital? How will they be achieved?

Michael Russell: The “Looking beyond lockdown” document, which was published yesterday, is about the people of Scotland being co-decision makers; it is not about these things being decided on and imposed on people.

I want to be very complimentary about all my fellow citizens of Scotland. They have observed the lockdown measures extraordinarily well in very difficult circumstances. The police have acted with amazing discretion and are doing their job in a professional, admirable way, as have others. Not very far from where I am sitting now, on the Isle of Bute, CalMac Ferries staff have been having to say to people, “We do not believe you should travel.” That is hard to do, and they were never trained to do it. However, they have done extraordinarily well in difficult circumstances, given the particular difficulties here.

The people who are doing their jobs are doing them well, but it is the people of Scotland who are observing the lockdown measures and the levels of observance have been extraordinarily high. Indeed, Deputy Chief Constable Graham said today that the levels of prosecutions, warnings and crimes have been low.

However, lockdown is tough and it gets tougher day by day. We are coming to the end of the fifth week of lockdown. It is hard, and we have considerable time in lockdown left in front of us. We therefore have to make sure that people recognise that there is a benefit from it. The benefit is to suppress and eliminate the virus. We will have to live with the virus at present and it

permanently, and we must work together to do that.

We also need to look forward to what the First Minister yesterday called the “new normal”. It would be foolish to say that there are opportunities ahead of us. However, we can build something new—something better. One example is the environment that we see around us. We are living today with a cleaner environment in many parts of the world, including in our own country, than we were six weeks ago, because we are operating differently. The level of pollution that we are creating from motor vehicles is different, and there are some extraordinary signs of that. In California, people are seeing the cleanest air in several generations. I have seen similar pictures of Delhi—I have been in Delhi several times and my perpetual memory of Delhi is of dust and smog. It is the same in Beijing. People can now see the horizon in those cities.

Things are happening and we are going to be co-creators not just of the way we move forward with this situation but of the world that we want to be in, and we should hold on to the idea that that lies ahead of us too. It is a long and difficult journey to get there, but we can aspire to something better. However, we can do that only if we get this right and, together, observe the necessary requirements that are laid upon us now.

The Convener: Thank you very much, cabinet secretary.

I will bring in the deputy convener, Monica Lennon. I remind her to start by narrating any relevant interests from her entry in the register of members’ interests.

Monica Lennon (Central Scotland) (Lab): Thank you, convener. I have no relevant interests to declare.

Cabinet secretary, I associate myself with your opening remarks, particularly your tribute to front-line workers. I agree that we have to avoid undue pressure on those who are on the front line.

The Coronavirus (Scotland) Act 2020 removed the requirement on local authorities to carry out social care needs assessments. Can you tell us how many times local authorities have dispensed with their duty to carry out those assessments? In what circumstances would such a step be needed or justified?

Michael Russell: That is a very good question. First, as I understand it, the relevant power has not yet been commenced, so—as far as I am aware—it has not yet been used. If I am wrong about that, I will correct the record.

You raise a good question about how we will report on the exercise of such powers. The issue is linked to something that Murdo Fraser touched

on in his questions. We have been discussing with other the Administrations in these islands, including the UK Government, the level of reporting that it is reasonable for people to expect us to undertake at this stage. One level of reporting is to say that a power exists; the second level is to say that it has been implemented; and the third level is to say that it has been used. Then we come to level of asking how often a power has been used. That may be a question that we want people to answer, but which they cannot answer immediately because they are up against it, operationally.

This will become clearer as we move towards the reporting period at the end of May, but I am looking at a matrix of decision making in which we prioritise powers. Some of them have key implications for human rights. The power that you mentioned is one, but there are others, too, such as those under the legislative consent motion and mental health legislation, and those under Scotland’s adults with incapacity legislation. We will look at those powers in a more detailed and more prioritised way in comparison with how we will look at powers under other, less central legislation.

We must also ask how we would get information on use of the powers from local authorities or health boards that are preoccupied with fighting the virus. Can we lay out a proportionate way of making sure that members, in their role of representing the people of Scotland, get an answer, and can interrogate the use of the power without creating difficult or damaging circumstances for those who are trying to deliver services? I am very aware of that issue.

On your question about the use of the specific power that you mentioned, I do not believe that that power has been commenced yet. If I am wrong, I will come back to you. Regarding the wider issue, we need to have a discussion about reporting. I will widen out my thoughts on that today if I can, and will certainly do so when I make a statement next week. As we move forward towards reporting, I will be happy to come back and talk in detail to the committee about our views on reporting and how we structure that.

Monica Lennon: It would be good to have that clarification, as I believe that the power was switched on on 5 April. We must find out how it is being used. When the UK Coronavirus Bill was being debated on 19 March, I sought the cabinet secretary’s assurance that everyone who needs care would still be able to request and access it. This week, BBC Scotland published a statement from Scottish Care. It said:

“Social work assessments are not being carried out as planned, therefore delaying or limiting the provision of new or additional support to individuals who require it.”

That could become an unintended consequence of the legislation. In his reply to me on 19 March, the cabinet secretary said:

“we can look at refining the process.”—[*Official Report*, 19 March 2020; c 68.]

What did he have in mind when he gave that response?

Michael Russell: I had in mind that I did not want the power to interfere with the service that was being provided to people who need it. That is a core issue, and it should not do so. The intention of the power is to ensure that the service can continue to be provided, and in a more expedited way as some of the detail does not have to be gone through.

