

Final Business and Regulatory Impact Assessment (BRIA)

Title: Scotland's Strategic Framework: Hospitality Protections

Purpose and intended effect:

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

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

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

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

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

Hospitality Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Hospitality (restaurants, cafes, bars, public houses) – indoors	Licensing times apply	2130 Last Entry 2230 Closed	Alcohol only with main meal 1900 Last Entry 2000 Closed 'Wet pubs' Closed	No alcohol 1700 Last Entry 1800 Closed 'Wet pubs' closed	Closed
Hospitality (restaurants, cafes, bars, public houses) – outdoors	Licensing times apply	2130 Last Entry 2230 Closed	2130 Last Entry 2230 Closed 'Wet pubs' Closed	No alcohol 1700 Last Entry 1800 Closed 'Wet pubs' closed	Closed

The measures within the Strategic Framework explicitly focussing on hospitality include restricting opening times, restricting the sale of alcohol within hospitality venues, closing 'Wet pubs' (e.g. pubs without the ability to prepare and serve main meals on the premises) from level 2 upwards and at level 4 closing restaurants, cafes, bars and public houses. New guidance against non-essential travel in and out of level 3 and level 4 areas may also impact on city centre and rural hospitality.

Re-opening the sector following the initial lockdown period has been important to the recovery of Scotland's wider economy and wellbeing, albeit with much of the sector operating at below capacity. It

has benefited operators directly, and those employed within the sector, but also allows for the potential of wider economic benefits from customer expenditure to begin to recover. Furthermore, it has had a wider positive impact on socialisation and general wellbeing. Restrictive measures, particularly at the higher levels, will likely negatively impact and limit this economic and social progress.

Background:

The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to bring forward the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (“the first regulations”), to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. They came into force on Thursday 26 March 2020.

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

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

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

Scotland’s Strategic Framework:

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

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

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

Purpose and intended effect: Scotland’s Strategic Framework Hospitality Protections

Introduction

The hospitality sector is a very important part of Scotland’s economy and society. The food and beverages services sector, which comprises much of the hospitality sector directly employs 155,000 people¹. The hospitality sector has some particular features summarised below:

¹ Business Register and Employment Survey 2018

- Some local authorities (such as Highland and Argyll and Bute) are disproportionately dependent on the hospitality sector
- Women are more likely than men to work in the accommodation and food sector industry. Women constitute 52.3% of the tourism workforce²
- A large proportion of the workforce are young people: 36.7% of the accommodation and food services sector workforce is aged 16-24 compared to 12.3% of the workforce as a whole
- The majority of people working within hospitality work part time. This is particularly pronounced in relation to public houses and bars where over two thirds of employees work part time
- The industry sector with the highest proportion of non-UK nationals in the workforce is distribution, hotels and restaurants – 12.7 per cent of its workforce are non-UK nationals
- Hospitality is an important sector across Scotland, offering an important share of employment in both rural and urban areas
- In addition to the direct jobs in hospitality, the sector also supports 30,000 jobs across its diverse supply chains.

The sector is therefore an important contributor to Scotland's economic performance, and to economic opportunities for young people and those entering the labour market.

COVID-19 and the Hospitality Sector

The hospitality sector has been significantly adversely affected by COVID-19, and the necessary measures implemented to reduce and restrict the prevalence of the virus. For instance:

- The Scottish Government's Monthly GDP statistics for August show Accommodation and Food as 31% lower in August than in February, compared with 9.4% lower for the economy overall³.
- The Scottish Government's analysis of ONS's BICS statistics for Scotland includes information on the impact of COVID-19 on the Accommodation and Food Sector⁴. Key points include:
 - The overall share of businesses 'currently trading' in the Accommodation & Food Services sector was estimated as 80.1% in the period 5 October to 18 October 2020, compared with 95.3% for the economy overall.
 - In the period 21 September to 18 October, 73.1% of businesses in the Accommodation & Food Services sector reported experiencing a decrease in turnover compared with what is normally expected for this time of year. The comparable proportions for the economy overall is 51.3%.
 - The share of the workforce on furlough leave in the Accommodation & Food Services sector was estimated as 35.8% in the period 21 September to 18 October, compared with 11.9% for the economy overall.
 - 46.1% of businesses in the Accommodation & Food Services sector reported having no or less than 3 months cashflow in the period 5 – 18 October, compared with 30.8% for the economy overall.
 - 36% of businesses in the Accommodation & Food Services sector reported having no or less than 3 months cashflow in the period 5 – 18 October, compared with 15.1% for the economy overall

² Annual Population Survey 2019, and the Annual Survey of Hours and Earnings 2018.

³ <https://www.gov.scot/publications/monthly-gdp-august-2020/>

⁴ <https://www.gov.scot/publications/bics-weighted-scotland-estimates-data-to-wave-15/>

As well as its important economic contribution, hospitality settings provide important settings for friends and families to socialise, reducing the risk of isolation and loneliness. This will be particularly important as we enter the winter months. There are hospitality businesses across the country, providing important services to their communities.

We recognise that the industry has worked exceptionally hard since the start of the pandemic to adapt their businesses, to advise Government on alternative workable restrictions, and to support their communities.

However, hospitality venues fulfil many of the high-risk criteria for COVID-19 transmission, as transmission of SARS-CoV-2 is most strongly associated with close and prolonged contact in indoor environments. The highest risks of transmission are in crowded spaces over extended periods.⁵ This has formed the basis for consideration of further measures in recent weeks, including around hospitality settings, in response to the recent increases in covid-19 cases and transmission experienced across Scotland.

Alcohol consumption, which often takes place in hospitality settings, also alters your thoughts, judgement, decision-making and behaviour. Advice from the World Health Organisation, during the COVID-19 pandemic is to 'stay sober so that you can remain vigilant, act quickly and make decisions with a clear head, for yourself and others in your family and community', and that 'if you drink, keep your drinking to a minimum and avoid getting intoxicated'⁶. Following the easing of restrictions, including the reopening of the hospitality sector, we have seen an increased transmission of COVID-19⁷. In order to inform the development of the 5 levels approach, there has been extensive engagement with stakeholders to draw on their experience and ideas in how to find an appropriate balance between the benefits and risks of maintaining and adapting hospitality provision at different levels of Covid risk.

International hospitality restrictions in response to COVID-19

A number of European countries have introduced a range of restrictions on their hospitality industries, which cover similar actions for supporting a reduction in transmission of the virus as have been considered in Scotland and other parts of the UK. During the week commencing 19th October the following were identified:

- **Belgium** – from 19 October, all bars and restaurants across the country were closed for four weeks and a curfew will be in force from midnight to 5am, with the sale of alcohol banned after 8pm
- **Denmark** – in Copenhagen and surrounding areas, bars, restaurants and nightclubs must now shut at 10pm
- **France** – from 17 October, a curfew in Paris and eight other cities (population c.22m) was introduced prohibiting people leaving their homes from 9pm to 6am. This is intended to be in place for 4 weeks
- **Ireland** – Ireland has moved to the highest level of its restrictions, to last for 6 weeks and be reviewed after 4. Restrictions include: bars/restaurants takeaway only
- **Italy** – on 18 October, Italian Prime Minister Giuseppe Conte announced that Mayors across Italy can close public squares after 9pm. Restaurants and bars must operate by table service after 6pm (but can stay open until midnight)

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892043/S048_4_Transmission_of_SARS-CoV-2_and_Mitigating_Measures.pdf

⁶ https://www.euro.who.int/data/assets/pdf_file/0010/437608/Alcohol-and-COVID-19-what-you-need-to-know.pdf

⁷ <https://www.gov.scot/collections/coronavirus-covid-19-modelling-the-epidemic/>

- **Netherlands** – on 13 October, partial national lockdown was announced with all bars and restaurants closing for a month, a maximum of 4 people allowed to meet together
- **Portugal** – from 15 September, commercial establishments must close by 11pm and social gatherings are limited to a maximum of 10 people
- **Spain** – on 10 October, a 14-day state of emergency was introduced in Madrid and surrounding area. People cannot leave or enter the area without good reason, no social contact between different areas, hotels and restaurants are reduced to 50% capacity and must close at 11pm

A number of these countries have since strengthened these hospitality restrictions (most notably France, which has entered a national lockdown) in response to rising infection rates.

