

Scotland's Strategic Framework: Business Closures Pt.2

**BUSINESS AND REGULATORY
IMPACT ASSESSMENT**

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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 measures included within Scotland's Strategic Framework which relate to the following sectors:

- Casinos
- Cinemas
- Adult entertainment & nightclubs
- Bingo halls
- Funfairs
- Theatres and music venues
- Unregulated children's activities

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

Please also note that this forms the second and final tranche of BRIAs on Business Closures published by the Scottish Government.

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

The measures within the Strategic Framework include restricting business activity to only essential purposes; requiring additional protective measures; restricting numbers or seating arrangements; restricting operations to outdoor settings; and closing businesses/premises in the highest levels where the virus is most severe. Other protective measures and guidance may also impact on the operation of these sectors. This includes:

- New guidance against non-essential travel in and out of level 3 and level 4 areas.
- The restrictions on socialising, in particular the rules for different households socialising.
- The hospitality restrictions, including restrictions to opening times and alcohol sales.
- The requirement to take measures, so far as reasonably practical, to minimise risk of exposure to coronavirus (including maintaining social distancing on premises).

Many of the sectors covered in this document were re-opened in a phased way following the initial lockdown period and this has been important in starting the recovery of Scotland's wider economy and wellbeing, albeit with many of the sectors operating in different ways and below usual capacity, and with others not yet permitted to reopen. Re-opening has benefited businesses directly, and those employed within these sectors, and enabled consumer spending to return which has led to further economic benefits. Furthermore, it has also had wider positive social impacts. Measures in the strategic framework seek to suppress the virus to a low enough level to subsequently enable us to begin lifting restrictions on our daily lives, and continue to create a strong base for economic and social recovery.

Legislative Background:

The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to make 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 and were amended over the following months to implement changes to restrictions nationally and locally.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 came into force on 14 September 2020 and revoked and replaced the first regulations.

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 were published on 30th October and came into force on 2 November. These Regulations were amended before they came into force by the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment Regulations 2020.

The regulations at all stages have been complemented by a comprehensive suite guidance on the Scottish Government website covering both what is required by the law and other measures that individuals and other organisations are advised take.

Scotland’s Strategic Framework:

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

Decisions will continue to be made by Ministers, with input from relevant advisers, as implementing the measures 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 measure 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 measure or requirement.

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 regular 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.^{1 2}

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 where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{3,4}.

The Government recognises from Test and Protect data⁵ that a high proportion of new cases came from social interactions between different households in our homes, where it can be difficult to maintain physical distance and have good ventilation. Given transmission of the virus within homes is high risk^{6,7}, gatherings in private dwellings was targeted first and will be restricted to some degree across all of the 5 levels.

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

¹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

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

³ 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

⁴ 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

⁵ <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-22-september-2020/>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot_.pdf

⁷ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

Risk Factors

High-risk factors associated with transmission of the virus⁸ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption⁹. Another risk factor is the when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing¹⁰.

Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus. The virus is not likely to survive for long periods of time on outdoor surfaces in sunlight, although it may survive for more than 24 hours in indoor environments. Outdoors, face to-face exposure (e.g. $\leq 2\text{m}$ for a prolonged period) should still be considered a potential risk for transmission via respiratory droplets.¹¹

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not¹² or breathing heavily (e.g. due to exercising in gyms)¹³. Many of the sectors covered in this document rely on people from many households coming together for prolonged periods (e.g. in theatres or stadia) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering¹⁴.

Each place an individual visits brings different risks depending on a range of factors, such as¹⁵:

- the mix and number of people present,

⁸ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

⁹ [Collins A and Fitzgerald N \(2020\)](#)

¹⁰ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹¹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹² <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

¹³ SAGE papers 21 September 2020:

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

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

¹⁴ SPI M paper 20 August 2020:

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

¹⁵ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

- the amount of time individuals are likely to spend there,
- the ability to maintain 2m distancing,
- the likelihood of pinch points where people might gather (e.g. toilets, entrances and exits),
- the standard and type of ventilation,
- the likelihood of people touching surfaces and goods, and
- the potential for significant aerosol projection activity¹⁶.

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

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{17 18}.

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

Test and Protect

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

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

The following table is taken from the details of interviews that have been completed as part of Test and Protect up to week ending 1st November 2020. It includes places, events or activities relevant to this BRIA, along with some other interactions in order to provide context.

¹⁶ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

¹⁷ SAGE papers 21 September 2020:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot_.pdf and
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925854/S0769_Summary_of_effectiveness_and_harms_of_NPIs.pdf

¹⁸ SPI M paper 20 August 2020:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916888/spi-m-o-statement-gatherings-s0704-sage-52-200819.pdf

Place / event / activity	Number of cases that had visited these places	% of cases interviewed
Shopping	2663	29.9%
Personal Care	1900	21.4%
Eating out	1074	12.1%
Exercising	570	6.4%
Visiting friends / relatives	518	5.8%
Visiting Health and Social Care settings	501	5.6%
Entertainment and day trips	476	5.3%
Sport events	134	1.5%

Table showing information from Test and Protect interviews week ending 1 November 2020¹⁹

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others²⁰.

International Experiences

A number of European countries have introduced a range of restrictions on businesses, 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. These countries continue to adapt their package of restrictions in response to rising infection rates. During the week commencing 23rd October the following were identified:

- **Germany** - an emergency month-long lockdown was announced on 28 October. This includes measures such as the closure of restaurants (which can only provide a takeaway service), bars, gyms and theatres; closure of beauty parlours and tattoo artists (hairdressers can stay open); and overnight accommodation will only be available for essential travel.
- **Ireland** - has entered its second week of the highest tier of restrictions nationwide. This includes the closure of non-essential shops, along with barbers' shops, beauty salons, gyms, leisure centres and cultural amenities. Pubs, cafes and restaurants will be allowed to serve takeout meals only.
- **Poland** - the Government has introduced tighter national restrictions, including requiring remote learning for all secondary and university students, limiting gatherings to five people, closing bars and restricting restaurants and cafes to takeaway services.
- **France** – on 28 October, a new nationwide lockdown was imposed, which includes the closure of all bars, restaurants, and all businesses considered "non-essential", and working from home will be the norm.
- **Belgium** - announced a strengthened lockdown on 27 October, including additional measures such as closure of non-essential shops (with click-and-collect and delivery services permitted), and closure of non-medical contact professions (such as hairdressers or beauty salons). This is in addition to existing restrictions, which include the closure of all restaurants and bars, a nationwide curfew, and closure of all cultural and indoor sports venues.

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

²⁰ 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.

- **Czech Republic** - strict new measures came into force on 28 October. The Government has imposed a curfew between 9pm and 5am, shops selling essential goods must close on Sundays and by 8pm on weekdays. Schools will close to all students from 2 November, including kindergartens and special schools.

Conclusion

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

However, it is widely recognised that wider health and wellbeing is impacted by our ability to mix with other people. Our collective effort and sacrifices suppressed the virus to low levels during the summer. That came at a cost to education and learning, health and care services, and our ability to lead our lives freely. We recognise and take account of these wider risks, particularly the critical twin risks in health of a second wave potentially coinciding with the seasonal flu, and the wider pressures that the winter period brings, impacting across health and social care. While taking difficult decisions to suppress the virus, we continue to weigh this against the potential mental and physical health, social and developmental harm that may be caused by any measures.

In common with the wide range of other countries who have implemented similar measures, we know there will be significant financial hardships and risks for businesses as a result of the measures in the Strategic Framework. The levels approach sets out proportionate action to address the harm from the virus whilst acknowledging the wider health, social and economic harms. When the risk of Covid rises, so too will the measures in these sectors. Similarly as the risk falls, the measures will ease. This strategic approach to outbreak management is based on five levels of protection, each with graduated packages of measures to reduce transmission of the virus, that can be applied locally or nationally, according to the evolving patterns of infection and transmission.

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, particularly in high risk settings
- Enabling as many businesses as possible to remain open safely, in ways that enable firms to remain viable and reduce the likelihood of redundancies
- The important role that these businesses and venues play in maintaining our wellbeing
- The risk of people gathering elsewhere in less safe environments
- The economic costs, including wider costs and the impact on the supply chain.

Title: Scotland’s Strategic Framework: Casinos

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 part of the set of LEISURE & ENTERTAINMENT BRIAs and focuses on the measures closing or restricting Casinos within Scotland’s Strategic Framework. The measures described here have been developed with casinos in mind and in consultation with the Betting and Gaming Council who represent casinos in Scotland. 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 LEISURE AND ENTERTAINMENT – Casinos are set out in the table below:

LEISURE AND ENTERTAINMENT] – Casinos (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Casinos	Open. Level 0 Hospitality rules apply.	Open. Level 1 Hospitality rules apply.	Closed	Closed	Closed

Introduction

Casinos form part of the wider Leisure and Entertainment industry and the city night time economy. There are 11 casinos in Scotland, employing 770 people across Glasgow, Edinburgh, Aberdeen and Dundee.

COVID-19 and Casinos

As part of the Route Map out of lockdown, casino businesses in Scotland were allowed to reopen from August 24th. Having effectively been closed for 5 months, these businesses would have experienced revenue forgone and the requirement to cover their ongoing fixed costs over the period of closure, thereby weakening their cashflow.

As part of re-opening and complying with guidance and enhanced hygiene, casinos have already incurred costs of implementing COVID-19 safety measures (e.g. the physical infrastructure and staff training).

LEISURE & ENTERTAINMENT – Casinos fulfil many of the high-riskfactors²¹ for COVID-19 transmission as they are:

- indoor spaces (where ventilation will be of critical importance),
- a place where the public mixes freely with members of different households,
- where people can gather for a prolonged period of time (more than 15 minutes),
- where people are in close proximity.

It has been evidenced that those factors amplify the risk of transmission especially in areas where transmission rates are higher 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.²² This has formed the basis for consideration of measures in recent weeks, including around LEISURE & ENTERTAINMENT – Casinos, in response to the recent increases in COVID-19 cases and transmission experienced across Scotland.

The policy objective of the restrictions set out within the Strategic Framework is to ensure that the operation of LEISURE & ENTERTAINMENT – Casinos is appropriate to the level of COVID-19 risk within the Local Authority area, whilst taking into account 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 the Scottish Government is willing to allow become infected.

The evidence base around transmission for COVID-19 is still emerging, so the Scottish Government are committed to taking decisive action based on the best evidence available, whilst recognising this is a live situation that is evolving, and therefore there is a need to keep this under constant review.

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

Transmission

²¹ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

²² [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

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.²³

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 where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{24,25}.

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

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

Risk Factors

High-risk factors associated with transmission of the virus²⁶ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption²⁷. Another risk factor is when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing²⁸. Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus²⁹.

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not³⁰ or breathing heavily (e.g. due to exercising in gyms)³¹. Many of the sectors covered in this

²³ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

²⁴ 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

²⁵ 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

²⁶ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

²⁷ [Collins A and Fitzgerald N \(2020\)](#)

²⁸ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

²⁹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

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

³¹ SAGE papers 21 September 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot_.pdf and

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document rely on people from many households coming together for prolonged periods (e.g. in theatres or stadia) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering³².

Each place an individual visits brings different risks depending on a range of factors, such as³³:

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

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

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{34 35}.

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

Alcohol

It is well established that alcohol is a psychoactive substance which inhibits judgement. The WHO Global Strategy recognises that intoxication with alcohol is associated with high-risk behaviours³⁶. Alcohol intoxication is associated with a number of well-characterized changes in psychological function, including disinhibition and reduced consciousness³⁷, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as memory, divided attention, and planning³⁸. It can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not³⁹.

³² SPI M paper 20 August 2020:

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

³³ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

³⁴ SAGE papers 21 September 2020:

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³⁵ SPI M paper 20 August 2020:

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

³⁶ <https://apps.who.int/iris/handle/10665/44395>

³⁷ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

³⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

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 consumed⁴⁰.

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'.⁴¹

Test and Protect

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

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

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

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

Table showing information from Test and Protect interviews week ending 1 November 2020⁴²

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-

³⁹ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

⁴⁰ [Collins A and Fitzgerald N \(2020\)](#)

⁴¹ [World Health Organisation: Alcohol and COVID-19: what you need to know](#)

⁴² <https://beta.isdscotland.org/find-publications-and-data/population-health/covid-19/covid-19-statistical-report/>

symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others⁴³.

International Experiences

A number of European countries have introduced a range of restrictions on businesses, 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. These countries continue to adapt their package of restrictions in response to rising infection rates. During the week commencing 23rd October the following were identified:

- **Germany - an emergency month-long lockdown** was announced on 28 October. This includes measures such as the closure of restaurants (which can only provide a takeaway service), bars, gyms and theatres; closure of beauty parlours and tattoo artists (hairdressers can stay open); and overnight accommodation will only be available for essential travel.
- **Ireland** - has entered its second week of the highest tier of restrictions nationwide. This includes the closure of non-essential shops, along with barbers' shops, beauty salons, gyms, leisure centres and cultural amenities. Pubs, cafes and restaurants will be allowed to serve takeout meals only.
- **Poland** - the Government has introduced tighter national restrictions, including requiring remote learning for all secondary and university students, limiting gatherings to five people, closing bars and restricting restaurants and cafes to takeaway services.
- **France** – on 28 October, a **new nationwide lockdown was imposed, which includes the closure of all bars, restaurants, and all businesses considered "non-essential", and working from home will be the norm.**
- **Belgium** - announced a strengthened lockdown on 27 October, including additional measures such as closure of non-essential shops (with click-and-collect and delivery services permitted), and closure of non-medical contact professions (such as hairdressers or beauty salons). This is in addition to existing restrictions, which include the closure of all restaurants and bars, a nationwide curfew, and closure of all cultural and indoor sports venues.
- **Czech Republic** - strict new measures came into force on 28 October. The Government has imposed a curfew between 9pm and 5am, shops selling essential goods must close on Sundays and by 8pm on weekdays. Schools will close to all students from 2 November, including kindergartens and special schools.