That is the conversation that we should have. If there is evidence that the power is being used in a way that was not intended, or in a way that has unintended consequences, we must know about that and we must adjust the power or remove it.

I can give you an example of where we have done that. We made a small adjustment to the regulations last week, which I signed earlier this week. We did that because there was a requirement to change things that needed to be changed. We picked that up during questions. They were comparatively minor things, with the exception of making sure that social distancing was observed in workplaces, which was a major one. The other adjustments were comparatively minor, but they had come about as a result of recognising that issues had arisen.

It is the same as it is for the financial packages—the member no doubt has many constituents coming to her about those. It is inevitable when regulations or financial packages are constructed in haste and with the best of intentions that some things will not work exactly as expected, and that we will have to go back and do something about them. We should have the ability and the flexibility to do that.

If Scottish Care—or the member—has evidence of that happening, I would be happy for us to look at the powers again. That should be done with the portfolio minister, who would then tell me whether we need to make some changes or take action because something has gone wrong in the detail. I do not know whether the powers were operating on 5 April, but we need to find out whether that is the case. Let us see the evidence.

10:30

Monica Lennon: My understanding was that the power would be dispensed only if there were a real problem in a local authority, for example if many social work staff were absent or self-isolating or if people requiring care were unwell or

had Covid-19. Given that these are extraordinary powers, is the cabinet secretary satisfied that the Government will receive good, real-time updates on absence levels in the local authority workforce? For example, does he know how many social work staff have been absent during the last few weeks of the pandemic? Is the Government getting that kind of information regularly?

Michael Russell: There is inquiry into the level of workforce absence right across the public sector. For example, figures for the health service are published daily. I can tell Monica Lennon that, in the local authority in my area, the absence rate has diminished since the start of the pandemic. There would need to be some digging down into those figures.

I would caution the member that I have not seen any evidence that the power is being used or abused. I have not seen any evidence that local authorities want to use the power. However, if the member has evidence on that, I encourage her to bring it forward. If the appropriate policy minister receives such evidence, they should be saying that we need to look at it further—and I am sure that they would.

The Convener: The next question is from Shona Robison. Shona, I invite you to declare your interests before you begin your question.

Shona Robison (Dundee City East) (SNP): I have no relevant interests to declare.

I join everyone in thanking those who are working so hard on the front line to keep us safe and well.

I want to return to the framework document and pick up on Murdo Fraser’s point about taking the public with us, which has been so important in the lockdown so far. I would like to hear a little more about how the Scottish Government intends to do that. I have had some very positive feedback from constituents since the framework document was published. How will that document be taken out to reach a wider group of people? That is very important. What are the mechanics of doing that?

Michael Russell: That work is under way. The First Minister made it clear that she welcomes comments and contributions. An email address for comments has been published alongside the document. As representatives, we also have a role in talking to constituents and others. I have received a number of emails this morning from people in my constituency to say that they have read the document and have issues that they want to raise. There have also been positive comments. We must encourage people to do that.

It is not a formal consultation in the sense that there is no time—we cannot go through the normal regulations for consultations. A document has

been published and, unusually, the First Minister has said, "Tell us about this, discuss it yourselves and come back to us to debate and develop the document." It is not a case of saying yes or no to the things in the document; it is about learning from what people see in the document, from their experience and by sharing thoughts and ideas.

As Shona Robison knows as a constituency MSP, there has been no shortage of constituents who have ideas about how the pandemic should be dealt with. The framework is a useful way of challenging and channelling people's views, so that they can contribute to the decision-making process. I am sure that the First Minister will refer back to the document on many occasions and through her press conferences. I hope that the press will play a role in that. I am quite heartened by some of the commentary so far. We now need to make sure that the document is widely discussed. We should be doing that as MSPs, the press should be doing that and the Government is certainly doing it.

Shona Robison: One of the issues that will arise is the different impact on different groups. I was interested in some of the ideas about social distancing within schools and workplaces. It will be very important to work with local authorities and employers on the practicalities of that.

I am also quite concerned about those who are shielding, because the quite difficult message might be that shielding will have to continue for some time. As we go forward, how we speak to that group will be extremely important, and I am assuming that the Government is putting quite a bit of thought into that.

Michael Russell: Yes. How we reconfigure public services and public spaces in order to deal with changed circumstances is not entirely new. I am mindful of the fact that, some years ago, when I was education secretary, I was in New Zealand and I was taken to see a brand-new school that had been built after the earthquake in Christchurch. People there had rethought how the school should be used and how it might be affected by any future earthquake or difficulty of that nature. They had redesigned what a school was for and how a school worked to cope with changed circumstances. I heard this morning from an architect about how schools can be changed and reconfigured in comparatively simple ways to cope with distance.

There will be a very different way of living for quite a considerable period. We are all going to have to get used to that, just as you and I, as MSPs, are going to have to get used to this type of committee session. This is very different from what we have been used to as parliamentarians.

There will be a change, but it is a challenge that we are up to. That is the important point. We have never experienced this before, but there will be many ways to react to something as society changing, life changing and life threatening as the process that we are going through now. We have to react to it in a way that seeks to be positive and seeks change that will benefit all of us.

That relates to the wider spectrum of the type of society that we want to live in but also the details of that society, such as how schools operate. John Swinney was talking yesterday about the way in which we might have different age groups in school at different times. We will not go back to the same homogeneous approach. That is a challenge, but it is a challenge that our educationists and teachers are very much up to.

Shona Robison: That is reassuring. The engagement of those staff on the front line will be critical as we move to work in new ways.