Policy Objective

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

Rationale for Government intervention

Strategic Intent

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

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

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

Transmission

SARS-CoV-2 can be transmitted by three main routes: close-range respiratory droplets and aerosols, longer range respiratory aerosols, and direct contact with surfaces contaminated with virus. Transmission is strongly associated with proximity and duration of contact in indoor environments. It is possible for SARS-CoV-2 to be transmitted at distances of more than 2 metres.⁸

We know from contact tracing, international evidence and scientific research that a wide range of social, residential and workplace settings have been associated with transmission. The highest risks of transmission, including those from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and no face coverings are worn

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892043/S048_4_Transmission_of_SARS-CoV-2_and_Mitigating_Measures.pdf

such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes, choirs and churches. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{9,10}.

Understanding settings where multiple risk factors come together, and large outbreaks are likely to occur, is important in controlling the epidemic.

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

However, it is recognised that hospitality venues are characterised by many of the high-risk factors associated with transmission of the virus¹¹ - including indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption¹². Another risk factor is the 1m distancing arrangement, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing¹³.

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, hospitality venues are popular locations and are attended by many people, typically from different households, specifically to meet for long periods of time, all of which amplify the risk of transmission. The risks in hospitality may be exacerbated by some behaviours. As people will generally visit with family or friends they will naturally be less concerned about distancing and this behaviour will also be influenced by the disinhibiting impact of alcohol.¹⁴

Alcohol

It is well established that alcohol is a psychoactive substance which inhibits judgement. The WHO Global Strategy recognises that intoxication with alcohol is associated with high-risk behaviours¹⁵. Alcohol intoxication is associated with a number of well-characterized changes in psychological function, including disinhibition and reduced consciousness¹⁶, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as

⁹ Leclerc QJ FN, Knight LE. What settings have been linked to SARS-CoV-2 transmission clusters? [version 1; peer review: 1 approved with reservations]. Wellcome Open Res 2020; 5:83

¹⁰ Dillon Adam PW, Jessica Wong et al. Clustering and superspreading potential of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infections in Hong Kong

¹¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/10/coronavirus-covid-19-evidence-paper---october-2020/documents/coronavirus-covid-19-evidence-paper-october-2020/coronavirus-covid-19-evidence-paper-october-2020/govscot%3Adocument/Coronavirus%2BCOVID-19%2529%2B-%2Bevidence%2Bpaper%2B-%2B7October%2B2020.pdf>

¹² <https://www.stir.ac.uk/media/stirling/services/faculties/sport-and-health-sciences/research/documents/re-opening-hospitality-alcohol-afs-stirling-briefing-26-june-2020.pdf>

¹³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892043/S04_84_Transmission_of_SARS-CoV-2_and_Mitigating_Measures.pdf

¹⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/10/coronavirus-covid-19-evidence-paper---october-2020/documents/coronavirus-covid-19-evidence-paper-october-2020/coronavirus-covid-19-evidence-paper-october-2020/govscot%3Adocument/Coronavirus%2BCOVID-19%2529%2B-%2Bevidence%2Bpaper%2B-%2B7October%2B2020.pdf>

¹⁵ <https://apps.who.int/iris/handle/10665/44395>

¹⁶ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

memory, divided attention, and planning¹⁷. It can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not¹⁸.

In relation to the specific risk of transmission of Covid-19, the direct effects of alcohol impair consumers' ability to comply with transmission control measures in hospitality settings. 'Drinking even small amounts of alcohol affects people's decision-making and lowers inhibitions. It can change the way people think and feel, and influence how they act. It impairs hearing, meaning people have to lean in closer to hear or shout, which increases aerosolization of the virus. It impairs vision, affecting the ability to judge distances. It lowers the immunity to infection. It is a diuretic, resulting in people needing to urinate more frequently. Separately and together, these effects will reduce the ability (and potentially willingness) of people to physically distance and comply with safety measures, creating an increased risk of virus transmission.' All of these risks are thought to increase proportionately, the greater the amount of alcohol sold and consumed¹⁹.

Given this evidence that alcohol consumption alters your thoughts, judgement, decision-making and behaviour, advice from the World Health Organisation during the Covid-19 pandemic is to 'stay sober so that you can remain vigilant, act quickly and make decisions with a clear head, for yourself and others in your family and community'. It adds that 'if you drink, keep your drinking to a minimum and avoid getting intoxicated'.²⁰

The role of hospitality

Hospitality reopened following entry into Phase Three of the Route Map. Scottish Government modelling of R at that time²¹ shows that around three weeks after the opening of hospitality, R rose to 1 and above. While this cannot be entirely attributed to hospitality, it is likely to have played a significant role²².

We have direct experience of using restrictions to hospitality to manage local outbreaks linked to such settings, and have used this experience to develop our wider approach. At the beginning of August there was a significant outbreak of cases in Aberdeen city, with tracing linking the outbreak back to several city-centre hospitality venues. Local restrictions²³ were quickly implemented in Aberdeen, including a ban on visiting houses, a ban on travelling more than five miles for leisure and, significantly, the closure of all pubs, cafes and restaurants within specified geographical boundaries.

The restrictions were implemented within a very short time frame, but compliance was seen to be very high and when they were lifted after approximately three weeks infections in the area had fallen from a peak of 32 a day, to 0²⁴. This demonstrated the significant impact that restrictions on the hospitality sector (as part of a broader package of measures) can potentially have in bringing outbreaks under control and rapidly reducing transmissions of the virus.

¹⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

¹⁸ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

¹⁹ Collins A and Fitzgerald N (2020): <https://www.stir.ac.uk/media/stirling/services/faculties/sport-and-health-sciences/research/documents/re-opening-hospitality-alcohol-afs-stirling-briefing-26-june-2020.pdf>

²⁰ https://www.euro.who.int/data/assets/pdf_file/0010/437608/Alcohol-and-COVID-19-what-you-need-to-know.pdf

²¹ <https://www.gov.scot/collections/coronavirus-covid-19-modelling-the-epidemic/>

²² <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/10/coronavirus-covid-19-evidence-paper---october-2020/documents/coronavirus-covid-19-evidence-paper-october-2020/coronavirus-covid-19-evidence-paper-october-2020/govscot%3Adocument/Coronavirus%2BCOVID-19%2529%2B-%2Bevidence%2Bpaper%2B-%2B7October%2B2020.pdf>

²³ <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-5-august-2020/>

²⁴ https://public.tableau.com/profile/phs.covid.19#!/vizhome/COVID-19DailyDashboard_15960160643010/Overview

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

Test and Protect data in Scotland is examined on a weekly basis to analyse attendance of a range of settings, including hospitality. It is important to note that due to the way the data is collated, there may be some overlap between settings and whilst a case mentions that they have been at a particular venue or gathering event this does not imply nor guarantee that they acquired infection at that location. From the details of interviews that have been completed as part of Test and Protect, the percentage of individuals who have tested positive for Covid-19 and who have reported hospitality exposure (pubs, restaurants, cafes etc.) was consistently over 20% in September (up to 26% at times)²⁵. And of the 7,292 new cases that were reported in the 7 days to 26 October, 1,441 cases (20%) reported eating out. Whilst these figures do not demonstrate that the infection was acquired at a hospitality setting, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves.

It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others. There are several studies indicating that many infected individuals have a common setting of exposure such as indoor dining. A recent systematic review showed that the majority of pre-symptomatic transmission events involved dining in close proximity²⁶.