It is recognised that casinos are characterised by many of the high-risk factors associated with transmission of the virus⁴⁴ - they are indoor spaces, where ventilation will be of critical importance and where people come together to spend a prolonged period of time (more than 15 minutes) in proximity (albeit at 2 metres physical distancing), which may enable the virus to spread easily from person to person, especially in areas where transmission rates are higher.

Current position of LEISURE & ENTERTAINMENT – Casinos

Casinos closed in March 2020, and were permitted to reopen from 24 August 2020. Those in the central belt were required to close again from 9 October 2020 while elsewhere in Scotland they could remain open. With 2 metre distancing in place venues, where open, were operating at reduced capacity. We have seen no

⁴³ 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.

⁴⁴ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

evidence of venues not complying with restrictions and guidance. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 came into force on 2 November 2020 and provide that casinos can remain open in areas which are placed in levels 0-1, but must close in areas which are in levels 2 to 4.

Conclusion

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

The limitations on casinos are part of an overall system to balance suppression of the virus whilst minimising wider harm and minimising the wider economic harms associated with the measures. The levels approach sets out proportionate action to address the harm from the virus whilst acknowledging the wider economic harms. When the risk of COVID-19 rises, so too will the restrictions. 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 indoor venue settings
- Enabling as much of the sector as possible to open safely, in ways that enable organisations to remain viable and reduce the likelihood of redundancies
- The economic costs, including employment, wider costs and the impact on the supply chain.

Consultation

We have not undertaken any public consultation on these measures, however correspondence has been received from operators, which has provided an insight into the sector.

Scottish Government officials have engaged with the Betting and Gaming Council, the trade association for casinos in the UK. They have represented the views of businesses.

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 or advised including:

- 2 metre distancing
- wearing of face coverings
- social gathering rules
- hygiene measures including for gaming equipment used by customers
- having regard to guidance
- capture of contact detail through for Test and Protect
- measures in line with hospitality restrictions or guidance, e.g. serving of food and drink at tables and no background sound from music or TVs

Sectors and groups affected

These Regulations will affect:

- Casino customers
- Operators and employees of casinos
- Businesses and individuals that provide goods and services to casinos

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 **LEISURE & ENTERTAINMENT – Casinos** sector. 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, clinical and sectoral input, and proposals from policy colleagues, industry, and experts. We considered 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 9 October 2020 when casinos were allowed to re-open with mitigations in place..

Options for Level 1

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

- 1) Maintain baseline
- 2) Closure of casinos

Option 1: Maintain baseline

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

This would effectively take Scotland back to the position prior to 9 October when casinos were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers’ socialising, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take casinos in Scotland back to the position prior to 24 August, when all casinos were required to be closed. 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. There is, however, the strict requirement of 2 metre distancing in the playing areas of casinos at all levels and the higher mitigation against transmission that this provides. Applying to casinos the level 1 measures for hospitality in restaurant, café and bar spaces raises the mitigations in place compared to level 0.

Conclusion

In considering the evidence around options for level 0 and level 1 we 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 option 1 - 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. It was therefore determined that, in line with clinical advice, casinos should remain allowed to be open, with all the mitigations in place. Opening hours will continue to be determined by gambling licensing requirements and consideration of the hospitality measured where food and drink are being served.

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

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This would effectively take Scotland back to the position prior to 9 October when casinos were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' socialising, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take casinos in Scotland back to the position prior to 24 August and the introduction of the mitigating measures detailed above, when all casinos were required to be closed. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 place differing restrictions and requirements on those responsible for carrying on a food and drink business in different area levels. Applying the level 2 measures for hospitality, with alcohol to be served only with a main meal, and the consumption of food and drink to cease by 8pm to casinos, raises the mitigations in place compared to level 1.

Conclusion

In considering the evidence around options for level 2 we weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, the economic and the social harms of intervention. It was concluded that given the increased risk to public health at level 2, and after taking into account the other harms, closure of casinos is the best option to meet public health objectives.

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 population⁴⁵. 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.

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This effectively would take Scotland back to the position prior to 9 October when casinos were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' socialising, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take casinos in Scotland back to the position prior to 24 August and the introduction of the mitigating measures detailed above, and to the central belt restrictions introduced from 9 October, when all casinos were required to be closed. The closures recognised that, despite the impact to the economic and employment contribution of casinos, there are greater costs of not restricting social interaction within high-risk indoor settings.

Conclusion

In considering the evidence around options for level 3 we weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, the economic and social harms of intervention. It was concluded that given the increased risk to public health at level 3, closure of casinos as indoor venues is the best option to meet public health objectives, building on the decision to close at level 2.

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

⁴⁵ 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/>

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

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This effectively would take Scotland back to the position prior to 9 October when casinos were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' socialising, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take casinos in Scotland back to the position prior to 24 August and the introduction of the mitigating measures detailed above, and to the central belt restrictions introduced from 9 October, when all casinos were required to be closed. The closures recognised that, despite the impact to the economic and employment contribution of casinos, there are greater costs of not restricting social interaction within high-risk indoor settings.

Conclusion

In considering the evidence around options for level 4 we weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, the economic and the social harms of intervention. It was concluded that given the increased risk at level 4, closure of casinos as indoor venues is the best option to meet public health objectives, building on the decision to close at level 3.

Scottish Firms Impact Test:

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

The information we have considered comes from the Betting and Gaming Council who collect such data for the purposes of industry representation and the requirements of gambling licensing.

We are not aware of a particular impact on these measures on casino competitiveness as the measures apply to all casinos and entry to the market is regulated under gambling licensing. Casinos were able to open earlier in England than in Scotland during the summer but are closed under current United Kingdom Government restrictions.

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

There are 11 casinos in Scotland, employing 770 people across Glasgow, Edinburgh, Aberdeen and Dundee.

• What is the likely cost or benefit to business?

Casinos have already incurred costs of implementing COVID-19 safety measures (e.g. the physical infrastructure and staff training) for all scenarios in which they have previously been permitted to open.

As restrictions increase through the levels, there are additional costs of implementing the hospitality

measures and the income lost from food and drink sales, and the total income lost at levels 2 to 4.

Support is available from UK Government measures such as the Job Retention scheme and from general business relief measures in Scotland, where applicable, which should offset some of the business impacts.

Competition Assessment:

Closing casinos under these measures will not likely impact on competition between businesses

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

It is not anticipated that the casino measures in the Strategic Framework will directly or indirectly limit the number or range of suppliers, unless they become financially unviable and businesses close.

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

It is not anticipated that the casino measures in the Strategic Framework will limit the ability of suppliers to compete.

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

It is not anticipated that the casino measures in the Strategic Framework will impact on suppliers incentives to compete vigorously.

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

The casino 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 casino measures within the Strategic Framework on consumers.

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

Casino restrictions are likely to impact upon consumers in terms of restricting their ability to visit these places at levels 2 to 4.

- **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?**

There is no expected impact on markets for essential services.

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

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

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

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

Implementation and delivery plan and post-implementation review:

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

Summary and recommendations:

Introduction

This BRIA has examined the measures for casinos within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

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

Whilst this BRIA is focused on casinos are also being taken to reduce opportunities for transmission across a range of settings. It is important to view casino 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:

- Protective measures and restrictions (in level 1)
- Closing casinos (in levels 2-4)

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: Maintain Baseline

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

Indoor venues such as casinos are characterised by many of the high-risk factors associated with transmission of the virus. The health risks posed 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 casinos as trade may be reduced due to customers being anxious about social interaction 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
Mitigations and restrictions (in level 1)	Measures such as physical distancing, wearing face coverings and enhanced hygiene reduce the scope for virus transmission. Restricted times for consuming food and drink also contribute to reduction of risks. Permitting casino customers to continue with these measures in place supports customers' enjoyment.	Restricting customer numbers will lower demand, reduce revenue and turnover for casinos, increasing with the additional hospitality restrictions at each level.
Closing casinos (in levels 2-4)	Levels 2-3 are expected to be applied for short periods of time. Level 4 will be deployed only if absolutely necessary as a short, sharp intervention to address extremely high transmission rates. The risk of transmission in indoor venues with general virus prevalence at these higher levels are judged to be sufficient to require closure.	Evidence from the lockdown period shows that the immediate closure of casinos led to a collapse in income and immediate cash-flow and viability challenges. Closure will exacerbate these problems and potentially threaten viability of businesses putting jobs at risk and leading to higher unemployment.

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.

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

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 £2,100 (depending on rateable value) for businesses that remain open but are specifically required to modify their operations by protective measures, payable every four weeks for the duration measures are in place

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

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

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

The UK Government also announced (2 November)

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

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

Title: Scotland’s Strategic Framework: Bingo Halls

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 part of the set of LEISURE & ENTERTAINMENT BRIAs and focuses on the measures closing or restricting Bingo Halls within Scotland’s Strategic Framework. The measures described here have been developed with bingo clubs licensed under gambling legislation in mind and in consultation with the Bingo Association who represent such licensed bingo clubs in Scotland. References to “bingo halls” therefore refer to licensed bingo clubs. 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 LEISURE AND ENTERTAINMENT – Bingo Halls are set out in the table below:

LEISURE AND ENTERTAINMENT] – Bingo Halls (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Bingo Halls	Open. Level 0 Hospitality rules apply.	Open. Level 1 Hospitality rules apply.	Open. Level 2 Hospitality rules apply	Closed	Closed

LEISURE & ENTERTAINMENT – Bingo Halls 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.⁴⁶ This has formed the basis for consideration of measures in recent weeks, including around LEISURE & ENTERTAINMENT – Bingo Halls, in response to the recent increases in COVID-19 cases and transmission experienced across Scotland.

The policy objective of the restrictions set out within the Strategic Framework is to ensure that the operation of LEISURE & ENTERTAINMENT – Bingo Halls is appropriate to the level of COVID-19 risk within the Local Authority area whilst also taking into account 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 the Scottish Government is willing to allow to become infected.

The evidence base around transmission of COVID-19 is still emerging, so the Scottish Government is committed to taking decisive action based on the best evidence available whilst recognising that this is a live situation that is evolving, and therefore there is a need to keep this under constant review.

The Scottish Government has considered a wide range of evidence in developing the Strategic Framework, incorporating information from a variety of sources.

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.⁴⁷

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 where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{48,49}.

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.

⁴⁶ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁴⁷ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁴⁸ 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

⁴⁹ 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

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

Risk Factors

High-risk factors associated with transmission of the virus⁵⁰ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption⁵¹. Another risk factor is the when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing⁵². Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus⁵³.

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not⁵⁴ or breathing heavily (e.g. due to exercising in gyms)⁵⁵. Many of the sectors covered in this document rely on people from many households coming together for prolonged periods (e.g. in theatres or stadia) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering⁵⁶.

Each place an individual visits brings different risks depending on a range of factors, such as⁵⁷:

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

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

⁵⁰ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

⁵¹ [Collins A and Fitzgerald N \(2020\)](#)

⁵² [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

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

⁵⁴ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

⁵⁵ SAGE papers 21 September 2020:

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

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

⁵⁶ SPI M paper 20 August 2020:

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

⁵⁷ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{58 59}.

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

Alcohol

It is well established that alcohol is a psychoactive substance which inhibits judgement. The WHO Global Strategy recognises that intoxication with alcohol is associated with high-risk behaviours⁶⁰. Alcohol intoxication is associated with a number of well-characterised changes in psychological function, including disinhibition and reduced consciousness⁶¹, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as memory, divided attention, and planning⁶². It can cause people to lose their inhibitions, increase risk-taking and to make decisions they usually would not⁶³.

In relation to the specific risk of transmission of Covid-19, the direct effects of alcohol impair consumers' ability to comply with transmission control measures in hospitality settings. 'Drinking even small amounts of alcohol affects people's decision-making and lowers inhibitions. It can change the way people think and feel, and influence how they act. It impairs hearing, meaning people have to lean in closer to hear or shout, which increases aerosolisation of the virus. It impairs vision, affecting the ability to judge distances. It lowers the immunity to infection. It is a diuretic, resulting in people needing to urinate more frequently. Separately and together, these effects will reduce the ability (and potentially willingness) of people to physically distance and comply with safety measures, creating an increased risk of virus transmission.' All of these risks are thought to increase proportionately, the greater the amount of alcohol sold and consumed⁶⁴.

Given this evidence that alcohol consumption alters 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'.⁶⁵

⁵⁸ SAGE papers 21 September 2020:

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

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

⁵⁹ SPI M paper 20 August 2020:

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

⁶⁰ <https://apps.who.int/iris/handle/10665/44395>

⁶¹ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

⁶² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

⁶³ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

⁶⁴ [Collins A and Fitzgerald N \(2020\)](#)

⁶⁵ [World Health Organisation: Alcohol and COVID-19: what you need to know](#)

Test and Protect

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

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

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

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

Table showing information from Test and Protect interviews week ending 1 November 2020⁶⁶

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others⁶⁷.

International Experiences

A number of European countries have introduced a range of restrictions on businesses, 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. These countries continue to adapt their package of restrictions in response to rising infection rates. During the week commencing 23rd October 2020 the following were identified:

- **Germany - an emergency month-long lockdown** was announced on 28 October 2020. This includes measures such as the closure of restaurants (which can only provide a takeaway service), bars, gyms and theatres; closure of beauty parlours and tattoo artists (hairdressers can stay open); and overnight accommodation will only be available for essential travel.
- **Ireland** - has entered its second week of the highest tier of restrictions nationwide. This includes the closure of non-essential shops, along with barbers' shops, beauty salons, gyms, leisure centres and cultural amenities. Pubs, cafes and restaurants will be allowed to serve takeout meals only.

⁶⁶ <https://beta.isdscotland.org/find-publications-and-data/population-health/covid-19/covid-19-statistical-report/>

⁶⁷ 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.