You said that this is, in essence, a first draft of a framework. I presume that the Scottish Government will want to have a number of parliamentary processes. Obviously, this committee meeting is part of it, but going forward, with a living, breathing document, in what ways will you involve Parliament in making sure that everybody is signed up to what might be some quite difficult messages? We will need to absorb and get our heads around them, as well as encouraging and supporting the public to do so.

Michael Russell: That is a very good point. Parliament, as it comes back together, has had a limited number of sessions, but that number is beginning to grow. The technological delivery of Parliament is improving. The answer to your question is yes, and we need to do that in all those sessions.

I guard against saying that we are making decisions about this document. It is iterative, as the First Minister said; it is growing and developing. It is developing the co-decision making about how we move forward, accepting that that will be very tough and that we will all have to take responsibility for finding a way to do that.

Of course, Parliament must be strongly involved. I will certainly take that issue on board when considering what I am due to speak on next week in Parliament, and I will try to include in my statement some thoughts about that.

Stewart Stevenson: In the light of your opening remarks, I should declare that I am a complainant in a current criminal case, the hearing for which was postponed because of Covid-19. I will therefore not be taking part in any consideration of issues around solemn procedures.

Clearly, a number of bits of legislation that are not directly related to Covid-19 are going to proceed. It is important that we hear from you and perhaps from ministers responsible for policy a pretty robust justification for continuing to devote parliamentary and committee resource to getting in place things such as the deposit return scheme and the rules for paying farmers. There will be similar things in other policy areas. Is there anything that you can usefully say to us about those matters, cabinet secretary?

Michael Russell: As you know, on 1 April, the Minister for Parliamentary Business and Veterans made a statement in the Parliament about the Government's legislative programme. Let me deal with your question in three parts: first, the Government's legislative programme; secondly, members' bills; and thirdly, Scottish statutory instruments, or secondary legislation.

On the Government's legislative programme, there are three bills at stage 3 in the Parliament—that is, they are almost concluded and can be dealt with in a single sitting. They are the Consumer Scotland Bill, the Disclosure (Scotland) Bill and the Scottish Elections (Reform) Bill. It is our intention to conclude consideration of those bills as soon as possible. It would be foolish to get to stage 3 and not finish them, and they all have elements that are required. We certainly want and hope to bring them back between now and the summer.

How much of that work we can do electronically is a matter that the Parliament is still exploring. It is up to the Parliamentary Bureau and the Presiding Officer, but in my view nothing is outwith the wit of man and woman if thought is put into it. We hope to have those three bills through stage 3 before the summer; how that is done is a matter for the Parliamentary Bureau.

The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill is at stage 2. There is work to be done to bring the bill to fruition, but we hope to do that.

The Agriculture (Retained EU Law and Data) (Scotland) Bill is at stage 1, as are the Children (Scotland) Bill, the Civil Partnership (Scotland) Bill, the Defamation and Malicious Publication (Scotland) Bill, the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill and the Heat Networks (Scotland) Bill. All those bills have key issues in them. For instance, the Agriculture (Retained EU Law and Data) (Scotland) Bill is about the future support system, and it is essential that it gets through in a reasonable period of time. There is also the Hate Crime and Public Order (Scotland) Bill, which was introduced this week.

That is the core of the Government's legislative programme. We have dropped six proposals, as Graeme Dey said on 1 April that we would. Those proposals are sitting there and are not moving forward at the moment. Some bills will still need to be introduced in session 5—that is, between September and the election next May. For example, an annual budget bill is a necessity, and we have identified a couple of other bills in that regard. That is where we are now on Government bills.

On members' bills, we have Monica Lennon's Period Products (Free Provision) (Scotland) Bill, Daniel Johnson's Protection of Workers (Retail and Age Restricted Goods and Services) (Scotland) Bill, Neil Bibby's Tied Pubs (Scotland) Bill and Stuart McMillan's Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill. Only Monica Lennon's bill is at stage 2, but it might be possible to proceed with those bills. The standing orders will not allow other members' bills to be introduced after 1 June except in exceptional circumstances, so it could well be that those four bills are the only members' bills that will come into reckoning at this time—that might not be the case, but that is where we are.

There are several Covid SSIs that we need to put in place to make the Covid legislation work. Seven are active in the Parliament at the moment and 13 are planned. That represents a reasonably heavy workload for committees. There are also a number of other statutory instruments that we want to put through and that will need to be scrutinised carefully, as happened when we had the burden of no-deal SSIs and we had to deprioritise other instruments. We anticipated that we would lay 52 such SSIs in May and June. It is now unlikely that we will be able to process all of those, but some will be essential and some might be required to postpone elements of primary legislation.

Then there is the great unknown of what might happen with the Brexit legislation. If the UK Government were to continue with its current Brexit process—I hope that it does not do that, because that would be foolish—there would be a heavy burden of both primary and secondary legislation. I cannot put an absolute figure on that, but, after talking to officials, I think that our view is that the burden would be as heavy as the one that we took on when we processed the no-deal SSIs, when we dealt with more than 100 statutory instruments. That would place an enormous burden on a Parliament that is only now getting back to functioning and is not committed to anything like a normal pattern of work—and nor could it be, given how we are presently living during the lockdown.

That gives a sketch of the present situation. We will keep the matter firmly under review, and we will report on it regularly in the chamber. We would like to deliver as much of the legislative programme as we can, but the priority has to be delivering what is required for Covid-19.