Reduced opening times

Reduced opening times (or curfews) can be used a tool to suppress the spread of the virus by decreasing the time people spend in hospitality settings mixing socially and consuming alcohol. Clinical advice recommends that restricting opening periods will reduce the amount of alcohol consumed, thereby increasing the likelihood of compliance with COVID-19 mitigations (e.g. social distancing and mask wearing) whilst both in the venue and after leaving the venue.

A significant number of other countries across Europe and beyond have introduced curfews intended to reduce the time people spend in hospitality settings. In line with these international examples, Scottish Government has determined that curfews are an effective tool for limiting social interaction and alcohol consumption, and therefore the spread of the virus.

Conclusion

Limiting social mixing as much of possible in all settings is the most effective measure against transmission of the virus.

However, it is widely recognised that wider health and wellbeing is impacted by our ability to mix with other people. The effects of loneliness are profound and increased markedly during lock down, alongside big increases in mental health problems. The limitations on hospitality are part of an overall system to balance suppression of the virus whilst minimising wider harm to our health and wellbeing as well as minimising the wider social and economic harms associated with the measures. The levels approach sets out proportionate action to address the harm from the virus whilst acknowledging the wider health,

²⁵ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/10/coronavirus-covid-19-evidence-paper---october-2020/documents/coronavirus-covid-19-evidence-paper-october-2020/coronavirus-covid-19-evidence-paper-october-2020/govscot%3Adocument/Coronavirus%2BCOVID-19%2529%2B-%2Bevidence%2Bpaper%2B-%2B7October%2B2020.pdf>

²⁶ Qiu X, Nergiz AI, Maraolo AE, Bogoch II, Low N, Cevik M. Defining the role of asymptomatic SARS-CoV-2 transmission: a living systematic review. medRxiv 2020: 2020.09.01.20135194.

social and economic harms. When the risk of Covid rises, so too will the restrictions on the hospitality sector. Similarly as the risk falls, restrictions will ease.

Across all of the five levels we seek to balance:

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

Consultation:

Public Consultation: No (precluded by urgent implementation timescales).

Business: Business consultation has been ongoing throughout every stage on changes to hospitality guidance and regulations, building on our regular engagement with the sector since the start of the pandemic. Officials have also had weekly meetings with the hospitality industry and business organisations, including Scotland Food and Drink. This engagement has been instrumental in the formulation of the Strategic Framework, and the levels were updated in light of stakeholder engagement and ahead of the debate in the Scottish Parliament on the 27th October.

Among others, we have worked in partnership with the Scottish Licensed Trade Association, the Scottish Beer and Pub Association, UK Hospitality, the Scottish Hospitality Group, their industry legal advisers and the STUC, Unite the Union and Prospect. We also established the Scottish Tourism Emergency Response Group (STERG).

Our engagement with the industry has covered a variety of issues, and has previously contributed to a number of positive outcomes, including: the easing of restrictions affecting hospitality following the initial lockdown; exemption from two-metre distancing rule for the industry; implementation of additional mitigating measures; detailed sectoral guidance; and a comprehensive support package.

The Scottish Government has continued to engage proactively and meaningfully with the hospitality industry throughout the development of the new Strategic Framework, and as we move towards its implementation.

Throughout our extensive engagement we have listened to all of the concerns raised by industry representatives, and have worked in partnership with them to mitigate these concerns as far as the public health emergency has made that possible. We are aware that it has not been possible to fully address all of the issues raised, but we have always sought to balance our continued support for the sector with our primary objective of suppressing the virus and saving lives.

Since the publication of our draft Strategic Framework on 23 October we have received written submissions from the Scottish Beer and Pub Association, the Scottish Licensed Trade Association, UK Hospitality, and the Scottish Hospitality Group. These representations acknowledge our efforts to simplify the measures currently in place for the sector, while also highlighting issues of continued concern for their members – in particular the hospitality restrictions proposed for Level 3.

The key asks from the sector for the levels system included: allowing the consumption of alcohol outdoors and indoors with a main meal; introducing different time restrictions for different levels and changing the 22.00 curfew to a cut off for last entry; allowing business meetings in hospitality settings; enabling flexibility around the definition of outdoor space; and recommencing night-time events in Levels 0 and 1.

We welcome the industry's engagement on all the key issues they have raised, as we have throughout the pandemic. We listened to the sector's calls for exemption from the two-metre distancing rule, the implementation of additional mitigating measures, and a significant financial support package, and we acted. We continue to listen to their legitimate concerns and have made amendments to the new levels system to reflect as many of these as it is safe to do so at this time, including enabling pubs and restaurants to reopen in level 3, allowing alcohol to be served with meals in level 2, and extending opening hours in level 2.

We are continuing to work constructively with the hospitality sector to address all their requests for further clarity and certainty as we move into the new levels system. We are committed to ensuring that all of our decisions are made on the basis of the best available evidence, and recognise that continuous review of the current regulations will be important as we learn more about transmission through case studies and other sources of evidence. We will therefore continue to work with the sector on proposed additional mitigations, and keep the current measures within each of the levels under review.

For example, we will explore proposals for innovations to raise compliance amongst operators and customers, such as industry standards, staff training and sharing of best practice. We continue to discuss flexibility around the definition of outdoor space in order to facilitate more distanced sociability, as well as important issues relating to guidance and customer information.

While we are aware that it has not been possible to fully address all of the issues raised by the sector, we have always sought to balance our continued support for the sector with our primary objective of suppressing the virus and saving lives.

Options:

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

Across all Levels there are a number of mitigating actions required/permitted, including:

- eating and drinking while seated at tables is required at all levels
- takeaways permitted for alcohol and good at all levels, as per existing arrangements
- wearing of facemasks

A range of exceptions also apply at all levels, for example, for hospitals, schools, student accommodation, airside premises, and hotel room service.

Social gathering rules in place across Scotland also apply across all levels, and new guidance against non-essential travel apply in levels 3 and 4.

Sectors and groups affected

These Regulations will affect:

- Licensed premises (public houses, pubs, cafés, restaurants, hotels)
- Non-licensed premises (cafes, restaurants)
- Businesses that provide goods and services to the hospitality services, including but not limited to manufactures and wholesalers of food and drink, personal services companies
- Local Authorities
- Customers of hospitality sector
- Businesses providing services to customers for the hospitality industry (e.g. transport providers, fast food providers)

The key measures which will affect the hospitality sector are presented in this table:

Hospitality Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Hospitality (restaurants, cafes, bars, public houses) – indoors	Licensing times apply	2130 Last Entry 2230 Closed	Alcohol only with main meal 1900 Last Entry 2000 Closed 'Wet pubs' closed	No alcohol 1700 Last Entry 1800 Closed 'Wet pubs' closed	Closed
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They primarily relate to restricting opening times, restricting the sale of alcohol within hospitality venues and at level 4 closing restaurants, cafes, bars and public houses.

Our approach to assessing options

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

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

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

Options for 'Baseline' / Level 0

The Baseline (Level 0) is designed to be sustainable for longer periods. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission. Broadly, this level is the closest we can get to normality, without a vaccine or effective treatment in place. The Baseline is similar to what was in place before the 25 September, when licensing hours applied, table service, face coverings for customers and staff (when not eating and drinking), collection of customer contact details and no background sound (music and TVs) were mandatory and physical distancing rules applied.

Options for Level 1

Option 1: maintain Baseline

This option would mean that hospitality settings, whilst applying the mitigating actions that are required at all levels, could operate a full service.

This effectively takes Scotland back to the position prior to the 25th September when licensing hours applied. This would affect all hospitality venues. It would have a positive impact on their revenue generation, employment of staff, and on supply-side businesses – although customer numbers would still be limited by physical distancing requirements.

Beyond the risk-reduction benefits achieved from the mitigating actions in place since March, such as physical distancing screens, one-way systems, ventilation, use of contactless payments, and increased hygiene, the only additional public health benefits would be compliance with the newer rule on compulsory table service.