- **Poland** - the Government has introduced tighter national restrictions, including requiring remote learning for all secondary and university students, limiting gatherings to five people, closing bars and restricting restaurants and cafes to takeaway services.
- **France** – on 28 October 2020, a **new nationwide lockdown was imposed, which includes the closure of all** bars, restaurants, and all businesses considered "non-essential", and working from home will be the norm.
- **Belgium** - announced a strengthened lockdown on 27 October 2020, including additional measures such as closure of non-essential shops (with click-and-collect and delivery services permitted), and closure of non-medical contact professions (such as hairdressers or beauty salons). This is in addition to existing restrictions, which include the closure of all restaurants and bars, a nationwide curfew, and closure of all cultural and indoor sports venues.
- **Czech Republic** - strict new measures came into force on 28 October 2020. The Government has imposed a curfew between 9pm and 5am, shops selling essential goods must close on Sundays and by 8pm on weekdays. Schools will close to all students from 2 November, including kindergartens and special schools.

Current position of LEISURE & ENTERTAINMENT – Bingo Halls

Bingo Halls closed in March 2020, and were permitted to reopen from 24 August 2020. Those in the central belt were required to close again from 9 October 2020 while elsewhere in Scotland they could remain open. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 came into force on 2 November 2020 and provide that Bingo halls can remain open in areas which are placed in levels 0-2, but must close in areas which are in levels 3 or 4.

With 2 metre distancing in place, the Bingo Association reported that venues, where open, were operating at no more than 25% capacity. We have seen no evidence of venues not complying with restrictions and guidance.

Conclusion

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

However, it is widely recognised that wider health and wellbeing is impacted by our ability to mix with other people.

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

Across all of the five levels we seek to balance:

- The positive impact on the transmission rate of the virus through restricting the opportunity for mixing

- Enabling as many businesses as possible to remain open safely, in ways that enable firms to remain viable and reduce the likelihood of redundancies
- The important role that these businesses and venues play in maintaining our wellbeing
- The risk of people gathering elsewhere in less safe environments
- The economic costs, including wider costs and the impact on the supply chain.

Consultation

The Scottish Government has not undertaken any public consultation on these measures, however correspondence has been received from operators and bingo customers, which has provided an insight into the sector.

The Scottish Government has engaged with the Bingo Association, the trade association for licensed bingo clubs in the UK, and through the Association with bingo club operators in Scotland. They have represented the views of businesses.

Initial feedback on the first version of the Strategic Framework made the case for reversing the proposal to close at level 2, in view of the social benefits of customers being able to socialise at bingo. Opening at level 2 was permitted in the second version published on 29 October 2020 and is permitted at level 2 under the Regulations made subsequently. The Association has reported that there has been positive feedback on COVID-19 measures from visits to bingo halls from enforcement bodies.

Feedback from both the Association and customers writing to the Scottish Government is that customers find bingo can address social isolation in settings which feel safe.

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 or advised including:

- 2 metre distancing
- wearing of face coverings
- social gathering rules
- hygiene measures, including for bingo equipment used by customers
- having regard to guidance
- capture of contact detail through the existing membership arrangements for licensed bingo clubs, for Test and Protect.
- Measures in line with hospitality restrictions or guidance, e.g. serving of food and drink at tables and no background sound from music or TVs.

Sectors and groups affected

These Regulations will affect:

- Customers of licensed bingo clubs
- Owners of licensed bingo clubs
- Employees of licensed bingo clubs
- Businesses and individuals that provide goods and services to bingo clubs

Our approach to assessing options

Within this BRIA the package of measures within each level has been compared against the baseline approach of level 0. This has allowed the clinical evidence for intervention at each level to be presented

setting out the health benefits, whilst acknowledging the potential impacts on the **LEISURE & ENTERTAINMENT** – Bingo Halls sector. Some other key options considered at each level have also been presented. In considering these measures, the Scottish Government has sought to develop the right package of measures to reduce circulation of the virus whilst limiting wider health, economic and social harms.

The objective is to get all parts of the country to level 0 or level 1 and remain there if possible. Within level 0 and 1, it is expected that there would be a low incidence of the virus with isolated clusters, and low community transmission. Broadly, these levels are the closest that an area can get to normality without a vaccine or effective treatment which would allow a 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 Phase 3 was reached. The Baseline and Level 1 are designed to be sustainable for longer periods.

In assessing the relevant options for each level current and previous restrictions, clinical and sectoral input, and proposals from policy colleagues, industry, and experts were all considered. The relative impact of each of the options on the spread of the virus, as well as the additional costs and benefits were taken into account.

Options for 'Baseline' / Level 0

The Baseline (Level 0) is designed to be sustainable for longer periods. Within this level, it is expected that there would be a very low incidence of the virus with isolated clusters, and low community transmission. Broadly, this level is the closest an area can get to normality, without a vaccine or effective treatment in place. The Baseline is similar to what was in place before 9 October 2020 when bingo halls were allowed to re-open with mitigations in place..

Options for Level 1

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

- 1) Maintain baseline
- 2) Closure of bingo halls

Option 1: Maintain baseline

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

This would effectively take Scotland back to the position prior to 9 October 2020 when bingo halls were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' wellbeing, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take bingo halls in Scotland back to the position prior to 24 August 2020, when all bingo halls were required to be closed. 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. There is, however, the strict requirement to take measures to ensure 2 metre distancing in bingo halls at all levels, in contrast to 1 metre in hospitality venues, and the higher mitigation against transmission that this provides. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 place differing restrictions and requirements on those responsible for carrying on a food and drink business in different area levels. Applying the relevant measures to bingo halls raises the mitigations in place compared to level 0.

Conclusion

In considering the evidence around options for level 0 and level 1 the need to reduce social interaction, clinical evidence regarding the spread of infection, and the social and economic harms of intervention were weighed up. It was concluded that the selection of option 1 - 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. It was therefore determined that, in line with clinical advice, bingo halls should be allowed to remain open, with all the mitigations in place. Opening hours will continue to be determined by gambling licensing requirements but, for serving food and drink at level 1, the hospitality requirements at that level will apply.

Options for Level 2 and 3

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

Within Levels 2 and 3, it is expected that there would be an 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

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This would effectively take Scotland back to the position prior to 9 October 2020 when bingo halls were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' wellbeing, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take bingo halls in Scotland back to the position prior to 24 August 2020 and the introduction of the mitigating measures detailed above, when all bingo halls were required to be closed. The strict requirement of 2 metre distancing in bingo halls at all levels, in contrast to 1 metre in hospitality venues, provides higher mitigation against transmission. . The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 place differing restrictions and requirements on those responsible for carrying on a food and drink business in different area levels. Applying the level 2 measures for hospitality, with alcohol to be served only with a main meal, and the consumption of food and drink to cease by 8pm to bingo halls, raises the mitigations in place compared to level 1.

Conclusion

In considering the evidence around options for level 2 the need to reduce social interaction, clinical

evidence regarding the spread of infection and the economic and, in particular, the social harms of intervention were weighed up. 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. It was therefore determined that, in line with clinical advice, bingo halls should be allowed to remain open, with all the mitigations in place. Opening hours will continue to be determined by gambling licensing requirements but, for serving food and drink at level 2, the hospitality requirements at that level will apply.

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 population⁶⁸. 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.

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This effectively would take Scotland back to the position prior to 9 October 2020 when bingo halls were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' wellbeing, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take bingo halls in Scotland back to the position prior to 24 August 2020 and the introduction of the mitigating measures detailed above, and to the central belt restrictions introduced from 9 October 2020, when all bingo halls were required to be closed. The closures recognised that, despite the impact to the economic and employment contribution of bingo halls and the benefits to customers' wellbeing, there are greater costs of not restricting social interaction within high-risk indoor settings.

Conclusion

In considering the evidence around options for level 3 the need to reduce social interaction, clinical evidence regarding the spread of infection and the economic and, in particular, the social harms of intervention were weighed up. It was concluded that given the increased risk to public health at level 3, closure of bingo halls as indoor venues is the best option to meet public health objectives.

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 it is expected that there would be a very high or rapidly increasing incidence, and

⁶⁸ 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/>

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

- 1) Maintain baseline
- 2) Closure

Option 1: Maintain baseline

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

This effectively would take Scotland back to the position prior to 9 October 2020 when bingo halls were allowed to be open across Scotland. It would have a positive impact on their revenue generation, employment of staff, and on customers' wellbeing, although customer numbers would still be limited by physical distancing requirements.

Option 2: Closure

This would take bingo halls in Scotland back to the position prior to 24 August 2020 and the introduction of the mitigating measures detailed above, and to the central belt restrictions introduced from 9 October 2020, when all bingo halls were required to be closed. The closures recognised that, despite the impact to the economic and employment contribution of bingo halls and the benefits to customers' wellbeing, there are greater costs of not restricting social interaction within high-risk indoor settings.

Conclusion

In considering the evidence around options for level 4 the need to reduce social interaction, clinical evidence regarding the spread of infection and the economic and, in particular, the social harms of intervention were weighed up. It was concluded that given the increased risk at level 4, closure of bingo halls as indoor venues is the best option to meet public health objectives, building on the decision to close at level 3.

Scottish Firms Impact Test:

There has been engagement with Scottish licensed bingo clubs in developing the LEISURE & ENTERTAINMENT – Bingo Halls provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA.

What proportion of businesses are registered in Scotland?

The information we have considered comes from the Bingo Association who collect such data for the purposes of industry representation and the requirements of gambling licensing.

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 Scottish Ministers are not aware of a particular impact of these measures on bingo club competitiveness as the measures apply to all licensed bingo clubs and entry to the market is regulated under gambling licensing. Licensed bingo clubs were able to open earlier in England than in Scotland during the summer but are closed under current United Kingdom Government restrictions.

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

There are 47 licensed bingo clubs in Scotland, employing 1,100 people. The clubs are operated by 8 companies in Scotland, of whom 5 operate only in Scotland. 15 of the 47 bingo clubs have been permitted to open from 2 November 2020 in local authorities at levels 1 and 2, falling to 8 with the addition of 3 further local authorities to level 3 from 13 November 2020. The 2 metre distancing requirements impact disproportionately on small venues.

• What is the likely cost or benefit to business?

Licensed bingo clubs have incurred costs of implementing COVID-19 safety measures (e.g. the physical infrastructure and staff training) for all scenarios in which they are or have previously been permitted to open. As restrictions increase through the levels, there are additional costs of implementing the hospitality requirements and the income lost from food and drink sales, and the total income lost at levels 3 and 4. Overall, as stated above, where bingo clubs have been permitted to open since August 2020, they have been operating at 25% of capacity with consequent loss of income. Support is available from UK Government measures such as the Job Retention scheme and from the business support schemes put in place by the Scottish Government where applicable.

Competition Assessment:

Closing bingo halls under these measures will not likely impact on competition between businesses

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

It is not anticipated that the bingo halls measures in the Strategic Framework will directly or indirectly limit the number or range of suppliers unless such suppliers cease trading as a result of becoming unviable

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

It is not anticipated that the bingo hall measures in the Strategic Framework will limit the ability of suppliers to compete.

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

It is not anticipated that the bingo hall measures in the Strategic Framework will impact on suppliers incentives to compete vigorously.

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

The bingo hall 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 bingo hall measures within the Strategic Framework on consumers. The impacts of cross-cutting restrictions and guidance within the Strategic Framework also require to be considered.

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

Bingo hall restrictions are likely to impact upon consumers in terms of removing their ability to visit these places at levels 3 and 4. This may also have an impact in levels 0-1 as not all bingo halls are able to operate in a financially viable way within the COVID-19 restrictions.

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

There is no expected impact on markets for essential services.

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

No

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

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

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

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

Implementation and delivery plan and post-implementation review:

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

Summary and recommendations:

Introduction

This BRIA has examined the measures for LEISURE & ENTERTAINMENT – Bingo Halls within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

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

Whilst this BRIA is focused on LEISURE & ENTERTAINMENT – Bingo Halls measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view LEISURE & ENTERTAINMENT – Bingo Halls 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:

- Protective measures and restrictions (in levels 1-2)
- Closing bingo halls (in levels 3-4)

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 the Scottish Government 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 bingo halls through their revenue generation and employment of staff and on their customers' enjoyment and wellbeing. However this would be off-set by the health risks associated with increased opportunities for virus transmission in bingo hall settings.

Indoor venues such as bingo halls are characterised by many of the high-risk factors associated with transmission of the virus. The health risks posed 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 bingo halls as trade may be reduced due to customers being anxious about social interaction 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
Mitigations and restrictions (in levels 1-2)	Measures such as physical distancing, wearing face coverings and enhanced hygiene reduce the scope for virus transmission. Restricted times for consuming food and drink also contribute to reduction of risks. Permitting bingo halls to remain open with these measures in place supports customers' enjoyment and wellbeing.	Restricting customer numbers will lower demand, reduce revenue and turnover for bingo halls, increased with the additional hospitality restrictions (restricting the times for consuming food and drink))at each level.
Closing bingo halls (in levels 3-4)	Level 3 is expected to be applied for short periods of time. Level 4 will be deployed only if absolutely necessary as a short, sharp intervention to address extremely high transmission rates. The risk of transmission in indoor venues with general virus prevalence at these higher levels are judged to be sufficient to require closure.	Evidence from the lockdown period shows that the immediate closure of bingo halls led to a collapse in income and immediate cash-flow and viability challenges. Closure will exacerbate these problems and potentially threaten viability of businesses putting jobs at risk and leading to higher unemployment. There will also be the impact on individuals' health and wellbeing from losing the socialising opportunities in bingo halls.

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.

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

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

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

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

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

The UK Government also announced (2 November)

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

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

Title: Scotland's Strategic Framework: Cinema

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 measures related to cinemas 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 Framework⁶⁹ 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 cinemas are set out in the table below:

Cinema Sector Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
	Open (with 2 metre physical distancing)	Open (with 2 metre physical distancing)	Open (with 2 metre physical distancing)	Closed	Closed

⁶⁹ <https://www.gov.scot/publications/covid-19-scotlands-strategic-framework/>

	and face coverings in auditorium)	and face coverings in auditorium)	and face coverings in auditorium)		
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Purpose and intended effect: Scotland’s Strategic Framework Cinema Sector Protections

Introduction

The cinema sector forms part of Scotland Leisure and Entertainment industry and includes a range of providers, including multiplex sites and independent operators. There are 71 fixed sites screening first-run film in Scotland run by 38 organisations (31 multiplex sites and 4 independent chain sites run by 8 operators and 36 independent venues run by 30 operators).