10:45

Stewart Stevenson: My final question can probably be responded to quite briefly. Is the Government minded to consider additional measures that are not directly related to Covid-19 measures but that it would be proper to progress post Covid-19? In other words, is it the case that we will not simply wait for Covid-19 to burn itself out as a public policy priority but will start to look at some essential things that will lay the ground for what happens afterwards, whenever that happens to be?

Michael Russell: That is a very good question. In essence, I have just described the hangover from where we were before. I am quite sure that there will be a requirement for legislation that takes forward and anticipates the “new normal”, as the First Minister has described it, and we will, of course, want to prioritise that legislation.

There is a really complex series of decisions to be made, which we should make with the whole Parliament. The Government will have a view on what should happen and on our legislative programme, and the Parliament will have a view on how things should progress. It will not be easy, but we will want to ensure that, as we require legislation for the new normal, we are able to put that legislation through.

The Convener: I will bring in Adam Tomkins. I remind him to declare his interests.

Adam Tomkins (Glasgow) (Con): Good morning, everyone. I remind committee members that I hold a paid academic position in the law school at the University of Glasgow.

I have two questions about the very helpful framework for decision making that the Scottish Government published yesterday. The first is linked to page 14 of the document, which talks about the easing of the lockdown restrictions. You say that, as you ease the restrictions, as well as regular monitoring of Covid-19, there will be

“regular monitoring of the other health ... and social harms stemming from COVID-19”.

What do you mean by that? How will those other health and social harms be monitored so that you can effectively balance the various risks and harms in trying to get your response right?

Michael Russell: That is a very important question. I am not a health minister, so I enter into answering it with some trepidation, although I think

that the First Minister made this point last week, when she had alongside her at the press conference a psychiatrist who advises the Scottish Government, and the point was also made by the interim chief medical officer.

My understanding is that we need to consider a range of issues, particularly health issues, around Covid-19 that are to do not with infection by the virus but with the consequences of lockdown and the burdens on people. Some of those are the mental health issues that constituents are coming to us with. Additional expenditure and support are being provided for people who are feeling distressed and anxious as a result of the current circumstances—which one can fully understand. The present lockdown is a very difficult thing to live through, and all of us will have had good and bad days. The continuation of the lockdown will perhaps make matters worse for some people, so we need to consider such issues carefully.

It is also clear that there is considerable concern about people not presenting with other medical conditions as they would otherwise do. The interim chief medical officer talked about that issue yesterday, among other days, and I think that there has been coverage of it today. It is understandable that attendance at accident and emergency departments, for example, is down enormously. However, if people do not present with fears about their health, we will store up difficulties for ourselves in the future.

Yesterday, a consultant said that we might see an increase in the diagnosis of cancer after the lockdown because people have not done the checks that they otherwise would have done. I understand that such issues are being addressed. I do not have to tell you that the web of issues that are being considered as we look at the lockdown is immensely complex.

It was not easy to go into lockdown, but it was very direct—in essence, people were told to stay at home, protect the NHS and save lives. Now, a range of issues arising from that will have to be dealt with, and we will have to deal with them as a society. In entering into that discussion, we should be mindful of those issues, and they need to be part of the decision making. A very complex matrix of issues will have to be considered, and people’s views on the balance within that process will also have to be considered.

Adam Tomkins: I thank the cabinet secretary for that answer. I am particularly pleased that he mentioned mental health considerations.

An aspect of the lockdown that is affecting hundreds of thousands of people across Scotland—including me, as it happens—is people living in split families and people having partners with whom they do not live and are currently

unable to see. The mental and emotional toll that that takes on people needs to be part of the mix, as we think about how to ease the restrictions. I welcome that aspect of the cabinet secretary's answer.

The second issue about yesterday's document that I want to understand more about is the R number—the reproduction number. We think that at the beginning of the pandemic the R number was between 2 and 3. The document that was published yesterday says that it is now estimated, or understood, to be between 0.6 and 1. That does not sound like a big variation, but somewhere between 0.6 and 1 is actually a massive variation in terms of addressing the issues that yesterday's document focused on—namely, how and when we can ease lockdown restrictions.

Is there more that the Government can share with the committee so that we can understand the workings that led to that “best estimate”, as it is described in the document? How do we know that the R number is somewhere between 0.6 and 1, and how do we assess which end of that spectrum we are talking about? Are we talking about an R number that is just a bit over 0.5 or an R number that is only just less than 1? I ask the question because where we are on the spectrum will determine how quickly we can go ahead with easing the restrictions that are part of the lockdown.

The more we understand about the robustness of that number, where it comes from and how it has been arrived at, the easier it will be for the committee to do its job in holding the Government to account for the decisions that the cabinet secretary and his colleagues must make.

Michael Russell: You are pushing me in a direction in which I am ill qualified to go. The best explanation of the R number that I have seen is Angela Merkel's. In a meeting with federal prime ministers, she explained it to a journalist in terms that I could understand—I did not do biology at school much beyond O grade. The answer to the question should come from one of the statisticians or, probably, one of the doctors who are involved with the issue.

The simplest way for me to understand the R number is to think of it in terms of reproduction. If an individual reproduces and one follows on, the population survives; if the individual does not reproduce in the circumstances, the population eventually dies out, but it takes a bit of time. However, I do not know how the calculation is done. Adam Tomkins is right to say that the estimate that has been published is between 0.6 and 1, and that the desire is to keep it as low as possible—certainly, below 1. I will seek additional information for you.