The opportunity for virus transmission would be relatively high, even taking into account the existing mitigations as businesses have already invested a lot of time, money, and effort in implementing these and the evidence demonstrates that hospitality venues continue to be high-risk settings.

In level 0, where there is very low incidence of the virus, social distancing measures, and restrictions on social gatherings will still be in place, and these are considered sufficient to support suppression of the virus. In level 1, there are slightly higher rates of virus and community transmission is starting to increase. Therefore there are greater public health risks of doing nothing to restrict opportunities for social mixing. Given the increased risk at level 1, doing nothing and maintaining the base line measures would not meet the public health objectives.

Option 2: Reduce opening times - close premises at 22:30

Reduced opening times is sometimes referred to as a curfew. This is a tool to reduce the time people spend in hospitality settings and therefore reduce the risks associated with social mixing as well as the risks associated with alcohol consumption, primarily its disinhibiting effects and the impact this has on compliance with mitigation measure to suppress the spread of the virus. As outlined in the rationale section of this paper, a number of countries have implemented curfews and they have been widely considered to have a positive impact on virus transmission.

This option would require that last entry to hospitality settings is at 21:30, and premises are closed at 22:30. Sector representatives highlighted that the implementation of a last entry time would help prevent pinch points, and enable customers to vacate premises in a more sporadic manner. Ministers also considered having a last entry where no trade was permitted beyond 22:00. This was an option published on 23 October, but following discussions with industry it was subsequently decided that 22.30 would be an appropriate time as it is marginally later than the proposals published on 23 October, but the difference was not large enough to have a significantly negative impact on potential transmission rates. .

This restriction would affect any premises that are likely to be open beyond 22:30. There are 5,156 pubs in Scotland (Oct 2020, Non-Domestic Rates Roll) who could potentially have restricted opening hours. The regulation would potentially affect some premises within this group more significantly than others depending on the nature of premises (for example if they are a city centre or local). It would also affect businesses more at certain times of the week than others, such as weekends.

Some restaurants would also potentially be affected by this restriction. There are 3,210 restaurants in Scotland (Oct 2020 NDR roll), but we do not have data on how many stay open beyond 22:30. Similar levels of variation of impact would apply as to the pubs.

The impact would be seen in reduced revenue from being able to operate beyond the closed time, in comparison with the baseline option. It would also impact on the workforce through a reduction in working

hours, or because they are employed within any premises which would have to close. There would be an impact on customers who would see the hours they could visit hospitality venues restricted. There could also potentially be an impact on complementary industries, e.g. transport providers or fast-food providers.

Stakeholders from the hospitality industry also highlighted that adjustments to the design of any curfew would provide public health benefits. They favoured a 'last entry' and 'closed' time, as opposed to setting closure time only as this enables exits to take place in a more staggered way, thus avoiding any crowding of exit points where people will come into greater proximity and potentially gathering on the street. This is based on their experiences with both systems, last entry and hard close. It is also important to note that the additional requirement for table service at all levels will also impact businesses, and potentially the number of customers they can safely accommodate.

Option 3: permit a longer gap between last entry time and closing time

As noted at the beginning of this document, we have had extensive engagement with stakeholders in the hospitality sector on the Strategic Framework. As part of these conversations we have discussed and considered a number of industry concepts on the subject of operating hours at all levels. Under levels 1 and 2 we have considered whether a longer period of time should be allowed between last entry and closing time. Whilst this would deliver economic benefits associated with longer opening times, it would carry the risk of increased transmission as people remain in hospitality settings for longer periods, and was not taken forward as an option on this basis.

We have documented elsewhere in the assessment the benefits of opening up the hospitality sector on the economy, the workforce and those in Scotland who enjoy socialising in these environments and the negative impacts restricting the sector could have. However, we have also noted extensively throughout the main policy aims of the Strategic Framework in relation to hospitality – to reduce the time people spend in hospitality to drive down the opportunities for COVID-19 to spread. It is in striking this balance, while taking on board the wishes of the sector that we have made changes to the operating hours within the levels. The allowance of increased opening hours at the lower levels should have economic benefits for a greater number of hospitality venues and their suppliers. It will also have the added benefit of increased opportunities and locations for people to socialise, reducing feelings of isolation.

In the higher levels, where measures are more restrictive, the aim is to reduce the spread of the virus as quickly as possible in order to move back down the levels.

Engagement with the sector will continue as we implement the levels and beyond.

Conclusion

In considering the evidence around options for level 0 and level 1 Scottish Ministers weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, and the social and economic harms of intervention. It was concluded that the selection of this measure - in preference to mandatory closures – dilutes the effectiveness in reducing the R rate, but this reduced effectiveness is offset by other measures implemented at this level and the fact that the degree of reduction needed to bring the spread of virus back until control will be less extreme. They concluded that a later closing time could both reduce interactions and have the desired impact on the R rate. They considered the options of having a closing time only, but decided to include a last entry time following consultation with industry. Stricter options, such as an earlier curfew or closures, were also considered but these were determined as disproportionate at level 1.

It was therefore determined that, in line with clinical advice, licensing times will apply under levels 0, and level 1 will have a last entry time of 21:30, and closure at 22:30.

Options for Level 2 and 3

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

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

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

OPTIONS FOR LEVEL 2

Option 1 for Level 2: maintain Baseline

This would mean that hospitality settings, whilst applying the mitigating actions that are required at all levels, could operate a full service, with all the benefits this has for continued income generation, employment of staff, and operation of supply-chain businesses. Beyond the risk-reduction benefits achieved from the mitigating actions (for example table-service and general rules on social gatherings) there would be no further public health benefits.

Under level 2, there would be increasing community transmission and multiple clusters. For example, more than 75 cases per 100,000 population²⁷. There are therefore greater public health costs of not restricting social interaction within high risk settings. Level 1 measures would, in many cases, have already been applied and would not have been sufficient.

Option 2 for Level 2: close premises at 20:00 and restrict alcohol sales to with a main meal and mandate closure of 'wet pubs'

Under this Option, the following key restrictions would be introduced:

- 1) All indoor hospitality premises (excepting 'wet pubs') would be required to close by 20:00, with a 19:00 entry time.
- 2) All outdoor hospitality premises (excepting 'wet pubs') would be required to close by 22.30, with a 21.30 entry time.
- 3) Alcohol sales indoors would be restricted to when ordering a main meal.
- 4) 'Wet pubs' (that is, pubs without the ability to prepare and serve main meals on the premises) would not be permitted to open.

Closing indoor premises at 20:00 and outdoor premises at 22.30

A curfew is a tool to reduce the time people spend in hospitality and therefore reduce the risks associated with social mixing and alcohol consumption. Clinical advice is that restricting opening periods will reduce

²⁷ Decisions regarding which level applies to each local authority will be informed by 5 key indicators: Numbers of new cases per 100,000 people, test positivity rate, future number of cases per 100,000 people, number of people likely to need acute hospital care in future weeks, number of people likely to need intensive care in future weeks. Further information on these indicators can be found at:

<https://www.gov.scot/publications/coronavirus-covid-19-allocation-of-levels-to-local-authorities/>

the amount of alcohol consumed thereby increasing the chances of compliance with Covid mitigations (social distancing and mask wearing) whilst both in the venue and after leaving the venue.

Closing venues at 20:00 will allow for some limited evening services whilst still having a more significant impact on transmission than the level 1 restrictions. Allowing premises to open, and serve alcohol, outside until a later time will allow for some further limited evening services without the same level of risk as applies indoors.

Later closing times were considered by Ministers, but considered not appropriate as they would be insufficient to control the virus at level 2 where there are increased transmission rates and the level 1 restrictions have not been effective at keeping them under control.

The closing restriction will affect the same sectors which are affected by the level 1 restriction, namely pubs, restaurants, and complementary industries. However, the likely scale and extent will be more significant as it will impact on all pubs and restaurants within the restricted area. More premises will be affected, at more points of the week. The impact would be seen in a greater reduction in turnover than compared with the baseline option. It will also have a greater impact on the workforce, through a greater reduction in working hours or a larger number of business which have to close.