There are currently 1,530 employees working in film exhibition in Scotland (based on Office for National Statistics and BFI methodology) however this figure is likely to be an underestimate as it removes multi-arts venues and misses organisations that aren't registered under the specific tax code for cinemas.

The supply side of the sector is international and includes film production and film distributors.

COVID-19 and the Cinema Sector

Cinemas have been able to open since 15 July, they were effectively closed for around three and a half months but opened earlier than many other sectors. Since they were able to reopen, cinemas have maintained 2m physical distancing, allocated seating has been sold in advance of screenings and face coverings are required in auditoriums. These restrictions - particularly the need for 2m physical distancing – has greatly reduced capacity. From discussions with the industry, including Screen Scotland and the UK Cinema Association, most cinemas have been operating at around 25% capacity. This has typically led to a lower number of showings and reduced attendance. It is likely that the pandemic has had a worse impact on independent cinemas, where the audience is typically older – this segment of society has tended to be less willing to visit cinemas during the pandemic.

Distribution of films has been interrupted, with many key releases postponed. This has affected the ability of some cinemas, especially chains, to show the major releases on which they rely. This has also affected independent cinemas, but the impact may not have been lessened because their programmes are ordinarily less reliant on new releases, especially major Hollywood films.

Reduced capacity, along with the postponement of many key releases, has significantly reduced the ability of cinemas to generate profits. Several chains have made the decision to temporarily close cinemas primarily due to a lack of new releases.

International Responses

A number of countries have closed cinemas as a means of reducing virus transmission. Each of the UK countries have closed cinemas when introducing tighter restrictions in response to increasing virus prevalence. Most European countries have followed a similar pattern.

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 cinema 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.

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.

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 where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters.

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

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

Risk Factors

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

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not or breathing heavily (e.g. due to exercising in gyms) . Many of the sectors covered in this document rely on people from many households coming together for prolonged periods (e.g. in theatres or stadia) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering.

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

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

- the potential for significant aerosol projection activity

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

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

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

While there is no direct evidence of any outbreaks linked to cinemas, there is generally a higher risk of transmission associated with indoor venues where people from different households mix for prolonged periods. The highest risks of transmission are in crowded spaces over extended periods.⁷⁰ This has formed the basis for consideration of further measures in recent weeks, including around cinema settings, in response to the recent increases in COVID-19 cases and transmission experienced across Scotland.

The key transmission risk associated with cinemas is that people from different households spend prolonged periods of time in relatively close proximity. In common with other similar venues, within most cinemas there will be touch points and pinch points where people come together, leading to increased risk of transmission.

Mitigation Measures

The cinema industry has worked hard to put in place measures to protect staff and customers, including physical protection at box offices, one-way systems, hand-sanitising stations, staggered start times, increased cleaning regimes, 2m+ physical distancing between audience members from different households and requirements for audience members to wear masks when not eating or drinking.

Most cinemas are well-ventilated, low occupancy indoor spaces where audiences have minimal interaction, wear masks and are distanced, although, this may not be the case for all cinemas, particularly older buildings. There is evidence to suggest that cinemas have a low risk of transmission⁷¹. Anecdotally, no outbreaks have been traced back to cinemas⁷²: However, despite the measures put in place by cinemas some transmission risk remains.

Current position of Cinema Sector

Cinemas have been able to open since 15 July, one of the earliest sectors allowed to reopen after the

⁷⁰ [Transmission of SARS-CoV-2 and Mitigating Measures. SAGE EMG June 2020](#)

⁷¹ (BMJ 2020;370:m3223, Two metres or one: what is the evidence for physical distancing in covid-19?)

⁷² <https://celluloidjunkie.com/2020/10/19/cj-analysis-the-number-of-covid-19-outbreaks-traced-to-cinemas-is-zero/>

initial lockdown. This was predicated on UK-wide guidance developed by the sector, which was endorsed by Scottish Ministers. Cinemas are able to open at Level 0, Level 1 and Level 2.

Since reopening, cinemas have put in place a number of mitigation measures to ensure they are able to operate as safely as they can. We believe that the sector is adhering to sector-specific guidance and has put in place numerous measures to provide a safe environment. This appears to be the case across the sector. While we are unaware of any outbreaks related to cinemas, there is some inherent risk associated with cinemas simply because of the nature of an indoor environment where people from different households mix, and it is not always possible to trace outbreaks to particular venues or sectors. Compliance seems to be at a high level. Cinemas have continued to be regarded as relatively safe, as recognised in various exemptions extended to the cinema sector, including allowing them to continue to sell food and drink for consumption in auditoriums.

Conclusion

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

However, it is widely recognised that wider health and wellbeing is impacted by our ability to mix with other people. Our collective effort and sacrifices suppressed the virus to low levels during the summer. That came at a cost to education and learning, health and care services, and our ability to lead our lives freely. We recognise and take account of these wider risks, particularly the critical twin risks in health of a second wave potentially coinciding with the seasonal flu, and the wider pressures that the winter period brings, impacting across health and social care. While taking difficult decisions to suppress the virus, we continue to weigh this against the potential mental and physical health, social and developmental harm that may be caused by any measures.

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

Across all of the five levels we seek to balance:

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

Cinemas are able to demonstrate how they have put in place a range of stringent mitigation measures to reduce the risks of COVID 19 transmission. Under the Strategic Framework they are required to close at Level 3 in line with the system-wide approach to reducing opportunities for transmission. A wider consideration of virus transmission, including reducing the risk of transmission in those venues where the risk is raised, has been taken into account in closing cinemas at Level 3, but it has not been based on a risk assessment of how cinemas have operated in Scotland since the pandemic began. The purpose of Level 3 is to provide a 'brake' on virus transmission and a range of entertainment venues, including cinemas, have been closed to help achieve this outcome. While cinemas have demonstrated that the safeguards they have put in place provide a safe environment, the wider public health aims of Level 3, particularly the need to reduce opportunities for virus transmission through prolonged indoor mixing of

people from different households, justify the closure of cinemas at Level 3.

Consultation

Public Consultation: We have not conducted any public consultation on the measures relating to cinemas. The urgent nature of implementation timescales precluded this.

Business: Given the emergency context and the extremely tight timescales within which decisions on the strategic framework were made we had limited consultation with businesses associated with these activities on these measures. The draft Strategic Framework was shared with the UK Cinema Association (UKCA) and Screen Scotland. Both were concerned that cinemas were required to close at Level 3, particularly since the sector had, in their view, been operating safely since mid-July.

The sector continues to lobby for cinemas to be able to open in Level 3. To date, no change is proposed, but that is expected to be considered again at 23 November review.

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.

Since they were able to reopen, cinemas have maintained 2m physical distancing, allocated seating has been sold in advance of screenings and face coverings are required in auditoriums. This is a mixture of legislative requirements and guidance implemented by the cinema sector. Ministers agreed an exemption that allows face coverings not to be worn when consuming food and drink. This should be considered the baseline.

Based on how cinemas have operated since lockdown, the only two viable options that could have been considered are closure or opening in line with the baseline position. For example, banning the sale of food and drink may have made opening unviable because of the economic value of food and drink sales (although this may have been less important for independent cinemas).

Sectors and groups affected

These Regulations will affect:

- Cinema operators
- Cinema staff
- Members of the public who would attend a cinema
- Film distributors
- Suppliers to cinemas, primarily of food and drink sold in cinemas

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 cinema sector. Throughout these measures we have sought to develop the right package of measures to reduce circulation of the virus whilst limiting wider health, economic and social harms.

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.

The '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 Strategic Framework was implemented.

At the baseline level cinemas are allowed to open with restrictions and guidance in place. Since they were able to reopen, cinemas have maintained 2m physical distancing, and face coverings are required in auditoriums. Industry-led guidance has been put in place with a range of measures designed to further heighten safeguards in cinemas. These include online seat booking and contactless payments. Ministers agreed an exemption that allows face coverings not to be worn when consuming food and drink. Cinemas may also be subject to broader hospitality restrictions within the Strategic Framework if they operate a bar, restaurant or other hospitality business within the cinema.

Restrictions on cinemas led to increased costs for businesses (in relation to cleaning) and reduced income for businesses. (for example through limiting ticket sales)

Options for Level 1

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

Option 1: Baseline

This option would continue to allow cinemas to open with restrictions and guidance in place. This includes physical protection at box offices, one-way systems, hand-sanitising stations, staggered start times, increased cleaning regimes, 2m+ physical distancing between audiences from different households and requirements for audiences to wear masks when not eating or drinking. There would be some costs to businesses to implement and maintain these measures. However businesses would be able to continue to trade. This would have positive benefits for businesses, supply chains and the film industry. There are also broader social advantages to allowing cinemas to remain open in terms of reducing social isolation and loneliness. However, there is a risk that allowing cinemas to remain open would lead to an increased risk of virus transmission (even with mitigation measures in place).

Option 2: Close cinemas

Closing cinemas would reduce risks of transmission. In common with other similar venues, within most cinemas there will be touch points and pinch points where people come together, leading to increased risk of transmission. However, it would have a negative impact on cinemas, supply chains, associated businesses and the film industry. It would impact negatively on the costs and profits of cinemas. There are 71 fixed sites screening first-run film in Scotland run by 38 organisations (31 multiplex sites and 4 independent chain sites run by 8 operators, 36 independent venues run by 30 operators).

Conclusion

Based on an assessment of an understanding of health risks and economic harms it was concluded that cinemas are able to open at Level 1. Existing safety measures should ensure appropriate risk mitigation is

in place.

Options for level 2

Within Levels 2 we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. Two options were considered at level 2. These options were the same at level 1 (either allow cinemas to open with protective measures in place or close cinemas)

Conclusion

Based on an assessment of an understanding of health risks and economic harms it was concluded that cinemas should remain open at Level 1. Existing safety measures should ensure appropriate risk mitigation is in place. Cinemas are one of the few sectors within the leisure and entertainment category that are able to continue operating at level 2. Other subs sectors such as casinos, theatres and music venues are required to close at level 2. A key difference between cinemas and theatres, for example, is that there is no live performance element. This further reduces the risk of contact as well as removing the risk of contamination between live performers and audience members. Additionally, unlike music venues and theatres, the audience is predominantly silent – for example, cinema audiences do not ordinarily cheer or applaud in the way that music and theatres audiences do.

Options for Level 3

Within Levels 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. Within level 3 we would expect to see an increase in 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, and the number of people likely to need intensive care in future weeks.

Options for Level 3

We considered 2 options for level 3:

Option 1: Baseline

This option would continue to allow cinemas to open with restrictions and guidance in place. This includes physical protection at box offices, one-way systems, hand-sanitising stations, staggered start times, increased cleaning regimes, 2m+ physical distancing between audiences from different households and requirements for audiences to wear masks when not eating or drinking. There would be some costs to businesses to implement and maintain these measures. However businesses would be able to continue to trade. This would have positive benefits for businesses, supply chains and the film industry. There are also broader social advantages to allowing cinemas to remain open in terms of reducing social isolation and loneliness. However, there is a risk that allowing cinemas to remain open would lead to an increased risk of virus transmission (even with mitigation measures in place). At level 3 this risk becomes more pronounced.

Option 2: Close cinemas

Closing cinemas would reduce risks of transmission. Evidence around transmission and risk is presented in earlier sections of this BRIA. The key transmission risk associated with cinemas is that people from different households spend prolonged periods of time in relatively close proximity. However, it would have a negative impact on cinemas, supply chains, associated businesses and the film industry. There are 71 fixed sites screening first-run film in Scotland run by 38 organisations (31 multiplex sites and 4

independent chain sites run by 8 operators, 36 independent venues run by 30 operators). Closing cinemas will result in losses and costs for businesses (for example):

- loss of earnings / refunds for future bookings
- ongoing costs in relation to wages
- ongoing costs relating to premises (rent, heating, maintenance, security, insurance, rates and water)

Cinemas may also find they have higher rates of staff illness and absenteeism because of elevated rates of virus transmission and associated restrictions.

Conclusion

Given the increased transmission of COVID 19 at level 3 based on an assessment of the risks of transmission and the impact on businesses it was felt proportional to close cinemas at level 3. At level three all remaining leisure and entertainment businesses will be closed.

The purpose of Level 3 is to provide a 'brake' on opportunities for virus transmission, closing cinemas is in line with steps taken to close other similar venues. This decision was taken in line with the wider public health outcomes and the aims of level 3. High-risk factors associated with transmission of the virus include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person.

While the cinema sector has demonstrated its ability to operate relatively safely with restrictions and guidance in place, the wider public health aims of Level 3 mean that closing cinemas is consistent with other measures taken to reduce virus transmission.

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

Given the purpose of Level 4, closing cinemas entirely is the only viable option.

Scottish Firms Impact Test:

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

There are 36 independent venues in Scotland, run by 30 operators; these are all registered in Scotland. Other cinemas in Scotland are part of chains. Independent of restrictions, several chains made the decision to close temporarily – this was due to a combination of reduced capacities because of physical distancing and the postponement of several key releases.

The restrictions will have no particular impact on the competitiveness of Scottish companies within the UK or elsewhere in Europe or the rest of the world.

All cinemas in England are currently closed as part of the recent restrictions. Previously, cinemas in England had been open since 4 July.

Cinemas in Wales were closed on 23 October as part of new lockdown restrictions; cinemas are now able to open post lockdown. Cinemas in Wales had been able to open since 27 July.

Cinemas in Northern Ireland closed on 16 October as part of a 4-week lockdown. Previously, they had been able to open since 10 July.

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

There are 71 fixed sites screening first-run film in Scotland run by 38 organisations (31 multiplex sites and 4 independent chain sites run by 8 operators, 36 independent venues run by 30 operators).

Additionally, there are 2 touring cinema operators who screen first-run films. One is Screen Machine which physically tours, the other is INDY Cinema Group which has a number of sites. They are difficult to categorise given their unique set-ups.