Adam Tomkins: Thank you; I appreciate that. It will be helpful for the committee to have as much information as we can get, so that we can understand where the numbers come from, how robust they are and, therefore, how much weight they have.

My final question relates not to the document that was published yesterday, but to regulations. How does the Scottish Government gather and process information that comes to it about differences in how regulations are interpreted and enforced? We have already talked about the importance of taking the public with us, and the document that was published yesterday talks—quite rightly—about the on-going importance of adhering to the rule of law.

A very important aspect of both of those things—taking the public with us and the rule of law—is consistency in interpretation, but we all know that there are some cases in Scotland, even within the same local authority, of regulations not being consistently interpreted. That makes it all the more difficult for members of the public to be encouraged to understand that the rules apply to everyone, rather than their being subject to whims or arbitrary diktats that can be taken or left as and when people like.

It is really a process question. How is the Scottish Government gathering information about, for example, the way in which the huge police discretions in the regulations are being understood and applied consistently in the interests of the rule of law and of taking the public with us?

Michael Russell: The best thing that I can do in the circumstances is ask the Cabinet Secretary for Justice to respond to you in detail on that question. I understand that he is receiving reports from Police Scotland. Of course, it helps that we have a single police force, because there is therefore a central view of how such things happen.

As individual MSPs, we are picking up on issues related to inconsistency and are, I am sure, trying to discuss them with area commanders and others. I have certainly been doing that. However, there will be a national viewpoint, so I would like to get the justice secretary to respond. I made it clear at the beginning of the meeting that I am not the cabinet secretary for everything. I want the justice secretary to make the committee aware of that detail and will ask him to do so.

I will make an additional point in response to Monica Lennon's question. I have been advised that she is right and that the regulations were in force on 5 April. Formalisation of the regulations is still to be done, under the system. I will make sure that she gets an explanation of that. I am sure that the meeting is being watched by our ever-attentive

civil servants, who will be picking up the points that we want to tell people about.

To go back to Adam Tomkins's original point, I note that it is important that we, as politicians, acknowledge that we are under pressure in the lockdown and that we are not used to the pressures. It is important that we are open about that, because I know that it helps our constituents, who are in the same position and are often in difficulties. As Mr Tomkins knows, there is provision in the regulations for children to be with both parents who live apart, but there are difficulties for individuals and we need to be willing to support them. That is our job and we should do it.

The Convener: Thank you for that helpful clarification in relation to Monica Lennon's question.

I remind members and the cabinet secretary to take a breath before they speak, otherwise we might lose the first few words that they say.

I bring in Annabelle Ewing, and remind her to declare any interests.

Annabelle Ewing (Cowdenbeath) (SNP): Thank you, convener. I declare that I am a member of the Law Society of Scotland and that I hold a current practising certificate, albeit that I am not currently practising. Secondly, I rent out a flat.

I add my heartfelt thanks to all our front-line workers for all that they do.

The deadline for seeking an extension to the Brexit transition period is in a mere 67 days or so, yet the UK Government continues to set its face against seeking an extension. Will you expand on the risks that that approach by the UK Government could have in terms of how vital resources are deployed to tackle Covid-19, and the risk that they could be diverted from dealing with this unprecedented pandemic?

11:00

Michael Russell: Three issues arise from the UK Government's intention to continue with its approach to Brexit. They can be defined as resources, scrutiny and impact. On resources, all the resources of the Scottish Government are focused on defeating the Covid-19 virus. For example, today I heard that a group of civil servants with whom I have worked on other things are now involved in the testing scheme. A month or six weeks ago, they were working on entirely different matters. People have been transferred to different work, which they are doing intensively, and are simply not available to do other work.

As the committee is aware, we suspended the work that was being done on independence and

the independence referendum. Some of the team that was involved in that are now focused absolutely on coronavirus regulations. Everybody is focused on getting our approach to dealing with the virus right. I do not see where the resource is in the Scottish Government that can deal with Brexit at the moment—the same is true of the UK Government. I just do not know where the resource is. It appears that resource for that exists solely within the negotiating team, which is not even engaged with the other Administrations.

The joint ministerial committee (European Union negotiations) has not met since the last week in January—it will soon be three months since it met. It could meet virtually; I have requested that, but it simply has not happened. Moreover, I have not spoken to a UK Government minister on the matter in six weeks. I have requested such a discussion, but we have not had one. It is obvious that there is no resource in the UK Government for dealing with Brexit, yet it is continuing with its approach.

The situation in respect of scrutiny is deeply unsatisfactory, from the devolved Administrations' points of view. This week's negotiating round includes several topics that include devolved responsibilities, but we have not been consulted on them in the slightest: indeed, I have an outstanding request to the UK Government for consultation between our fisheries officials and its fisheries negotiators. Such consultation is essential, as the Scottish fishing industry knows, but it has not been implemented.

There is also no parliamentary scrutiny. We in the Scottish Parliament cannot scrutinise what is happening with regard to Brexit because, as I have indicated, we are up to our eyes in bills and Covid-19 related material. If Brexit material is added to that, we will simply not be able to scrutinise it properly. There is no scrutiny on Brexit taking place in the Scottish Parliament or at Westminster.

I turn to the impact of the UK Government's decision. The UK Government could, without any difficulty at all, request an extension of up to two years. The ability to do that is in the withdrawal agreement. It would be very hard to do so outside the withdrawal agreement—that would be foolish—but the withdrawal agreement allows the UK Government to make such a request. It could then work out its own plan for how to deal with that. That would avoid the impact on business and industry of having to cope with an enormous set of changes from the autumn to the winter and into next year.