Restricting alcohol sales indoors to only when also ordering a main meal:

Discussions with stakeholders highlighted that the option of allowing a modest amount of alcohol to be served with food should be considered. Feedback also suggested that the term 'substantial meal' was unclear, and that the term 'main meal' was preferable.

There is strong evidence that consumption of alcohol impairs perception of risk and ability to perform motor skills. Clinicians have concluded that people's ability to comply with mitigations against COVID-19 transmission (such as physical distancing, one way systems and face mask wearing) will be limited by drinking.

Consuming alcohol leads to less inhibited behaviour, including closer contact and touching other people and louder talking, all of which increase the risk of transmission.

Conversely, permitting alcohol consumption with a main meal is less likely to cause the lowering of inhibitions leading to negative behavioural results as eating lessens the impact of alcohol and slows down inebriation. There is also a consensus that only allowing alcohol to be consumed alongside a main meal will both reduce the volume and speed of consumption, as well as ensuring that people are required to stay sitting at tables rather than moving around and potentially coming into contact with others. It should also limit the amount of time people can drink alcohol in an establishment to a normal meal sitting.

It is, however, important to note that this restriction might generate a public health cost for those people wishing to socialise on the basis of alcohol only as they may well choose to contravene the rules and meet in households having purchased alcohol as off-sales.

The sales restriction on alcohol, apart from with a main meal, would affect licensed premises (pubs, restaurants, hotels), the wholesale industry which supplies and manufactures alcoholic products, and customers. It would have a much greater impact on 'wet pubs' where food service is not offered. The scale of the affect would be varied depending on the location of the hospitality setting, and the type of service. The scale of the affect would also be varied across the week, and would affect customers.

The impact would be seen in terms of lower demand and reduced revenue for the hospitality settings. Alcohol sales make up a significant proportion of industry sales and revenue, and restrictions on alcohol

sales, or permitting them only with a main meal, will inevitably reduce revenue and potentially make some businesses unviable. Alcohol restrictions would have the most significant impact on 'wet pubs'.

Restricting the sale of alcohol in this way may also affect the number of staff needed by hospitality venues, therefore leading to a reduction in working hours. In the case of wet pubs, it is likely to lead to the closure of these hospitality businesses, and the loss of jobs due to their inability to provide enough hours for their employees therefore making them ineligible for the UK Government Job Support Scheme – Open.

Restrictions on alcohol sales would also inevitably have an impact on the wider supply chain associated with the production and transportation of alcohol products. The scale of this impact would depend on the length of the restriction, and the extent to which restrictions on alcohol sales are also being applied across Scotland.

Restricting alcohol sales with a requirement to purchase a main meal may result in only those who can afford to do so having the option to attend certain hospitality settings, cutting off the poorer members of society from social settings and increasing the risk of social isolation.

Despite these risks, restricting alcohol consumption is considered necessary to reduce the associated risks and to limit the amount of socialising taking place in hospitality premises. Allowing alcohol with a main meal at level 2 allows some alcohol revenues to be retained by many businesses – as does allowing alcohol consumption outdoors. This is considered a proportionate response at this level.

Mandated closure in law of all 'wet pubs'

The mandated closure of wet pubs would affect the premises themselves, but also their employees, customers and wider supply chain.

At level 2 other restrictions are proposed which make 'wet pubs' (that is, pubs without the ability to prepare and serve main meals on the premises) potentially unviable. Those are restrictions which require a main meal to be served with alcohol (level 2).

Such businesses might continue to be able to trade despite these restrictions (for example, by serving only non-alcoholic drinks and light snacks for consumption on the premises), or by adapting their business (for example, by installing a kitchen, or bringing a mobile kitchen onto the premises, and being able to serve main meals). However, this approach may be unviable for their business and also their ability to provide their employees with 20% of their hours as is required to access the UK Government Job Support Scheme-Open and business support package from Scottish Government.

Stakeholder feedback indicates that the most advantageous would be to close in law because of the viability issues they see and the potential for it to lead to job losses and higher unemployment. They are clear that it is crucial that unviable businesses are able to draw on the correct support for closed businesses, namely the Job Support Scheme – Closed from the UK Government and support grants from Scottish Government.

Closing all wet pubs and restricting the sale of alcohol would have the same public health benefits as have been presented in section above and, by reducing the opportunities to meet in close-quarters, could help to reduce the spread of the virus. However, it would also negatively impact on people's ability to socialise and could increase the possibility of harm from social isolation and loneliness and may encourage people to meet in homes instead.

Option 3: permit all hospitality settings to open with alcohol permitted, no meal required, with time restrictions

The option to allow hospitality venues to serve alcohol without the requirement to eat a meal alongside, in combination with reduced operating hours was considered.

The option was not taken forward for two main reasons. Firstly, as noted above, the evidence shows that the consumption of alcohol lowers compliance with the mitigations, thereby increasing the risk of COVID-19 transmission. This is a particular risk in wet pubs where there are limited options to offset the effects of alcohol with food. Secondly, the intention behind the levels approach is that a local area is not at an elevated level with strict restrictions for more than is absolutely necessary and that any action taken must be with the goal of suppressing the spread of the virus and moving a local area to a lower level. The risks inherent in the proposed measure were considered to increase the likelihood of further transmission and movement into level 3.

Option 4: permit a longer gap between last entry time and closing time

As noted under level one options, we engaged extensively with the sector and considered whether a longer period of time should be allowed between last entry and closing time for indoor and outdoor premises. It was noted that increased opening hours could have economic and social benefits however could present a public health risk by allowing for increased opportunities for the spread of COVID-19.

Conclusion:

The policy intention behind changes to hospitality operations is twofold: it is about reducing the opportunity for people to mix, and reducing the consumption of alcohol to improve compliance with social distancing rules and other mitigations for transmission of COVID-19.

The concerns around the sale of alcohol - and the resultant impact on adherence to restrictions – is mitigated to some extent by restricting alcohol sales to those alongside a main meal, taking into account the impact on impact and volume consumption previously outlined. It has therefore been determined that, on balance, permitting alcohol sales alongside a main meal would be proportionate in Level 2.

On balance of risk, it was assessed that closing premises at 20:00 for indoor premises would be proportionate to the transmission risks associated with level 2 and closure at 22:30 for outdoor premises which takes account of the different risk levels for indoor and outdoor settings. On the basis of stakeholder feedback and the difficulties that most wet pubs may face in order to operate effectively if they were to remain open, it was decided that the most advantageous outcome for the sector to close wet pubs at level 2.

OPTIONS FOR LEVEL 3

Under level 3, there would be increasing community transition and multiple clusters. For example, more than 150 cases per 100,000 population²⁸. There are therefore greater public health costs of not restricting social interaction within a high-risk setting as the virus would continue and accelerate its spread, ultimately resulting in direct harms to health.

Under this Option, three key restrictions have been identified as having the combined desired impact to help reduce transmission rates and would therefore be introduced:

- 1) All hospitality settings would be required to close by 18:00

²⁸ Decisions regarding which level applies to each local authority will be informed by 5 key indicators: Numbers of new cases per 100,000 people, test positivity rate, future number of cases per 100,000 people, number of people likely to need acute hospital care in future weeks, number of people likely to need intensive care in future weeks. Further information on these indicators can be found at: <https://www.gov.scot/publications/coronavirus-covid-19-allocation-of-levels-to-local-authorities/>

- 2) Alcohol sales would not be permitted
- 3) 'Wet pubs' would not be permitted to open

Option 1 for Level 3: level 0 Baseline

This would mean that hospitality settings, whilst applying the mitigating actions that are required at all levels, could operate a full service, impacting on revenue, employment of staff, and on supply-side businesses. Beyond the risk-reduction benefits achieved from the mitigating actions (for example table-service) there would be no further public health benefits.