There are also a number of smaller venues that are screening occasionally, off-date and/or older films, which aren't included here.

There are currently **1,530 employees** working in film exhibition in Scotland, based on Office for National Statistics and BFI methodology; however this figure is slightly low as it removes multi-arts venues and misses organisations that aren't registered under the specific tax code for cinemas.

Cinemas argue that the new Framework is having a disproportionate impact on the sector as it is forced to close in Level 3 areas. For context, in Level 3 hospitality, shopping, visitor attractions, close-contact services and driving lessons can operate; schools and places of worship remain open; and weddings up to 20 people can take place. However, other leisure and entertainment businesses with similar indoor environments, such as theatres and live music venues, are required to close in Level 2. A consistent approach has been taken across these sectors to help meet the aims of Level 3.

* **Will the measures have knock on effects on other businesses (e.g. supply chains)?**

A lack of new films compounds issues with distributors pulling key titles, afraid to release into a curtailed marketplace. There are no mainstream family friendly films being released to cinemas in 2020, with key titles such as the new James Bond film No Time To Die moving to a to-be-determined date next year and Disney-Pixar's Soul bypassing cinemas to go direct to streaming in December.

* **Are the measures likely to impact disproportionately on small businesses**

The small businesses in the sector are likely to be independent cinemas, who have received support through Screen Scotland's Independent Cinema Recovery and Resilience Fund. As such, any disproportionate impacts are likely to be offset.

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

Cinemas in level 2 are restricted to operating with a meter physical distancing dramatically reducing cinema capacity and any margins for profit. There are costs associated with enhanced hygiene and safety. Level 3 and 4 require complete closure and therefore requires businesses to continue to cover their fixed costs whilst losing revenue.

Current industry estimates show that UK cinemas were losing approximately £5.7m per day when shut.

Analysis of UK cinema box office data shows that Scotland's box office accounts for 7.9% of the UK total. Multiplexes account for 76.9% of screens, which puts lost income for non-multiplex cinema sector at approximately £104,000 per day.

- **What has the impact of the March lock down and subsequent restrictions been on the sector?**

Operators predicted a best-case scenario of making 25% of the income projected for the year (based on average annual income) if they were able to reopen by September, however this was before key titles moved to 2021. Income will be significantly less for many sites, and some won't be able to reopen at all.

It may not be economic for some single screen sites to reopen at all (Independent Cinema Office research indicate 41% of independent cinemas sites will be unable to reopen at all while in compliance with social distancing measure). Those that do open will likely be screening at reduced capacity and frequency to account for new safe-guarding measures.

During the periods of phased reopening and regulated physical distancing, following the first lockdown, cinemas have experienced weak demand, with monthly box office 80-90% lower than would otherwise be expected. Cinemas will continue to experience lower than average monthly box offices over a year after reopening. Box office will remain lower than projected and it is estimated that, even if cinemas able to sell all seats, box office will continue to be 10% to 20% lower than average in well through to the end of 2021 .

Cinemas do not currently benefit from VAT exemption on charges to cultural events (currently only applicable to museums, galleries, art exhibitions and zoos and theatrical, musical or choreographic performances of a cultural nature qualify for exemption)

- **Will government support be available for businesses facing restrictions? (At what level will this apply?)**

The Scottish Government is making available business support grants of £2,000 or £3,000, depending on rateable value, for businesses required by law to close. Cinemas in Scotland will be able to access these grants.

During the COVID-19 pandemic the Scottish Government provided £3.5 million of support through Screen Scotland, the dedicated public sector agency for the film and television industry in Scotland, to the Independent Cinema Recovery and Resilience fund. This will provide vital support to 30 fixed venue cinemas and 2 touring cinemas in Scotland.

Cinema businesses will also have been eligible for UK Government support, including the Coronavirus Job Retention Scheme.

This support should offset some of the business impacts.

Competition Assessment:

Unlikely to impact on competition.

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

There is unlikely to be any significant impact. Some independent cinemas may have struggled to survive, but Scottish Government funding should provide some support for those unable to operate.

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

No particular impact.

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

No particular impact.

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

Yes, consumers will have much restricted choice in areas where cinemas are required to close.

Consumer Assessment:

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

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

Consumers will have restricted choice, removing all options to visit the cinema in Level 3 areas.

• **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: The closure of cinemas is likely to see increasing numbers of titles being streamed in lieu of cinema release.

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 will continue to engage with the sector regarding the measures within the Strategic Framework.

Summary and recommendations:

Introduction

This BRIA has examined the cinema sector measures within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

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

Whilst this BRIA is focused on cinema, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view cinema 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.

There are only two viable options for the cinema sector: opening as per the baseline position or complete closure. While the baseline position drastically reduces cinemas' revenue streams, mainly through reduced numbers of customers, it allows venues to operate relatively safely and generate some income, as well as maintaining their position in the cultural landscape. A number of measures have been put in place, both through legislation and good practice guidance developed and implemented by the cinema sector at a UK level. Those cinemas who have operated at the baseline level have been able to maintain employment and continue to offer a service to their audiences.

This has been of particularly value from a cultural perspective. Cinemas were one of the few cultural and entertainment sectors able to operate – this provided a much needed source of cultural and artistic engagement. This was especially important for independent cinemas, which often have a loyal and long-standing audience.

Regardless of the measures put in place, the aims of Level 3 mean that closing cinemas entirely was the only viable option to protect the public health outcomes but that it will have negative impact on businesses in this sector. It is necessary to consider cinemas in a wider context to recognise that allowing cinemas to stay open would have potentially undermined efforts to reduce opportunities for virus transmission.

Accordingly, closing cinemas at Level 3 but allowing them to open at lower levels protects the public health aims of the Strategic Framework but that it will have negative impact on businesses in this sector.

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.

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

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

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

The Government will fund 80% of wages for hours not worked with employers' contributions initially limited to employers' NICs and pension costs – reflecting the terms and conditions of the CJRS applicable in August 2020.

Employer contributions will be reviewed in January. All employees who were on the payroll as of 30th October are now eligible. Employees that were on the payroll as at 23 September but have since been made redundant can be re-employed and claimed for

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

The UK Government also announced (2 November)

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

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

Title: Scotland's Strategic Framework: Nightclub, Dancehalls, Discotheques and Sexual Entertainment Venues

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 nightclubs and sexual entertainment venue measures included within Scotland's Strategic Framework. Within this BRIA when we refer to nightclubs we are also including dancehalls and discotheques. These measures sit within the broader leisure and entertainment grouping within the 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 Framework⁷³ 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.

Across all of the five levels we seek to balance:

⁷³ <https://www.gov.scot/publications/covid-19-scotlands-strategic-framework/>

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

The key measures relating to nightclubs and sexual entertainment venues are set out in the table below:

Nightclubs and Sexual Entertainment Venues	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Measures	Closed ⁷⁴	Closed	Closed	Closed	Closed

Nightclubs and sexual entertainment venues are closed across all levels of the Strategic Framework. However, there are minor permitted exceptions in terms of events and activities that are allowable in Levels 0 - 1. These include recording or broadcasting a performance or sporting event, rehearsing or training for a performance or sporting event, opening to host blood services, or opening for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service. These exceptions are permitted subject to compliance with all guidance and mitigations outlined for the tourism and hospitality sector and set out in its guidance.

Purpose and intended effect: Scotland's Strategic Framework nightclub and sexual entertainment Protections

Introduction

The nightclub entertainment sector is an important part of Scotland's economy. Sexual entertainment venues are far more limited in terms of numbers, but can also contribute to the economy in terms of their economic output.

It is estimated, based on the Inter-Departmental Business Register 2019 and 2018 Business Register and Employment Survey that there are 115 businesses under the heading non-charity licensed clubs. Nightclubs and sexual entertainment businesses in Scotland fall under this classification. These businesses operate across 145 sites (as some businesses may have more than one site) and are estimated to employ around 3,000 people. It is not possible to separate out sexual entertainment venues from this, though it is understood less than 20 operate in Scotland as of 2015. The vast majority of nightclub and sexual entertainment businesses are small (employing less than 50 people). We currently have no specific data on supply chains for these businesses. It is likely that most of these are based in cities and larger towns although it is not possible to obtain detailed data at this time.

COVID-19 and the Nightclub and Sexual Entertainment Sector

Nightclubs and sexual entertainment venues have been closed since March. Under the new Strategic Framework they will remain closed under all of the levels.

Scotland's hospitality industry has been particularly hard-hit by the pandemic because of its customer-

⁷⁴ Premises are allowed to be used for some limited purposes set out in the regulations <https://www.legislation.gov.uk/ssi/2020/344/schedule/1>

facing nature.

Registered enterprises within the sustainable tourism sector accounted for around 8% of all registered businesses in Scotland in 2019 with just under 15,000 tourism businesses in Scotland. Within the sustainable tourism growth sector, restaurants comprise the highest proportion (51%) while pubs and clubs and hotels account for 19% and 11% respectively.⁷⁵

Guidance for the Tourism and Hospitality Industry, developed in partnership with industry and unions, was published on 18 June 2020, and has been revised on a regular basis to take account of changing circumstances. It advises businesses that are able to on what they need to do to open and operate safely. <https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/> The guidance does not apply to nightclubs or sexual entertainment venues, since they are not yet considered safe to reopen.

The people-centred nature of the hospitality sector, including nightclubs and sexual entertainment venues, means that the prolonged closure has had a significant impact, not only those who are employed or operate businesses within the sector, but also in terms of the health and wellbeing of its customers.

It is not possible to derive data currently for nightclubs and sexual entertainment venues specifically. These fall within the data collected for accommodation and food services. In some cases, given the more severe impact of the measures on nightclubs and sexual entertainment venues, the data below can only serve to give a wider picture of the overarching sector. For accommodation and food services as a whole:

- 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 overall [source: <https://www.gov.scot/publications/monthly-gdp-august-2020/>]
- 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 Sector [source: <https://www.gov.scot/publications/bics-weighted-scotland-estimates-data-to-wave-15/>]. 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. This will not include nightclubs or sexual entertainment venues, as these have not been trading.
- 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%. Again, as nightclubs and sexual entertainment venues have not been open, turnover will have been minimal.
- 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 that had not permanently stopped trading 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 not permanently stopped trading in the Accommodation & Food Services sector reported facing a moderate to severe risk of insolvency in the period 5 – 18 October, compared with 15.1% for the economy overall.

However, the almost total closure of the start of lockdown means that the impact on nightclubs and sexual entertainment venues will have been far greater than the accommodation and food services sector as a whole. In engagement with the sector, it has noted that it is experiencing substantial cashflow problems and fears for its long-term survival.

⁷⁵ 14,970 in 2019 <https://www.gov.scot/publications/growth-sector-statistics/>

Policy Objective

In common with the wide range of other countries who have implemented similar measures, the objective of the restrictions closing nightclubs and sexual entertainment venues under the Strategic Framework is to ensure that these very high risk businesses do not operate while there remains a risk from coronavirus. These restrictions are considered necessary to help control and suppress the spread of the virus, ultimately minimising transmission rates, hospital admissions, deaths and the potential overwhelming of the NHS.

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. This includes curfews for night-time entertainment. Nightclubs in England have been closed since March. Wales and Northern Ireland also have had varying restrictions in place on nightclub and sexual entertainment operation. 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)
- **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

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.⁷⁶

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 where no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{77,78}.

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

⁷⁷ 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

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

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

Risk Factors

High-risk factors associated with transmission of the virus⁷⁹ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption⁸⁰. Another risk factor is when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing⁸¹. Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus⁸².

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), crowding (where it is hard to regulate the distance between people), and pinch points (at areas such as toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. The risks in some venues may be exacerbated by some behaviours – whether this be drinking alcohol (e.g. in nightclubs), which can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not⁸³. The sectors covered in this document rely on people from many households coming together for prolonged periods (e.g. in nightclubs) and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering⁸⁴.

Each place an individual visits brings different risks depending on a range of factors, such as⁸⁵:

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

⁷⁸ 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

⁷⁹ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

⁸⁰ [Collins A and Fitzgerald N \(2020\)](#)

⁸¹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁸² [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

⁸³ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

⁸⁴ SPI M paper 20 August 2020:

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

⁸⁵ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

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

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{86 87}.

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

Alcohol

It is well established that alcohol is a psychoactive substance which inhibits judgement. The WHO Global Strategy recognises that intoxication with alcohol is associated with high-risk behaviours⁸⁸. Alcohol intoxication is associated with a number of well-characterized changes in psychological function, including disinhibition and reduced consciousness⁸⁹, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as memory, divided attention, and planning⁹⁰. It can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not⁹¹.

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 consumed⁹².

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

⁸⁶ SAGE papers 21 September 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925856/S0770_NPIs_table_pivot_.pdf and

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

⁸⁷ SPI M paper 20 August 2020:

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

⁸⁸ <https://apps.who.int/iris/handle/10665/44395>

⁸⁹ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

⁹⁰ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

⁹¹ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

⁹² [Collins A and Fitzgerald N \(2020\)](#)

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'.⁹³

Test and Protect

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

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

Nightclubs and Sexual Entertainment Venues: Transmission risks

Nightclubs and sexual entertainment venues form part of the wider hospitality sector. However, they have been identified as posing a greater risk. This is because they bring together groups of people in restricted spaces where distancing and ventilation are likely to be more difficult and where activity can often take place with people very close to each other. They are normally open later at night, when it is likely that greater amounts of alcohol have been consumed. There is also likely to be loud music, leading to greater noise levels in general and communication using raised voices. Dancing is considered particularly high risk due to likelihood of close contact, mixing between groups and the difficulties complying with physical distancing. Given the nature of activities that are permitted in sexual entertainment venues, activities that occur in bringing people together in very close proximity is a key element of the main activities that are carried out.

The nightclub and sexual entertainment venue sector fulfils many of the high-risk criteria for COVID-19 transmission, as transmission of SARS-CoV-2 is most strongly associated with close and prolonged contact in indoor environments. The highest risks of transmission are in crowded spaces over extended periods.