The immigration changes will have a profound effect. At this time—bizarrely—10,000 people are being flown in from Bulgaria and Romania to work in fruit and vegetable picking in England. A

conversation is now taking place about the possibility of such people being flown into Scotland, because there is a shortage of workers in that sector here. The UK Government's immigration proposals will make the situation even worse, and will change all the paperwork that is required. Companies, which cannot get enough people to pick their fruit in order that they can make money, are being asked to put in new systems. That will apply right across the board—in the fishing industry, in manufacturing and in exports and imports. The difficulty in that would be enormous.

The financial impact would be significant, too. We already know that Brexit will have a very damaging impact; we have talked about that for a long time. If we add to that the impact of Covid-19—we are talking about a drop of 30 per cent to 35 per cent in gross domestic product this quarter—we can see that we face an extraordinary situation.

The UK Government's decision is wrong. We do not agree with Brexit, but we accept that it is going to happen. However, we cannot proceed with it at this stage. We need to ask what would be the best type of Brexit, given the changed circumstances; they have changed entirely.

I do not want Brexit—I still want to be part of the European Union, and we will continue to argue for that—but, for everybody's sake, the UK Government should not be pursuing its current approach: it should not be pursuing a hard Brexit. That is the widespread view. The International Monetary Fund, endless groups of business organisations and public opinion and polling have all said so. It is time that the UK Government started listening.

Annabelle Ewing: On the latter point, which is about impact, it seems to me that there is a fundamental inconsistency. On one hand, the state is seeking to provide very significant financial support packages to businesses—and quite rightly so, because we know that many businesses are struggling to stay afloat. However, on the other hand, the UK Government is blithely ploughing ahead with Brexit when we know that failure to seek an extension will inevitably pile economic pressure on to businesses. What kind of concerns have businesses, in particular, raised on those crucial issues?

Michael Russell: I think that incredulity is the tone that businesses are using, and their concerns are exactly as you have described. People do not believe that any responsible Government would press ahead with what are essentially the most enormous changes, without any safety net in place.

During the winter, there was an argument that, whatever happened, there would be negotiations with the US. There would be a US trade agreement, and everything would be fine. However, that held no water at all because the impact of an agreement would have been minor compared with the loss of European trade. Nonetheless, we now know that talks between the US and the UK have been disbanded because the US does not have the bandwidth to deal with them. Therefore, people in business cannot believe that Brexit is, in essence, going ahead with no safety net or provision, and yet it continues.

Annabelle Ewing: I have a final question, cabinet secretary. It is not your fault, but it is very dispiriting to hear that the UK Government has set its face against listening to those entreaties, which are coming from across the piece. What further representations can the Scottish Government make to seek to get a more rational result?

Michael Russell: We have continued to press for a JMC meeting and we will now do so again. We did that at the end of last week and into the weekend, and we will do so again this weekend. We ask for a JMC to be held, and I believe that the Welsh Government is in agreement with us, so we will talk with Northern Irish officials and try to get one going.

We cannot have a unilateral JMC. In the second week of March, before the lockdown began, the Scottish Government had a meeting with Northern Irish officials and Welsh ministers in London. Although we deliberately held the meeting in London, the UK Government refused to attend, which was nonsensical. There is no need to have a fight about it; we can have a meeting about whether it is sensible to seek an extension, which should be the case. I have to say that, based on the conversations that I have had with those in Brussels and across Europe—which I am trying to sustain—people are incredulous that we are still in this position. If there is a decision to extend, we can have a rational discussion about what happens next. However, there has to be a decision, and we will continue to seek one.

The Convener: The next question is from Ross Greer. Ross, can you please start by declaring any interests?

Ross Greer (West Scotland) (Green): I have no relevant interests to declare.

First, I associate myself with the remarks made by the convener, cabinet secretary and others. My prayers are with all those who have lost someone to this virus.

Touching on the exit strategy discussions that took place earlier in the meeting, can the cabinet secretary confirm, specifically, that the Scottish Government's testing target of 3,500 per day is the

target for the number of tests to be carried out, rather than the capacity for testing? He might be aware that the UK Government's target of 100,000 tests was initially going to be a capacity target. However, it has since confirmed that the target is to carry out 100,000 tests per day. Can he confirm that the Scottish Government's target is also for tests carried out, rather than capacity to do that number of tests?

Michael Russell: There is no point in having the capacity unless it is used. If the target is to carry out 3,500 tests per day, we have to use it. There is not really a distinction—it is a fine, hair-splitting point. If you have capacity of 3,500, you will want to use 3,500 and you will want to add pressure to continue to push it up. As the First Minister and the Cabinet Secretary for Health and Sport have indicated, the intention is to keep increasing the capacity.

Ross Greer: Thank you; that is useful. So far, for a variety of reasons, on some days, the testing capacity in Scotland has been underused by almost 1,000 tests.

I turn to the regulations and the questions that Adam Tomkins raised. There have been concerns about how the regulations, which are necessary, have been enforced. He might be aware of a concerning example of a disabled woman in Glasgow who rested on a bench for a time while she was taking her shopping home and was challenged by the police for doing so. Can the cabinet secretary confirm that people do not literally have to move continuously while they are outside?