Option 2 for Level 3: permit all hospitality settings to open but require premises to close at 18:00, restrict all alcohol sales and mandate closure of 'wet pubs'

Under this option, most hospitality settings would be allowed to open. However, trading hours would be limited with last entry set at 17:00 and closure at 18:00. No alcohol sales would be permitted and 'wet pubs' would be required to close.

Restricting all alcohol sales:

There is strong evidence that consumption of alcohol impairs perception of risk and ability to perform motor skills^{29 30}. On this basis it has been concluded that people's ability to comply with mitigations against COVID-19 transmission (such as physical distancing, one way systems and face mask wearing) is often limited by drinking alcohol³¹. It is widely accepted that consuming alcohol leads to less inhibited behaviour, including closer contact and touching other people and louder talking, all of which increase the risk of transmission. As yet there is no published scientific research specifically into alcohol inhibitions and COVID-19, but the general risks associated with hospitality are explained above and in the published paper by the Chief Medical Officer, the Chief Nursing Officer and the National Clinical Director on 7th October³². Advice from the World Health Organisation during the Covid-19 pandemic is to 'stay sober so that you can remain vigilant, act quickly and make decisions with a clear head, for yourself and others in your family and community'³³.

This option would restrict the sale of alcohol in a hospitality setting in a Level 3 area. This sales restriction would affect licensed premises (pubs, restaurants, hotels), the wholesale industry which supplies and manufactures alcoholic products, and customers. It would have a much greater impact on 'wet pubs' where food service is not offered. The scale of the affect would be varied depending on the location of the hospitality setting, the type of service, and how easy it is for a setting to adapt to the new model. The scale of the affect would also be varied across the week. It would also affect customers.

The impact would be seen in terms of a considerable reduction in demand and in revenue for the hospitality settings. Alcohol sales generate greater margins than food sales Restrictions on alcohol sales,

²⁹ <https://apps.who.int/iris/handle/10665/44395>

³⁰ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

³¹ Collins A and Fitzgerald N (2020): <https://www.stir.ac.uk/media/stirling/services/faculties/sport-and-health-sciences/research/documents/re-opening-hospitality-alcohol-afs-stirling-briefing-26-june-2020.pdf>

³² <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/10/coronavirus-covid-19-evidence-paper---october-2020/documents/coronavirus-covid-19-evidence-paper-october-2020/coronavirus-covid-19-evidence-paper-october-2020/govscot%3Adocument/Coronavirus%2BCOVID-19%2529%2B-%2Bevidence%2Bpaper%2B-%2B7October%2B2020.pdf>

³³ https://www.euro.who.int/data/assets/pdf_file/0010/437608/Alcohol-and-COVID-19-what-you-need-to-know.pdf

or permitting them only with a main meal, will reduce revenue. Alcohol restrictions would have the most significant impact on 'wet pubs'.

Restricting the sale of alcohol may also affect the number of staff needed by hospitality venues, therefore leading to a reduction in working hours. In the case of wet pubs, it is highly likely to lead to the closure of these hospitality businesses, whilst the restrictions apply, with subsequent impact on jobs and the future viability of the business.

Restrictions on alcohol sales would also inevitably have an impact on the wider supply chain associated with the production and transportation of alcohol products. The scale of this impact would depend on the length of the restriction, and the extent to which restrictions on alcohol sales are also being applied across Scotland.

The restriction would also impact on customers who would not be able to purchase alcoholic drinks. It might generate a public health risk due to those who wish to socialise and consume alcohol choosing to contravene the rules and meet in households having purchased alcohol as off-sales.

Mandating closure of all 'wet pubs'

Mandating closure of wet pubs in level 3 is expected to have the same impact and benefits as those set out in level 2 above. However, there would likely be additional negative impacts felt by wet pubs, their employees and their supply chains should the local area where they are situated remain at level 3 or level 2 for a sustained period of time.

Closing premises at 18:00:

In this instance a curfew of 18:00 is designed to reduce the time people spend in hospitality settings and therefore reduce the risks associated with social mixing and transmission of the virus.

This option would mean that last entry is at 17:00, and all hospitality settings would need to be closed by 18:00. This would affect any premises that are likely to be open beyond 18:00. This would include pubs, restaurants, cafes, and hotels. The regulation would potentially affect some premises within this group more significantly than others depending on the nature of premises (for example if they are a city centre or local). It would also affect businesses more at certain times of the week than others.

The impact would be seen in reduced revenue from being able to operate beyond the closed time, in comparison with lower levels' restrictions. Discussions with stakeholders highlighted that this closure time meant that, for the vast majority of hospitality businesses, it would preclude the serving of an evening meal or of maintaining some kind of night-time economy and would therefore limit businesses to lunch-time trade, which would in turn limit business viability.

As evidenced above, factors like the consumption of alcohol mean that the closure of the night-time economy is considered to have a more significant impact on the R number. However, it would simultaneously impact on the workforce through a reduction in staffing requirements and risk of redundancies.

There may also be public health costs, as the loss of evening hospitality opening/a dinner service could potentially create a risk of displacement of socialising into household settings. An early closure will also impact on people who might be unable to meet up during the day due to work or childcare commitments to socialise, further reducing the risk of enforced isolation.

Restrictions on opening times would also inevitably have an impact on the wider supply chain associated with the production and transportation of products for the hospitality industry. The scale of this impact would depend on the length of the restriction, and the extent to which restrictions on alcohol sales are

also being applied across Scotland. There could also be potentially an impact on complementary industries, e.g. transport providers or fast-food providers, through a change or loss of revenue.

Day-time opening would still provide an opportunity for hospitality venues to offer a safe setting for friends and family to meet, reducing risks of loneliness and isolation - especially as we enter into the winter months. It also provides hospitality settings the opportunity to retain some trade and connections with customers, whilst keeping risk levels as low as possible.

Option 3: permit all hospitality settings to open with alcohol permitted with a meal indoors and outdoors, with time restrictions

Stakeholders put forward the option of allowing a modest amount of alcohol to be served with food at level 3, bringing it in line with level 2 restrictions.

Whilst this option would have benefits for the revenue for pubs, the supply chain, employees and customers, increasing the opportunity for people to mix will increase the transmission of the virus and potentially result in areas remaining in higher levels for longer. As is noted previously, the intention behind the levels approach is that any restrictions in place at the higher levels should be with the express goal of reducing transmission rates so that a local area may move towards a lower tier.

Lessening the opportunity for people to mix, whether with alcohol or not, should reduce the spread of the virus and result in areas being able to move to a lower level, and a more normal way of life, sooner.

Conclusion

The policy intention behind changes to hospitality operations is twofold: it is about reducing the opportunity for people to mix and reducing the consumption of alcohol to improve compliance with social distancing rules and other mitigations for transmission of COVID-19.

The clinical advice concerning the merits of restricting alcohol sales in level 3 is that the risk posed by the spread of the virus at this level means that the counteracting risk of public sale of alcohol in hospitality settings - and the inhibitions which come with this - is a price worth paying to ensure that the response is as effective as possible.

It has been determined that it would be most appropriate and effective for level 3 hospitality restrictions to apply to all hospitality settings, except wet pubs which must close. Clinical advice, based on the assessment of the current epidemiology and public health threat, is that restricting closure to 18.00 in level 3 is appropriate to ensure decreased risk of continued transmission of the virus.

Key to this is ensuring that the package of measures across level 3 would sufficiently impact the R rate so that areas which are experiencing rising case numbers will be able to bring spread under control, reduce transmission rates, and ultimately move into level 2.

While being mindful of this objective, stakeholders were keen to highlight the importance of keeping hospitality settings open as much as possible. By restricting alcohol sales we have attempted to reach a balanced position which means that the majority of hospitality settings can remain open, albeit operating under constraints, thereby delivering some benefits to both their businesses and the wider community. Crucially, this includes providing safe settings to reduce the likelihood of isolation and promote safe interaction with friends and family.