Nightclubs and sexual entertainment venues score highly on the risks outlined above. In particular nightclubs and sexual entertainment venues are characterised by:

- Noise – causing people to speak more loudly or breathe heavily, potentially projecting aerosol particles
- Movement – due to a mix and number of people coming and going
- Dancing – bringing people close together
- Alcohol consumption - which can cause people to lose their inhibitions and undertake riskier behaviours.
- Poor ventilation – increasing the risk of virus transmission
- Pinch-points – for example when entering and leaving buildings and at toilet
- Intimate activity

It is recognised that risks may be slightly lower in some types of sexual entertainment venues, where physical distancing may be possible, and where noise levels may be lower.

Current position of nightclubs and sexual entertainment venues

⁹³ [World Health Organisation: Alcohol and COVID-19: what you need to know](#)

High transmission risks mean all nightclubs and sexual entertainment venues have been subject to closure since the start of the lockdown. There is no likely prospect of reopening until a vaccine is found. There has been a very high degree of compliance amongst the sector, in spite of the significant impacts it is experiencing.

There has been some repurposing of nightclub venues by operators, for example removing /closing dance floors and operating without music, to enable these to operate in line with other hospitality premises, for example pubs and restaurants. It is not known how extensive or successful this has been, though it is thought this has been quite limited.

Conclusion

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

The risks associated with nightclubs and sexual entertainment venues outline above means that closure (except for very limited permitted events and activities) is the most effective measure against transmission of the virus until a vaccine and treatments become available.

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

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

Across all of the five levels we seek to balance:

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

Consultation

Public Consultation: Given the need to respond quickly to protect public health as virus rates increase, there has not been time to undertake a public consultation on these measures.

Business: There has been frequent and ongoing official and Ministerial engagement with the hospitality sector as a whole, both through our key stakeholders, the Scottish Tourism Alliance and UKHospitality and, specifically, with the Night-Time Industries Association. Within this there has been some discussion of the particular issues on nightclubs and related activity, although detailed discussion. Engagement on the sexual entertainment venues has generally taken place in correspondence with individual businesses – this reflects the much smaller scale of operation of sexual entertainment venues in Scotland. There has also been regular engagement with representatives of the licensed trade around the development of the tourism and hospitality guidance and regulations including the Scottish Licensed Trade Association, the Scottish Beer and Pub Association, UKHospitality, the Scottish Hospitality Group and sector legal

representatives and press.

The Scottish Tourism Alliance is the main stakeholder organisation for all aspects of the tourism and hospitality industry and its members include UKHospitality and the Scottish Licensed Trade Association amongst others. The Scottish Tourism Alliance is also a member of the Scottish Tourism Emergency Response Group, which has met weekly since March. In addition, the Scottish Tourism Recovery Taskforce, a short-life working group brought together over Summer 2020 and chaired jointly by the Cabinet Secretary for Tourism and the Minister for Business. It comprised over 30 members from across the tourism sector, including relevant trades unions. It published a suite of recommendations on 23rd October, which are under consideration and that will go to the Scottish Cabinet on 1st December.

<https://scottishtourismalliance.co.uk/tourism-recovery/>

The Tourism Minister met with Glasgow's Night-Time Economy Commission on 18 June and considered range of issues around the sector, including safe reopening (including mitigations such as physical distancing, restricted numbers etc.), financial support, rates relief, licensing fees and the furlough scheme.

Most recently there have been a total of six meetings with the NTIA between 22 and 30 October - four with the Minister for Business and two with officials.

The key focus of these discussions was around eligibility for support for the sector from the new Contingency Fund and its criteria, and further regular engagement.

Ongoing engagement with the sector for this part of the sector in particular has centred, in the main, on financial support to ensure survival. Transmission risks have been generally accepted by business. The Night-Time Industries Association Scotland (NTIAS) has produced research that reveals the extent of financial risk the industry is facing as a result of COVID-19.

In a meeting with the Glasgow Night-time Industries Commission, the sector has acknowledged that it should not open before it was safe to do so, but hoped this could be done in a practical way, that was financially viable. It has significant concerns around physical distancing and the regulatory aspect of that. Examples have been provided of the impact of reduced capacities in clubs and nightclubs, which would lead to job losses. Egress from venues also makes it difficult to maintain distancing. Other support seen as beneficial would be the continuation of rates reliefs, a suspension of licensing fees, continued access to loans and an extension, or replacement, of the furlough scheme. It was noted that it was no longer possible to get insurance for Coronavirus. All of these concerns had also been shared with the Scottish Tourism Alliance and considered as we have moved through our response to the pandemic. The potential need for booking systems in some cases, and the need for some smaller venues to wait for a vaccine until they could open were also acknowledged. Retaining the vibrancy and vitality of Glasgow was vital, and it is likely that these views will be echoed across other cities and towns. The key change needed would be the removal of physical distancing, or a move to 1m, along with a tapering of furlough support. The latter is within the gift of the UK Government. Other pop-up/outdoors relaxations would also be helpful, e.g. facilitating the use of back lanes, which could be expedited through the licensing authority. Appreciation was expressed for the clear messaging that had been displayed by the Scottish Government.

Options:

Within this BRIA we have considered two options.

Option 1: Closing nightclubs and sexual entertainment. (Baseline)

Option 2: Allowing nightclubs and sexual entertainment venues to open.

This has allowed us to present the clinical evidence for intervention, whilst acknowledging the potential impacts on nightclub and sexual entertainment venues. Throughout the strategic framework we have

sought to develop the right package of measures to reduce circulation of the virus whilst limiting wider health, economic and social harms.

In assessing the relevant options for each level we have considered current and previous restrictions, international best-practice and examples, clinical and sectoral input, and proposals from 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 both economic and social.

The high risk of transmission associated with nightclubs and sexual entertainment venues means that the range of options open for consideration have necessarily been limited.

Sectors and groups affected

These Regulations will affect:

- Nightclubs
- Sexual entertainment venues

Options

Level 0

At level 0 we would expect to see low incidence of the virus with isolated clusters, and low community transmission. Broadly, level 0 is the closest we can get to normality without a vaccine or effective treatment. We assessed two options at level 0.

Option 1: Closing nightclubs and sexual entertainment (Baseline)

Option 1 (the Baseline) involves the closing of nightclubs and sexual entertainment venues.

Closing nightclubs at level 0 would mitigate against the risks associated with both nightclubs and sexual entertainment venues. Nightclubs and sexual entertainment venues present significant risks associated with COVID 19 transmission.

This is due to a number of reasons:

- the high prevalence of the use of alcohol (and potentially other legal and illegal substances) in nightclubs, and some other sexual entertainment settings. Although some venues have been repurposed, nightclub opening without alcohol may be seen by some businesses and patrons as either financially viable or culturally desirable.
- the inability to ensure effective physical distancing. This is likely to be a particular issue in nightclubs where there is more likely to be significant numbers on individuals congregating on dancefloors. Sexual entertainment venues may also find it difficult to manage distancing between performers and clientele, depending on the nature of the premises used, and would need to stop offering certain activities where dancers and patrons are in close proximity and which is likely to generate much of the income from the operation of a sexual entertainment venue. In addition, such a restriction may remove much of the appeal for those attending.
- the noise levels in nightclubs and some sexual entertainment venues (removal of music in nightclubs and, to some extent, sexual entertainment venues would in general negate the venue's purpose)
- the types of activities undertaken in many premises, for example dancing and other, more intimate, activities.

We are acutely aware of impact the closure has had on the financial viability of these premises, and that

the funding that the Scottish and UK Governments are able to provide is not likely to be able to sustain all businesses in the sector. The sector has been closed since the beginning of the pandemic and this has caused significant financial hardship for all of those businesses in this group. There has been almost no opportunity to adapt within the very limited range of permitted activity, as has been possible with other business types within the hospitality sector. In mitigation, we have provided a wide range of support for businesses impacted by the pandemic, with general financial support through Non-Domestic Rates grants and rates relief, and UK Government, support through the Job Retention and Self-Employed support schemes. In addition, we have put in place specific support through grants from our £15 million Culture Organisations and Venues Recovery Fund. This aimed to provide emergency support to organisations that provide opportunities for cultural engagement and have been unable to trade due to the impact of Covid-19. Nightclubs were among those eligible to apply for this fund depending on their meeting the criteria. Its primary aim is to protect jobs and to support the sustainability of organisations threatened by insolvency in the short to medium term. We made sure that the fund, although now closed, had significant publicity and published the criteria on 10 September ahead of opening for applications on Thursday 17 September 2020. This support has been welcomed by nightclubs. Nightclubs which meet the criteria will also be able to apply for the Strategic Framework business fund and get closure grants of up to £3000 for every 4 weeks of restrictions. Applications for this are currently live on local authority websites.

On the issue of background noise, we have received significant levels of feedback on the lack of background music and other noise contributing to the lack of viability of other types of hospitality businesses.

Under Option 1 nightclubs and sexual entertainment venues are only allowed to open for certain permitted purposes.⁹⁴: These are:

- (i) record a performance or sporting event,
- (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
- (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event

For nightclubs and SEVs, these will have an extremely limited impact.

Option 2: Opening nightclubs and sexual entertainment venues

We considered the possibility of allowing nightclubs and sexual entertainment venues to open in level 0. In order to do this we would need to put in place exceptionally strong mitigations, particularly in relation to physical distancing, and restrict the playing of music pending a review of the evidence on the impact of noise in venues (this review is currently ongoing). This would have the advantage of ostensibly allowing economic recovery for the sector but the severity of the mitigations required is likely to mean that venues would continue to be financially unsustainable in practice. There would be some degree of differing level of risk, depending on the exact nature of the premises. There is also the potential for businesses to miss out on certain types of financial support, if these are only available when a business is subject to closure. For these reasons this was not considered to be a viable, or desirable option.

We continue to engage with the sector on exploring financial support to ensure ongoing business survival throughout the period of restriction.

Conclusion

Nightclubs and sexual entertainment venues present significant risks associated with COVID 19 transmission. As such it was felt that on the balance of evidence nightclubs and sexual entertainment venues should remain closed at level 0. However, it was agreed that certain exemptions should be applied

⁹⁴<https://www.gov.scot/publications/the-health-protection-coronavirus-restrictions-and-requirements-additional-temporary-measures-scotland-regulations-2020/>

in order to permit venues to open in certain limited situations. Option 1 applies for level 0. We recognise the negative financial impact these closures will have on businesses.

Level 1

The two options outlined above were considered in relation to level 1. Within this level, we would expect to see very low incidence of the virus with isolated clusters, and low community transmission.

Conclusion

Given the decision to close nightclubs and sexual entertainment venues at level 0. Option 2 was discounted due to the heightened risks of transmission. Option 1 applies for level 1. We recognise the negative financial impact these closures will have on businesses.

Level 2-4

The two options outlined above were considered in relation to levels 2 - 4. Within Levels 2 and 3, we would expect to see increased incidence of the virus, with multiple clusters and increased community transmission. At Level 4, 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.

Conclusion

Given the decision to close all nightclubs and sexual entertainment venues at level 0 due to the significant transmission risks presented by these venues we concluded that nightclubs and sexual entertainment venues should remain closed through levels 2-4. We recognise the negative financial impact these closures will have on businesses.

In considering the evidence around options Scottish Ministers carefully considered whether nightclubs and sexual entertainment venues should be opened at any level while a vaccine remains elusive. The risks outlined above meant that this was not an acceptable option. 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 closing nightclubs and sexual entertainment venues across all of the levels could both reduce interactions and have the desired impact on the R rate.

Adopting this approach has allowed us to consider the clinical evidence for intervention at each level setting out the health benefits, whilst acknowledging the potential impacts on the nightclub and sexual entertainment. 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.

In assessing the relevant options, 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.

Closing nightclubs and sexual entertainment venues across all of the levels (except for limited permitted purposes) offers the safest approach to the prevention of transmission, given the varied and significant risks attached to these types of venues. It also, however, attracts the most significant levels of cost and the highest risk of closure and job losses, along with a reduced hospitality offer upon recovery.

Scottish Firms Impact Test:

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

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

The majority of Scottish nightclubs and sexual entertainment venues are registered in Scotland. Closing nightclubs and sexual entertainment venues at all levels of the Strategic Framework will inhibit business growth and expansion into the UK and Europe in the medium term.

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

It is estimated, based on the Inter-Departmental Business Register 2019 and 2018 Business Register and Employment Survey that there are 115 businesses under the heading 'non-charity licensed clubs'. Nightclubs and sexual entertainment businesses in Scotland fall under this classification. It is not possible to break this down further. These businesses operate across 145 sites and are estimated to employ around 3,000 people (see table 1). It is not possible to separate out sexual entertainment venues from this, though it is understood less than 20 operate in Scotland as of 2015.

Table 1: Non- charity licensed clubs: Employment and registered businesses

Sector	Employment (2018)	Number of Registered Businesses (2019)	Number of Registered Business Sites (2019)
SIC (2007) 56.301 Licensed clubs (non-charity to isolate nightclubs from licensed club group)	3,000	115	145

Source: IDBR 2019.

The vast majority of nightclub and sexual entertainment businesses are small (employing less than 50 people) – see table 2.

Table 2: Non- charity licensed clubs: Number of businesses and size

	Number of Registered Businesses	Small Registered Businesses (<49 employees)	Medium-Sized Registered Businesses (50-<249 employees)	Large Registered Businesses (250+ employees)
SIC (2007) 56.301 Licensed clubs (non-charity to isolate nightclubs from licensed club group)	115	105	10	-

Source: IDBR 2019.

Closing nightclubs and sexual entertainment venues is likely to impact on supply chains. This will primarily impact on hospitality related supply chains – however there may be knock on effects on other businesses such as taxi firms, fast food outlets etc.

• What is the likely cost or benefit to business?

The financial impacts of closure are likely to have a significant impact on the nightclub and SEV sector, although this is difficult to fully quantify, given the inability to obtain detailed data. A survey of members carried out by Scotland's Night Time Industries Association in August indicated that 83% of businesses were set to make staff redundant, with 76% of businesses set to make more than half of their workforce redundant in only a matter of weeks. The survey also indicated that 58% of businesses within Scotland's Night-Time did not expect to survive longer than two months without further Government support. Since then there have been a number of funding streams made available however if nightclubs remain closed, this gives a likely indication of the impact⁹⁵.