Michael Russell: There is nothing in the regulations that says that people have to move continuously but, as politicians, we should be careful about doing anything other than saying that those are the regulations and that we expect the police, as public servants, to interpret them constructively and helpfully. Given the ferry travel issues in my constituency, I am aware of that. As politicians, if we get into a position of saying—no matter how unwittingly—"You can do this," it has a level of authority that it should not have. Therefore, we should say what is in the regulations, we should expect the police interpretation of that to be constructive, helpful and positive and we should trust them to do their job. If we come across evidence of people doing their job badly, they should be held to account for that. There has been video evidence of that, but not in Scotland, fortunately. I have seen no such evidence in Scotland—quite the reverse; I hear positive things about how the police have gone about that.

Ross Greer: I take the cabinet secretary's point. We do not want to be overly prescriptive in regulations but, if a consistent pattern of issues

such as that came up, and it would be more helpful than, for example, further training or guidance to police officers, would the Scottish Government be willing to clarify the regulations?

Michael Russell: As I indicated, we have added to the regulations in the past week. We did so deliberately and it might be useful to say why. With regard to the social distancing issue, it was clear that we needed enforcement powers for businesses, because the fact that that issue was not covered in the regulations was creating a difficulty, so it went in. A number of comparatively minor issues needed attended to; for example, we needed to make an active provision to ensure that livestock markets could continue to function. We knew that they could and that they were not specifically forbidden from doing so—we had the experience of them operating during the foot-and-mouth disease outbreak—but we needed to make it explicit.

We also needed to make it explicit that money advice centres could continue to operate, because there was dubiety about that. I will not go into the detail, but there was an issue about the difference between a crematorium and a burial ground, and we were able to clarify that. Therefore, where it is necessary, we will clarify the regulations. The same thing is happening south of the border; some regulations are the same and some are different and they are being clarified.

However, we do not need to clarify everything; common sense must apply. I commend that section of the regulations on the exemptions that exist for people with regard to leaving their homes, because the exemptions are clear. Where some of those are subject to interpretation, it is always useful to have a conversation with the police or somebody else, to make sure that one understands them properly. However, the police are enforcing them. Rightly, Adam Tomkins asked about the feedback process on that; we need to provide that, but we should trust the police to do their job. If we try to be the arbiters, we will fail, because we are not professionals in that field.

Ross Greer: Finally, can the cabinet secretary confirm that the Scottish Government's position is that mental health is as justifiable a reason as physical health for someone to leave their home? The regulations make it clear that physical health is justification, but they are not clear on mental health reasons being justification for people leaving their home.

Michael Russell: There are a number of areas in the regulations where things are implied; of course, health implies mental health. There have also been questions about how references to danger should be interpreted and whether we could add interpretations of that. It is important to recognise that danger has a wide-ranging

interpretation that applies to individual circumstances. However, as we discussed earlier, mental health is a crucial issue and needs to be borne in mind.

11:15

The Convener: The next question is from Willie Coffey. I remind you to declare any interests at the start of your first question, Willie.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I have no interests to declare, beyond those that are already set out in my entry in the register of members' interests.

I have a couple of questions for the cabinet secretary. The first is on the powers that the police have to enforce social distancing in the workplace, which you mentioned a moment ago, cabinet secretary. Will you say a few words about why those powers had to be revised last week and whether they now allow the police to close a business that is not complying or cannot comply with the regulations?

Michael Russell: A business simply should not be operating if it cannot comply with the regulations, and action can be taken on that. The reason for adding to the regulations was that it was not entirely clear what the authority was for imposing that requirement and it was necessary to have that clear authority. That provision is meant to be helpful, as are all the regulations, because it says, "If you do this, you can operate." Some categories of businesses are closed by regulation—obviously, that list needs to be looked at and thought about from time to time—but other categories of businesses are not closed by regulation and can operate, although they need to observe social distancing. The regulations are helpful, just as health and safety regulations are helpful, and should be seen as such. They allow businesses to operate and to have continuity, which is the right thing to do. The regulations are clear and are published, and all businesses should look at them.

Willie Coffey: My second question is about the impact of international travel on the transmission of the virus. Can you explain what powers we have to protect Scotland from travellers bringing the virus back in via our airports in particular? What can we do to protect our country and prevent the virus from peaking again?

Michael Russell: Clearly, the amount of international travel coming directly into Scotland now is limited. If you look at one of those flight apps you will be astonished to see that there is sometimes hardly anything in Scottish airspace. It is clear that the aviation industry has had a major collapse as a result of the virus. However, some people are flying into UK airports, particularly

those who are repatriating. My portfolio has been involved in the repatriation issue. Jenny Gilruth has been talking to the Foreign and Commonwealth Office, as have my officials. Transport Scotland has offered advice on how people can get back from London to Scotland, and some people are coming in that way. The advice is that, if someone has been to a place where there is coronavirus, which is now almost anywhere, they should self-isolate after coming back. We hope that people will observe that—it can of course be enforced, but we think that most people are observing it.

As the First Minister indicated yesterday in talking about moving on from where we are, if we required what we think would be necessary restrictions on foreign travel—mindful of the fact that, in China, the bulk of cases in recent times have been from people coming into China from elsewhere, although I think that no cases have been recorded there in the past few days—it would be for the UK Government to take action to close or severely restrict the borders. Immigration, which is a function that is reserved to the UK, would have to be involved in that. How that approach should operate is a matter for dialogue between the UK and Scottish Governments.

At present, self-isolation has been advised. There is also the issue of what is being tested for. We are testing for the virus to be active. Many people have been tested or looked at before they left to come here—that has been happening with repatriation flights, so there is a measure of checking there.

It is a live issue. I know that people want more action; that may come, but dialogue may be required between the two Governments to make it happen.