Options for Level 4

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

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

Option 1: level 0 Baseline

This would mean that hospitality settings, whilst applying the mitigating actions that are required at all levels, could operate a full service, impacting on revenue, employment of staff, and on supply-side businesses. However, trade may be reduced due to customers being anxious about social interaction, particularly in indoor venues, in an area with very high incidence of community transmission.

The workforce may be affected by higher levels of sick workers due to high rates of COVID-19, or larger numbers of staff self-isolating for 14 days. Beyond the risk-reduction benefits achieved from the mitigating actions (for example table-service) there would be no further public health benefits.

Under level 4, we would expect to see very high or rapidly increasing incidence. The baseline option would not deliver the policy objectives, and the measures outlined in the lower levels would have been insufficient. There are therefore greater public health costs of not restricting social interaction within a high risk setting.

Option 2: close all hospitality businesses

This option would mean that all hospitality settings could not open within a level 4 Local Authority Area. This would affect all hospitality businesses within the area, and their customers. It will impose substantial costs on businesses affected, impacting revenues and leaving businesses still having to meet fixed costs.

Depending on the period of the restriction, the wholesale industry who supply and produce goods for the hospitality industry would also be affected. Complementary industries, such as transport or fast-food outlets, would also be affected.

In general, the impacts would be the closure of businesses / facilities and inability to generate income to cover costs (overheads such as rent, rates and water). Table 1, below, sets out the number of occupied premises by local authority broken down by public houses and clubs, restaurants, hotels and cafes.

Table 1: Number of Occupied Premises by Local Authority

	Public Houses and Clubs	Restaurants	Hotels	Cafes
Local Authority				
Aberdeen City	201	156	256	100
Aberdeenshire	206	69	156	100
Angus	155	59	37	40
Argyll and Bute	149	112	169	65
City of Edinburgh	613	603	190	365
Clackmannanshire	55	10	9	15
Dumfries and Galloway	232	25	148	95

Dundee City	205	88	33	65
East Ayrshire	184	40	18	40
East Dunbartonshire	75	37	6	35
East Lothian	117	42	28	45
East Renfrewshire	56	35	4	30
Falkirk	134	42	33	50
Fife	405	126	102	125
Glasgow City	651	510	82	400
Highland	282	173	363	165
Inverclyde	99	30	3	25
Midlothian	83	32	13	20
Moray	113	40	89	50
Na h-Eileanan Siar	19	13	27	15
North Ayrshire	179	66	33	60
North Lanarkshire	259	69	23	105
Orkney Islands	42	11	36	10
Perth and Kinross	191	97	127	80
Renfrewshire	185	101	18	55
Scottish Borders	160	50	76	55
Shetland Islands	34	13	19	15
South Ayrshire	166	63	48	50
South Lanarkshire	260	147	37	110
Stirling	124	77	86	60
West Dunbartonshire	86	41	16	40
West Lothian	138	71	28	50
Scotland	5,858	3,048	2,313	2,535

Source: IDBR, NDR roll.

Evidence from the lockdown period shows that the immediate closure of businesses led to a collapse in income and immediate cash flow and viability challenges for many sectors of the economy. Closure will exacerbate cash flow problems for hospitality business and potentially threaten viability of businesses putting jobs at risk and leading to higher unemployment. All contact with customers would be lost, which could impact on the longer term viability of the business. The University of Edinburgh's Business School has assessed that if a second full Lockdown occurred, it could see the loss of 90,000 jobs in the hospitality and tourism sector, which equates to 1 in 4 jobs.

It will also have a negative impact on socialisation and general wellbeing, increasing the risks of harm from social isolation and loneliness and people lose access to settings to socialise.

However, closure of all hospitality settings (as part of a broader package of closures across business areas where transmission is likely to occur) within a level 4 area would have the most significant positive impact on transmission rates and spread of the virus. It would virtually eliminate opportunities for people to meet in areas which are characterised by many of the high-risk factors associated with transmission of the virus identified by scientific evidence and modelling.

Despite the extremely positive impact on the spread of the virus – as evidenced by the lockdown implemented in March – given the wider socio and economic negative impacts level 4 will only be implemented where it is absolutely necessary to bring the virus under control, and even then only for the shortest possible period.

Scottish Firms Impact Test:

There has been engagement with Scottish hospitality businesses in developing the hospitality provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA. The vast majority of Scottish hospitality businesses are registered in Scotland.

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

The hospitality measures in the strategic framework state that under level 4 indoor and outdoor hospitality will be closed and that from level 2 onwards wet pubs will be closed.

By way of contrast the highest tier for England (tier 3) states that pubs and bars can only remain open where they operate as if they were a restaurant, which means serving substantial meals, like a main lunchtime or evening meal, and they may only serve alcohol as part of such a meal.

Stricter restrictions within Scotland (than those in England) could potentially have medium term impacts on the future competitiveness of Scottish companies both within the UK and elsewhere.

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

The majority of hospitality business operating in Scotland are micro and small businesses. It is estimated, based on the 2018 Business Register and Employment Survey that there are 13,855 business units in the Food and Beverages Services sector in Scotland, employing directly 155,000 people. The measures within the Strategic Framework may impact disproportionately on small businesses who may experience cash-flow problems as a result of any further tightening of restrictions.

Table 2 below shows a Scotland-level disaggregation of characteristics of areas of the Accommodation and Food Services sector that may be affected by the measures discussed in this BRIA including estimates of employment, number of businesses and business sites and number of premises.

Table 2: Breakdown of the Scottish hospitality sector by business sector

Sector	Employment (2018)	Number of Businesses (2019)	Number of Business Sites (2019)	Number of Occupied Business Premises (NDR Roll), 2020
Hotels and Similar Accommodation	46,000	1,675	2,005	2,313
Restaurants and cafes	71,000	4,260	5,240	5,583*
Pubs and bars	29,000	2,270	2,800	3,383

**For premises that are cafes, IDBR data is used as these are not consistently recorded on the valuation roll*

Source: Business Register and Employment Survey; IDBR, NDR roll.

The hospitality measures outlined within this BRIA are likely to affect a large number of businesses and employees. A range of hospitality businesses will be affected due to restrictions on the sale of alcohol at level 2-4. Wet pubs will be required to close at level 2 onwards. There are 2,270 pub and bar businesses operating in Scotland. However, the restrictions will impact on a large number of other hospitality businesses at level 1-4.

In addition to the direct jobs in hospitality, the sector also supports 30,000 jobs across its diverse supply chains. These supply chains will be negatively affected by hospitality restrictions in levels 1-4.

• **What is the likely cost or benefit to business?**

The hospitality measures set out in the strategic framework are likely to have significant costs for hospitality businesses which will escalate as local authorities move up levels, with progressively greater costs incurred at each level. The most severe costs will be incurred at level 4 where all hospitality businesses will be required to close. Restricting opening hours and the sale of alcohol will incur costs to businesses. Also moving between levels will incur costs start up and shut down costs in relation to for example staff wages and training and having to dispose of perishable stock etc.

Any further restrictions to trading or further temporary closures to hospitality will have significant impacts on the economy. Many of these businesses are operating well below pre-Covid capacity and some have recently just been able to reopen. Hospitality, currently has limited opportunities for revenue generation and the viability of many businesses in this sector, and associated jobs, are under threat.

The costs to hospitality businesses will however, be partially off-set by the business support schemes in place by the Scottish Government and the UK Government Job Support Scheme.

Competition Assessment:

Closing sections of the hospitality industry will likely impact on competition between businesses.

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

Whilst the hospitality sector, has shown gradual signs of recovery, activity levels remain significantly below pre-COVID levels. In September, the Scottish Government estimated that the sector was operating at 44% of pre-COVID levels, with 34% workers still on furlough. With Further restrictions there is the potential that some hospitality businesses could cease trading as a result of restrictions around opening times, the sale of alcohol and, in the case of level 4, closing establishments. This could limit the number and range of suppliers.