Registered enterprises within the sustainable tourism sector accounted for around 8% of all registered businesses in Scotland in 2019, with pubs and clubs accounting for 19% of these.⁹⁶

As noted above, nightclubs and sexual entertainment venues fall within the data collected by the Scottish Government for accommodation and food services. In some cases, given the more severe impact of the measures on nightclubs and sexual entertainment venues, the data below can only serve to give a wider picture of the overarching sector. However, the Moffat Centre at Glasgow Caledonian University undertook research to assess the economic impact of the night time economy. This demonstrated that, in 2015, Glasgow's Night Time Economy (NTE) contributed £2.19 billion to the Glasgow economy. This sector constitutes 13.5% of City Centre GDP and was responsible for supporting 16,200 full time equivalent employment positions or 10.8% of city employment.⁹⁷ This serves to give some scale to the impacts of the restrictions, with similar figures for the remainder of Scotland cities and, to a lesser extent, its larger towns.

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 Sector [source: <https://www.gov.scot/publications/bics-weighted-scotland-estimates-data-to-wave-15/>].

Key points include:

- Although 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, almost 100% of nightclubs and SEVs have been subject to closure.
- 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%. Again, as nightclubs and sexual entertainment venues have not been open, turnover will have been minimal.
- 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. For nightclubs and SEVs, this is likely to be proportionately higher, given the level of closure.

However, the almost total closure of the start of lockdown means that the impact on nightclubs and sexual entertainment venues will have been far greater than the accommodation and food services sector as a whole. In August, Scotland's Night-Time Industries Association (SNTIA)⁹⁸ surveyed its membership of nightclubs, late night bars and live music venues to assess the impact of the coronavirus pandemic since

⁹⁵ <https://www.ntia.co.uk/financial-armed-don-to-hit-scotland-s-night-time-economy-with-83-of-businesses-set-to-make-staff-redundant-in-a-matter-of-weeks/>

⁹⁶ 14,970 in 2019 <https://www.gov.scot/publications/growth-sector-statistics/>

⁹⁷ <https://researchonline.gcu.ac.uk/en/publications/understanding-and-measurement-of-glasgow-s-night-time-economy>

⁹⁸ <https://www.ntia.co.uk/>

lockdown. Survey results showed 83% of businesses are set to make staff redundant, with 76% of businesses set to make more than half of their workforce redundant in a matter of weeks. The survey data also showed 58% of businesses within Scotland's night-time economy fear they will not survive longer than two months without further Government support. In engagement with the sector, it has noted that it is experiencing substantial cashflow problems and fears for its long-term survival.

Losses and costs for businesses will have included:

- loss of earnings / refunds for future bookings
- ongoing costs in relation to wages
- ongoing costs relating to premises (rent, heating, maintenance, security, insurance, rates and water).

Continued closure will exacerbate cash flow problems for business and potentially threaten viability of businesses putting jobs at risk and leading to higher unemployment.

In addition to the business support outlined above, a new Contingency Fund will provide one-off grants to two sectors that have been closed by law since March 2020: nightclubs and soft-play centres.

- Award levels take account of those exceptional circumstances.
- This first phase of Contingency Fund grants will operate as a three-tiered scheme, with awards dependent on Rateable Value. Eligible businesses will receive a:
 - £10,000 grant for a property from which they operate with a rateable value of £18,000 or under; or
 - a £25,000 grant for a property from which they operate with a rateable value between £18,001 and £51,000; or
 - a £50,000 grant for a property from which they operate with a rateable value above £51,001.
- Businesses operating multiple premises will be eligible for each one, with second and subsequent locations payable at 75% of the standard rates set out above.⁹⁹

Competition Assessment:

All businesses within the nightclub and sexual entertainment sector have been required to close since March 2020

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

It is likely that prolonged closures of nightclubs and sexual entertainment venues will lead to some businesses ceasing trading. This will depend on businesses cash flow and motivation to continue trading in the face of a prolonged shutdown.

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

We understand that some nightclubs may have continued to operate using their alcohol premises licence to operate as a pub and are operating in accordance with hospitality guidance. All businesses within the nightclub and sexual entertainment sector will have been adversely affected by the requirement to close their businesses.

It is difficult to know if certain types of businesses within the sector have been disproportionately affected and this is likely to depend on cashflow and levels of overheads.

Other leisure and entertainment sectors that are able to remain open in level 1 and 2 may benefit to a limited extent from restrictions on the nightclub and sexual entertainment sector.

⁹⁹ <https://www.gov.scot/publications/coronavirus-covid-19-business-contingency-fund/pages/overview/>

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

These measures will not impact on suppliers' incentives to compete vigorously.

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

There is a likelihood that 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 nightclub and sexual entertainment measures within the Strategic Framework on consumers.

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

The measures within the strategic framework impact on the availability as all nightclubs and sexual entertainment venues will remain closed.

• **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 - No new forms are required as a result of this policy.

Digital Impact Test: N/A These restrictions will not affect online events. It is unlikely that these businesses will be able to diversify operations into online events, particularly in the short term

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 came into force on the 2nd November 2020. We are continuing our constructive engagement with the sector.

Summary and recommendations:

Introduction

This BRIA has examined the nightclub and sexual entertainment measures within each level of the

Strategic Framework and compared these measures with the option of allowing nightclubs and sexual entertainment venues to open with strict guidance and protections in place

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 nightclubs and sexual entertainment venues, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view nightclub and sexual entertainment 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.

Option	Benefits	Costs
Option 1: Closing nightclubs and sexual entertainment venues	Nightclubs and sexual entertainment venues are characterised by many of the high-risk factors associated with transmission of the virus. Closing nightclubs and sexual entertainment businesses for all but permitted events in Level 0 and 1 reduces opportunities for virus transmission.	Closing all nightclubs and sexual entertainment businesses will reduce revenue and turnover. Closing businesses is very likely to lead to businesses failure, and the loss of jobs. The economic costs will however be mitigated to some extent by government financial support and allowing venues to open for some permitted events will enable some minimal income generation.
Option 2: Allowing nightclubs and sexual entertainment venues to open at level 0 with strict guidance and protections in place	Allowing nightclubs and sexual entertainment venues to stay open with strict protections in place could help protect jobs and businesses – allowing businesses to continue to trade. This would also have knock on benefits for supply chains.	The measures required to be put in place to support nightclubs and sexual entertainment venues to remain open would place large additional costs on businesses, and undermine their business model, meaning that businesses would struggle to make a profit. Opening nightclubs and sexual entertainment venues (even with strict protections in place) would increase risks of further transmission of COVID-19.

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.

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

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

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

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

The UK Government also announced (2 November)

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

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

Title: Scotland's Strategic Framework: LEISURE and ENTERTAINMENT: FUNFAIRS

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 leisure and entertainment measures for Funfairs 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 **Funfairs** are set out in the table below:

Leisure and Entertainment Sector Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Funfairs	Funfairs may open in line with specific guidance	Funfairs may open in line with specific guidance	Funfairs must close	Funfairs must close	Funfairs must close

Purpose and intended effect: Scotland's Strategic Framework Leisure and Entertainment Protections

Introduction

There are two distinct types of funfairs currently operational in Scotland: travelling funfairs, such as those operated by members of the Showmen's Guild; and non-travelling or static funfairs, such as Codona's Amusement Park in Aberdeen.

There is currently no statutory definition of a funfair. This is set to be remedied by Richard Lyle's Travelling Funfairs (Licensing) (Scotland) Bill¹⁰⁰, which contains within section 1 a definition of a travelling funfair as well as a definition of a funfair:

- a "funfair" is a number of structures and other equipment designed and operated to provide public entertainment, amusement or leisure activity, and
- a "travelling" funfair is one— (i) in respect of which those operating it travel with those structures and equipment from site to site and operate the funfair in those sites, but (ii) which, as respects its site, is being or is to be operated there for a period of not more than six weeks.

Section 1(2) of the Travelling Funfairs (Licensing) (Scotland) Bill states that: "examples of those structures and equipment are carousels and similar roundabouts, swings, roller-coasters and similar rides, helter-skelters and similar slides, coconut shies and similar stalls and dodgem cars. But the presence or absence of any of those is not, of itself, conclusive."

The Travelling Funfairs (Licensing) (Scotland) Bill is currently at Stage 1 in the Scottish Parliament and is not currently law.

Both types of funfair vary in size. The numbers of funfair visitors vary by size of fair and location.

Travelling funfairs

Travelling funfairs are planned, highly regulated, professional events, and vary from micro business to substantial limited companies. Staffing of funfairs also varies. Most travelling funfairs are staffed by family members, who have varying roles within the business.

The Showmen's Guild of Great Britain and N Ireland represents over two thousand operating members in the travelling funfair industry and some circuses. When family members and employees are taken into account, it represents approximately 25000 people. The Showmen's Guild in Scotland currently has 322 members, making it 7th out of the 10 UK Showmen's Guild regional sections¹⁰¹ in terms of the number of members that are registered with each section (office). Each member will have funfair equipment and is a usually business in their own right. Membership of the Guild is normally held by the head of the household, with all the family involved in the day-to-day running of the funfair operation.

Members must declare each piece of funfair equipment that they intend to operate with the Guild and all have test certificates and insurances. A spreadsheet provided by the Showmen's Guild lists 915 separate pieces of equipment, although some are mothballed and others have no operational status given.

Travelling funfairs can vary from one or two rides to over twenty and in the case of Kirkcaldy Links Market (the largest fair in Scotland) over 100 attractions. Most fairs last for a week in each location but some may be longer, and some summer fairs last for the duration of school holidays at the seaside or other attractions. The season normally lasts from March just before Easter until November for fireworks displays but there are some exceptions to this, e.g. Christmas fairs, St. Valentines etc.

The majority of the most profitable fairs are attached to other events like Highland games and gala days.

¹⁰⁰ <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/travelling-funfairs-licensing-scotland-bill/introduced/bill-as-introduced-travelling-funfairs-licensing-scotland-bill.pdf>

¹⁰¹ <https://showmensguild.co.uk/sections/>

Static funfairs

Scotland's Economic Strategy identifies those sectors where Scotland has a distinct comparative advantage: these are called Growth Sectors and data within these sectors is classified using Standard Industrial Classification (SIC) codes. The Inter-Departmental Business Register (conducted by the Office for National Statistics¹⁰²) as at March 2019 shows that under SIC code 93.21, Activities of Amusement Parks and Theme Parks, there were 25 businesses operating across 25 sites.

The Business Register and Employment Survey 2018 (conducted by the Office for National Statistics¹⁰³) showed there were approximately 900 employees work in Scotland in activities covered by SIC 93.21 -

There is no difference between the number of workers that appear under the 'employee' and 'employment' status, indicating that the number of self-employed workers registered for VAT or PAYE were so low as not to appear in the survey.

The largest concentrations of workers were located in North Lanarkshire (400), Aberdeen (200) and Inverclyde (100).

COVID-19 and the funfair Sector

The Showmen's Guild in Scotland is not aware of any members that have furloughed staff, given the seasonal nature of the business.

Static funfairs are likely to have furloughed most staff, as has been the case with Codona's.

Data on loss of revenue for the sector is limited. Discussion with the Showmen's Guild has indicated that around 365 funfairs have been cancelled in Scotland this year.

Funfairs were allowed to reopen on 24th August 2020 having been closed since late March. We have worked with key industry bodies in ensuring there is appropriate guidance that meets the needs of the sector in Scotland. Guidance for operators is now available online and can be accessed through links in the Tourism and Hospitality Guidance. Funfair guidance should be applied in conjunction with the Tourism and Hospitality Guidance.

Policy Objective

The objective of the restrictions set out within the Strategic Framework is to ensure that the operation of leisure and entertainment settings including funfairs 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.

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.¹⁰⁴

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

¹⁰² <https://www.ons.gov.uk/>

¹⁰³ <https://www.ons.gov.uk/>

¹⁰⁴ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

transmission, including those from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining, gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{105,106}.

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

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

For funfairs, particular high-risk factors include issues with maintaining physical distancing, gatherings of large numbers of people, the high volumes of children / adults coming into contact in close proximity, the amount of contact with surfaces, and issues with keeping facilities/equipment clean between use by a high number of children and adults. The risk of transmission will also be increased in pinch points or bottleneck areas around entrances and exits and toilets. In relation to indoor funfairs, there will also be increased risks associated with proximity and duration of contact in indoor environments and, for example, the risks posed by inadequate ventilation.

Current position of Leisure and Entertainment (funfairs)

Funfairs in Scotland were closed between lockdown in March 2020 and 24th August 2020, when they were able to reopen. We have worked with key industry bodies in ensuring there is appropriate guidance that meets the need of the sector in Scotland. Guidance for operators is now available online and can be accessed through links in the Tourism and Hospitality Guidance¹⁰⁷, or directly via this link: <https://showmensguild.co.uk/covid-19-guidance-for-risk-assessments-at-funfairs/>. Funfair guidance should be applied in conjunction with the Tourism and Hospitality Guidance.

On 26th August the Scottish Government published guidance¹⁰⁸ for licensing authorities on travelling funfairs, which asked licensing authorities to consider sensitively, pragmatically and timeously all applications for travelling funfairs that are being made in light of the re-opening of funfairs. This recognised that those who operate funfairs including travelling funfairs were required to close down operations as a result of COVID-19 and that as steps were taken to permit funfairs to open once again, the licensing arrangements for funfairs would become more relevant. In particular, for travelling funfairs a lack of certainty as to the exact date when they would be permitted to re-open means they could not easily have planned ahead effectively in considering the need for licensing arrangements to be agreed. Through the issuing of this non-statutory guidance, the Scottish Government expected a sensitive, pragmatic and timeous approach to be taken in terms of assessing licensing applications for travelling funfairs.