The Convener: The final member for me to bring in is Beatrice Wishart, whom I remind to state any interests that she wants to declare. [*Interruption.*] Do we still have Beatrice on the call? We cannot hear her. I suspend the meeting very briefly, while we try to resolve the issue.

11:20

Meeting suspended.

11:21

On resuming—

The Convener: After that brief interruption, I welcome back Beatrice Wishart. Please state any interests that you need to declare before you ask your first question.

Beatrice Wishart (Shetland Islands) (LD): Thank you, convener. I have no interests to

declare. I associate myself with comments by yourself, other members and the cabinet secretary: my thoughts, too, are very much with everybody who is working on the front line across Scotland.

My first question is about the testing and tracing proposals that are in the framework that was published yesterday. On page 19, the framework mentions digital tools and new, special teams for tracing people's contacts. How far have the Scottish Government and the UK Government got in developing tracing and tracking devices, and what is the latest estimate on when they will be available?

Michael Russell: I am not able to answer you on that point; I would want the Cabinet Secretary for Health and Sport to give you that information.

Testing and tracing is a key and integral part of any process on which we might move forward. Digital tools seem to be proving their worth in other places, but take-up of those has to be very high for that to happen. We need to consider both issues as we move forward.

I do not know what progress the Scottish Government has made in working with the UK Government on those digital tools, but we are building our capacity on testing and tracing. That work is not unique; it has been done before in many circumstances—although probably not to the same intensity—so there is an established pattern of how to do it. It involves a range of front-line staff, including people such as environmental health officers, who could take part in it.

Beatrice Wishart: Thank you, cabinet secretary; that is helpful.

I have seen reports that people who do not have smartphones might be issued with special devices to monitor their movements and their contacts with other people. If the Government is to put such an emphasis on tracking technology, I would want raise the issue of the digital divide in Scotland—that seems appropriate, given that I was locked out of the meeting just a minute ago.

If the tracking technology is so important, what will happen to people in remote and rural areas, where we know that technology fails? Figures from the University of St Andrews suggest that death rates from coronavirus could be 50 to 80 per cent higher in rural communities. If technology is the tool that the Government is going to use, how will people in rural and remote areas be protected?

Michael Russell: As a representative of rural and remote areas, and of a lot of islands—as you are—I am very conscious of that issue.

There has been considerable improvement in connectivity in those areas in the past few years. Connectivity is not as good as it is in the cities—as

you and I continue to say regularly to mobile phone companies and others—but it is a lot better than it was. The system may be able to cope. It is quite impressive that, apart from a very brief dropout a few moments ago, the system has been able to cope with the massive increase in the use of technology during the day, given that some people were doubtful that it could.

There is a separate issue about people having devices and needing training in the use of those devices. We will need to look at that very carefully to ensure that such training is available. I have seen the reports of the University of St Andrews study, which I understand reflects the ageing population in rural and remote areas. It is important to make that clarification because there are other issues in remote and rural areas in relation to the effectiveness of the lockdown—it is more effective because people are more thinly spread, which reduces the spread of the virus. Where I am sitting in rural Argyll, there is a density of one person per square mile. There is not the same pressure that there might be in other areas.

Beatrice Wishart: I go back to the issue of communication, which other members have raised. My final question is on how the Government is communicating new rules and regulations to the public and how it is bringing the public along. How much notice and advertising might be needed as new rules are introduced? What work has the Government done on that?

Michael Russell: That is a very important point that goes back to Murdo Fraser's first point. Simplicity and clarity are really important. Sometimes we get tired of repeated messages in politics, but they are effective. We need to ensure that we are continuing with the repeated message, and the process of changing or developing that message needs to be thought through very carefully. If we are going to do that, we need to have techniques that will put any change in people's minds and behaviour effectively and as quickly as possible. That is very much in our minds and will influence the discussion of the framework paper as we go forward.

We are not all news junkies; people do not watch the news all the time, and some people have switched off from watching the news, which is understandable. We have to find ways of communicating messages that are as simple as possible as effectively as we can.

One of the many advantages of the way in which the First Minister is approaching the issue is the element of co-decision making. If people are involved in making the rules, we know that they are more likely to observe those rules, which is an important factor.

The Convener: That concludes our question-and-answer session with the cabinet secretary. I thank all members for their questions and I thank the cabinet secretary for his time this morning. The sun is clearly shining in his window in Argyll—I hope that it does not dazzle him too much. It has been a comprehensive discussion on a broad range of subjects, cabinet secretary, and I am sure that we will be seeing you again before very long.

Michael Russell: Thank you very much. I want to stress that this is an iterative process and that I am happy to work with the committee collectively and individually. It may surprise people to know that the convener and I have been communicating on some issues, and I am happy to continue to update individual members. I also hope to make a statement in the chamber on Tuesday.

Work Programme

11:28

The Convener: The next item on our agenda is consideration of the committee's work programme. Do members agree to the work programme as set out in the paper that has been circulated?

Members indicated agreement.

The Convener: The intention is for our next meeting to take place on Wednesday afternoon. At that meeting, we will take evidence from the Deputy First Minister, John Swinney, who will give us more detail on the Scottish Government paper on arrangements for potentially ending the lockdown, which was published yesterday. There will be a chance for members to ask more questions about that on Wednesday.

I thank the clerks and the broadcasting staff. The technology appeared to work fairly well for us, apart from the odd glitch from Beatrice Wishart's end. I thank members for participating and for their forbearance in these rather unusual circumstances.

Meeting closed at 11:30.

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