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

It is likely that hospitality restrictions will limit the ability of some suppliers to compete. This is primarily likely to manifest itself in three ways:

1) Wet pubs will be required to close at level 2 onwards – this will potentially advantage restaurants, cafes and pubs with the ability to prepare and serve main meals on the premises.

2) Retail establishments selling food and alcohol are likely to be advantaged (particularly in levels 2, 3 & 4 but also level 1) as hospitality opening hours are restricted.

3) The new guidance against non-essential travel in and out of level 3 and level 4 areas may also impact on city centre and rural hospitality as people will be discouraged from traveling into town and city centres and visiting rural hospitality venues.

The measures within the levels are likely to be advantageous to supermarkets, take-aways and off-licences in particular. Data from the Business Turnover Index shows that the food retail is the only sector to have experienced higher turnover than last year.

Restricted opening hours are also likely to increase costs for hospitality potentially making it harder for new businesses to compete.

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

It is not anticipated that the hospitality measures in the strategic framework will impact on suppliers incentives to compete vigorously. On the contrary, restricting trading hours may lead to increased competition between businesses as there will be less hours during which food and drink can be served.

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

The hospitality measures in the strategic framework will limit the choices and information available to consumers through limited availability and lack of alternatives.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of the hospitality measures within the Strategic Framework on standard questions within the consumer assessment:

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

Hospitality restrictions are likely to impact upon consumers in terms of restricting their ability to visit restaurants, cafes, bars and public houses in levels 1-4. More specifically it will restrict choice by limiting when and if consumers can visit hospitality establishments and whether or not they can buy alcohol.

Restricted opening hours may lead hospitality businesses to increase prices to recoup losses from times when they are unable to trade / lost sales of alcohol.

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

There is no expected impact on markets for essential services.

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

No

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

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

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

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

Implementation and delivery plan and post-implementation review:

Regulations and guidance have been put in place to support the implementation of the measures contained within the Strategic Framework. These regulations will come into effect from the 2nd November 2020. We are continuing our constructive engagement with the sector, and are analysing the clinical evidence to determine whether it is possible to allow alcohol to be sold with meals in level 3, as well as continuing our discussions with the sector – in addition to planning, licensing and environmental health colleagues – on options for the definition of ‘outdoor space’. We are examining how best to implement different time restrictions across the respective levels.

Summary and recommendations:

Introduction

This BRIA has examined the hospitality measures within each level of the Strategic Framework and compared these measures with the option of ‘doing nothing’, the equivalent of Level 0 in the Strategic Framework.

Background

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

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

Options Appraisal

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

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

- Restrictions on opening times (in level 1-3)
- Restrictions on the sale of alcohol (in level 1-3)
- Closing ‘Wet Pubs’ in level 2 and 3
- Closing hospitality (in level 4)

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

Option 1: Baseline

The baseline option (effectively level 0 of the Strategic Framework) would have a positive economic impact on hospitality venues through their revenue generation, employment of staff, and on supply chain businesses. However this would be off-set by the health risks associated with increased opportunities for virus transmission in hospitality settings.

Hospitality venues are characterised by many of the high-risk factors associated with transmission of the virus. The health risks posed by hospitality would increase as the R rate increased meaning there would be potential for increased community transmission and multiple clusters.

Higher rates of infection may ultimately impact negatively on the hospitality industry as trade made be reduced due to customers being anxious about social interaction, particularly in indoor venues. The workforce may be affected by higher levels of sick workers due to high rates of Covid-19, or larger numbers of staff self-isolating for 14 days.

Option 2: Strategic Framework

Measure	Benefits	Costs
Restrictions on opening times (in level 1-3)	<p>Hospitality venues are characterised by many of the high-risk factors associated with transmission of the virus. Restricting opening times reduces opportunities for virus transmission.</p> <p>Clinical advice is that restricting opening periods will reduce the amount of alcohol consumed thereby increasing the chances of compliance with Covid mitigations (social distancing and mask waring) whilst both in the venue and after leaving the venue.</p>	<p>Restricting opening times will lower demand, reduce revenue and turnover for the hospitality businesses.</p> <p>As restrictions are tightened moving to higher levels will increase the negative economic impact on businesses.</p> <p>At level 3 restrictions would preclude the serving of an evening meal or of maintaining some kind of night-time economy. There would be a further reduction in demand and revenue and an associated reduction in staffing requirements and risk of redundancies.</p>
Restrictions on the sale of alcohol (in level 1-3)	<p>There is strong evidence that consumption of alcohol impairs perception of risk and ability to perform motor skills. Knowing this, clinicians have concluded that people's ability to comply with mitigations against Covid transition (such as physical distancing, one way systems and face mask wearing) will be limited by drinking. It is widely accepted that consuming alcohol leads to less inhibited behaviour, including closer contact and touching other people and louder talking, all of which increase the risk of transmission.</p>	<p>Restrictions on the sale of alcohol would affect licensed premises (pubs, restaurants, hotels) and the wholesale industry which supplies and manufactures alcoholic products. The impact would be seen in terms of lower demand, reduced revenue for hospitality settings.</p> <p>Restricting the sale of alcohol may also reduce the profitability of the business and the associated number of staff needed by hospitality venues, therefore leading to a reduction in working hours. In the case of wet pubs, it is very likely to lead to the closure of these hospitality businesses, and the loss of jobs.</p>
Closing 'Wet Pubs' in level 2 and 3	<p>Closing all wet pubs and restricting the sale of alcohol would have some public health benefits through reducing opportunities to</p>	<p>The mandated closure of wet pubs would affect the premises themselves, but also their employees, customers and wider supply chain.</p>

	<p>meet in close-quarters thereby reducing the spread of the virus.</p> <p>Closing all wet pubs will enable businesses to draw on support for closed businesses from the UK Government and support grants from the Scottish Government.</p>	<p>Closing all wet pubs would also negatively impact on people's ability to socialise and could increase the possibility of harm from social isolation and loneliness and may encourage people to meet in homes instead.</p>
<p>Closing hospitality (in level 4)</p>	<p>Level 4 will be deployed only if absolutely necessary as a short, sharp intervention to address extremely high transmission rates. Within this level we would expect to see very high or rapidly increasing incidence, and widespread community transmission which may pose a threat to the NHS to cope. Closing hospitality (along with the package of other measures under level 4 of the Strategic Framework) would lead to a rapid reduction in infection rates.</p>	<p>Evidence from the lockdown period shows that the immediate closure of businesses led to a collapse in income and immediate cash-flow and viability challenges for many sectors of the economy. Closure will threaten viability of businesses putting jobs at risk and leading to higher unemployment. The University of Edinburgh's Business School has assessed that if a second full Lockdown occurred, it could see the loss of 90,000 jobs in the hospitality and tourism sector, which equates to 1 in 4 jobs.</p>

Conclusion

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

It is also important to note that we have set out a comprehensive package of financial support for businesses in the hospitality sector to mitigate the negative impacts of the restrictions.

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

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

These grants will be provided regardless of level, to eligible businesses, and paid in fortnightly instalments (subject to discussions with local authorities). This support is in addition to the UK government Job Support Scheme whereby employees working for businesses legally mandated to shut will receive 67% of their salary paid for by government.

Employees working for businesses affected by restrictions but not fully shut, will also receive support to enable businesses to keep employees on part time. This would include businesses limited to certain opening times or table service, and businesses adversely impacted by social distancing rules.

The employee will receive 73% of their normal salary, but must work a minimum of 20% of their normal hours. The employer must pay for that 20% (as the employee is working), plus 5% of salary costs for the time not worked, plus national insurance and pension contributions.

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

Declaration and publication

Sign-off for BRIA:

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

Signed:

Date:

Minister's name: Michael Russell

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