In line with the Strategic Framework, funfairs have been able to open from 2 November in areas in protection level 1¹⁰⁹, and are advised to follow the guidance published on 30 October. Funfairs may also open in the arrangements for areas in protection level 0. Funfairs in higher level areas – levels 2, 3 and 4 – are required to remain closed.

¹⁰⁵ 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

¹⁰⁶ 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

¹⁰⁷ <https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/pages/related-guidance/>

¹⁰⁸ <https://www.gov.scot/publications/coronavirus-covid-19-guidance-for-licensing-authorities-on-travelling-funfairs/>

¹⁰⁹ <https://www.gov.scot/publications/coronavirus-covid-19-protection-levels/>

Conclusion

Limiting social mixing as much of possible in all settings is the most effective measure against transmission of the virus. It is particularly important to focus on settings which have high risk factors.

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 leisure and entertainment sector 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, social and economic harms. When the risk of COVID-19 rises, so too will the restrictions on the leisure and entertainment sector. Similarly as the risk falls, restrictions will ease.

Across all of the five levels we seek to balance:

- The impact on reducing the risk of transmission of the virus through restricting the opportunity for mixing of children and adults in funfair settings
- Enabling as much of the sector as possible to remain open safely in areas with low infection rates, in ways that enable businesses to remain viable and protect jobs
- The economic costs, including wider costs and the impact on the supply chain.

Consultation

Public Consultation: Given the need to respond quickly to protect public health as virus rates increase, there has not been time to undertake a public consultation on the measures covered by the requirements of the Regulations.

Business: We have worked with The British Association of Leisure Parks, Piers and Attractions and The Showmen's Guild in ensuring there is appropriate guidance¹¹⁰ that meets the needs of the sector in Scotland in terms of allowing access to funfairs for customers in a safe way at low levels of virus transmission whilst also ensuring staff are properly protected both in terms of customer interaction and in setting up and taking down funfair equipment. The sector bodies have developed the more detailed sector specific guidance within the broader parameters of the Scottish Government guidance on reopening safely.

We are also engaging with the Scottish Showmen's Guild as we seek to develop a bespoke funding package to support travelling funfairs, recognising the challenges resulting from ongoing closure. This will take into account the initial closure period, level of loss experienced by each family, lack of other available funding options and seasonal and geographical limitations of the sector's operation. It will also consider the unique operational structures of this part of the sector. We are currently working collaboratively with them on agreeing the criteria for the scheme, which we hope to launch shortly.

We continue to receive correspondence from operators of static funfairs about the financial impact of closure in Level 2 upwards, arguing that the measures they have taken would allow them to operate safely, and seeking financial aid. We will continue to engage with them to understand the ongoing business impact and consider what further support may be needed.

¹¹⁰ <https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/pages/related-guidance/>

Options:

A range of options that have been considered. This section discusses some of the options considered and we continue explore and assess alternatives.

The guidance published for funfairs in the UK (updated on 27th August to include Scotland) sets out mitigating actions required to be able to operate safely for both employees and customers, including:

- Taking reasonably practical measures to maintain physical distancing (although there is recognition that this may be difficult to implement with very young children)
- wearing of facemasks by adults
- enhanced cleaning and hygiene
- queue management
- management of toilet facilities.

The guidance for funfairs has been incorporated into the Scottish Government's general guidance on tourism and hospitality referenced above.

Social gathering rules in place across Scotland also apply. The rules on social gatherings vary across the levels and are set out in the Strategic Framework and these Regulations. The guidance against non-essential travel is also relevant and, again, varies across the levels. The guidance is set out in the Strategic Framework and in the specific guidance.¹¹¹

Sectors and groups affected

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 will affect both static and travelling funfairs.

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 leisure and entertainment sector, and in particular, funfairs. 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

¹¹¹ <https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-travel-and-transport/>

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. In the Baseline, all funfairs, static and travelling, would be able to operate in line with the guidance produced for reopening on 24th August. The guidance was drafted to help all workers in the UK Travelling Fairground Sector to understand how to work safely and keep their customers safe during the COVID-19 pandemic, and how to keep as many people as possible socially distant from those who are not part of their household / extended household. It aimed to provide a practical framework for operators to think about what they needed to do in order to continue, or restart, operations during the COVID-19 pandemic.

This included measures on social distancing, both for the public and for employees, use of face masks, keeping fairground rides and attractions clean during use, and use of Test and Protect. The requirement for social distancing would very likely reduce the overall numbers able to attend a funfair at any one point which, combined with the additional safety measures which operators need to take, would have some detrimental impact on income levels. Despite the costs of mitigations and the restriction on numbers due to distancing, this option maintains the economic benefit of allowing funfairs to continue to trade, employ staff and generate income, and maintains the social benefit of providing people with an opportunity for entertainment and leisure.

Options for Level 1

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

The main options considered for this level include:

1. Maintain Baseline
2. Close funfairs

Funfairs are higher-risk settings, given they are gatherings of large groups of numerous different households, there is a strong likelihood of social interaction, a non-linear progression through funfairs settings and consequent difficulty with physical distancing, potential pinch points or bottlenecks at entrances and exits to funfair rides. Mitigations can be put in place in line with the published guidance.

Option 1. Maintain Baseline

At low level incidence of the virus, funfairs should be able to stay open as long as they continue to comply with the published guidance and implement all of the relevant measures and mitigations. The need to maintain 2m social distancing between groups would be likely to impact on the numbers able to attend a funfair at any one time, with a consequent impact on income for operators. Despite the costs of mitigations and the restriction on numbers due to distancing, this option maintains the economic benefit of allowing funfairs to continue to trade, employ staff and generate income, and maintains the social benefit of providing people with an opportunity for entertainment and leisure.

Option 2. Close funfairs

Given the low incidence of the virus, the evidence doesn't support closing funfairs at this level while operators continue to follow the published guidance. The guidance which has been developed in collaboration with the sector and clinicians, sets out clear mitigation measures to reduce the risk of virus transmission, such as enhanced cleaning regime, restricting numbers at funfairs at any point in line with the guidance, which also asks operators to consider how they can manage the arrival of visitors at different times, to help ensure physical distancing can be maintained, including between employees, and that appropriate hygiene measures are in place for equipment. These mitigations support the suppression of the virus in funfair settings and are sufficient in Level 1, given low prevalence and transmission levels of the virus, not to require funfairs to be closed.

Conclusion

In considering the evidence around options for 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 of maintaining the baseline and permitting funfairs to open - 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, given the robust mitigation measures in the guidance, funfairs could remain open at this level.

Options for Level 2 and 3

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 required across all sectors to tackle the virus, focusing on key areas of risk – broadly, indoor settings where household mixing takes place, areas with higher concentrations of separate households, and venues where maintaining hygiene is more difficult due to the number of shared surfaces or equipment which would need to be continually cleaned between uses.

The measures would be intended to be in place for relatively short periods and only for as long as required to get the virus down to a low, sustainable level.

Level 2

The options considered at level 2:

1. Maintain baseline
2. Close funfairs

Option 1. Maintain baseline

Given increased incidence of the virus and increased risk of transmission in Level 2, maintaining the baseline as in level 1 with similar numbers of customers would provide an increased risk of transmission. Given mitigations are already in place, a significant reduction in the numbers of attendees would be the only other option to allow the maintaining distancing and reduce transmission risk, but this would very likely result in a severe impact in income and result in businesses being unable to operate profitably.

Option 2. Close funfairs

Given the increased incidence and community transmission of the virus at this level and the high risk factors of funfairs (including sometimes being an indoor facility, being a venue where high number of households could mix, with difficulty in maintaining physical distancing and the difficulty in keeping shared equipment and surfaces clean), keeping funfairs open at this level would present and increased risk in relation to increasing virus transmission. Closing funfairs eliminates this risk.

Conclusion

In considering the evidence around options for level 2 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 given the high risk factors for funfairs, such as high number of households mixing and difficulties with maintaining physical distancing, and keeping shared equipment and surfaces clean, funfairs should be closed in level 2.

Whilst some other businesses remain open at levels 2 it is considered high risk to open funfairs because of the particular difficulties in maintaining social distancing, the amount of surfaces being touched, the particular difficulties in cleaning them between customers and the limited ability to introduce further effective mitigating measures.

Level 3

The options considered at level 3:

1. Maintain baseline with significant restrictions on numbers attending
2. Close funfairs

Option 1. Maintain baseline

Given the increased virus prevalence and transmission risk, this option as explored for level 2 is less feasible and would require even greater restrictions on numbers attending to minimise the risk of transmission.

Option 2. Close funfairs

Given the increased incidence and community transmission of the virus at this level compared to level 2 and the high risk factors of funfairs (including sometimes being an indoor facility, being a venue where high number of households could mix, with difficulty in maintaining physical distancing and the difficulty in keeping shared equipment and surfaces clean), keeping funfairs open at this level would present high risk in relation to increasing virus transmission.

Conclusion

In considering the evidence around options for level 3 Scottish Ministers weighed up the need to reduce social interaction, clinical evidence regarding the spread of infection, and the social and economic harms of intervention. It was concluded that given the high risk factors for funfairs, such as high number of households mixing and difficulties with maintaining physical distancing, and keeping shared equipment and surfaces clean, funfairs should be closed in level 3.

Whilst some other businesses remain open at levels 3 it is not considered possible to open funfairs because of the particular difficulties in maintaining social distancing, the amount of surfaces being touched, the particular difficulties in cleaning them between customers and the limited ability to introduce further effective mitigating measures.

Options for Level 4

Level 4 will be deployed only if necessary as a short, sharp intervention to address high transmission rates and suppress the virus.

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

At level 4, funfairs would be required to remain closed at this level due to the high prevalence of the virus and the need to cease almost all social interactions apart from the essential.

The considerations for Levels 2 and 3 in terms of maintaining the baseline or closing funfairs apply here but given high transmission rates, opening funfairs in Level 4 presents a further increased risk of transmission and so closure is required to remove this.

Scottish Firms Impact Test:

There has been engagement with Scottish funfair businesses in developing the guidance for re-opening and support package for businesses during closure. This engagement is set out within the consultation section of this BRIA.

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

With England in lockdown during November, this will not have an impact on competitiveness within the UK at the current time. Scotland's levels approach which would allow funfairs to open in level 1 is, however, unlikely to have any beneficial effect given the travel guidance in place in Scotland and the lockdown arrangements in place in England from 5th November¹¹².

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

Travelling Funfairs

The Showmen's Guild in Scotland currently has 322 members. Each member will have funfair equipment and is usually a business in their own right. Membership of the Guild is normally held by the head of the household with all the family involved in the day to day operations. Members must declare each piece of funfair equipment that they intend to operate with the Guild and all have test certificates and insurances. A spreadsheet provided by the Showmen's Guild lists 915 separate pieces of equipment, although some are mothballed and others have no operational status given. Travelling funfairs can vary from one or two rides to over twenty and in the case of Kirkcaldy Links Market (the largest fair in Scotland) with over 100 attractions.

Static funfairs

OCEA estimates that there are around 25 static funfairs currently operating which collectively employ around 900 people. The ONS Business Register and Employment Survey 2018: sets out that there were approximately 900 employees worked in activities covered by 93.21 - Activities of Amusement Parks and Theme Parks in Scotland. The largest concentrations of workers were located in North Lanarkshire (400), Aberdeen (200) and Inverclyde (100).

Static funfairs were eligible for Non-Domestic Rates Relief and will have been eligible for a Retail, Leisure and Hospitality Grant if their rateable value was below £51,000. They are also eligible for funding through the business support arrangements that accompany the Strategic Framework.

What is the likely cost or benefit to business?

At Level 2-4, funfairs will have to close. Closed businesses have incurred a number of on-going costs. These may vary between travelling and static funfairs but could relate to, for example, accommodation costs (rent, insurance, maintenance, security etc) and wage costs. Closure will also result in revenue forgone and threaten financial viability of the businesses and associated jobs.

At levels 0-1 funfairs can open, but the enhanced cleaning and safety requirements will also increase costs for businesses and it may be that demand is very low given the travel restrictions for key markets, ie the Scottish central belt and England.

Business support is available that should offset some of the business impacts. Funding is intended to be made available for travelling funfairs through a new grant funding scheme. Grants are likely to be in the region of £5k for eligible applicants, subject to Ministerial agreement. Criteria are currently being finalised in consultation with the Scottish Showmen's Guild.

¹¹² <https://www.gov.uk/guidance/new-national-restrictions-from-5-november>

Moving forward, from 2 November, the Strategic Framework confirms that our new financial support 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

This is unlikely to be of any value to travelling funfairs given they will not have premises with rateable value. However, static funfairs should be able to apply.

Since the new Levels Regulations were made, the UK Government has since announced an extension of the Furlough scheme to the end of March 2021.

Competition Assessment:

Closing funfairs from protection level 2 onwards is unlikely to impact on competition between businesses.

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

The impact on business viability may mean that some businesses cease to trade and this will reduce the number of suppliers.

The restrictions are likely to limit the ability of new businesses to enter the market, but the Showmen's Guild notes that it has a distinct cultural heritage over centuries, so this is unlikely to be an issue.

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

It is likely that the restrictions on funfairs will limit the ability of some suppliers to compete. Similarly, travel restrictions advise people against travelling to a different local authority to visit a funfair. It is difficult to assess whether the restrictions are likely to have an advantageous effect on other businesses – although there are some sports, visitor attraction, hospitality and leisure venues who are able to remain open at level 2 who may benefit while funfairs are closed.

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

It seems unlikely that measures will limit incentives to compete vigorously.

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

Yes. It will mean that children and families in some local areas may have reduced opportunity for visiting funfairs.

Consumer Assessment:

The following sets out the Scottish Government's view on the impact of the Leisure and entertainment (funfair) sector measures within the Strategic Framework on consumers.

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

The restrictions within the Strategic Framework may restrict choice and price, as business operating costs

will be increased while capacity and income will be reduced. Some funfairs in Level 1 may choose not to reopen which will result in reduced availability of facilities.

• **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 came into effect from the 2nd November 2020 and must be reviewed by the Scottish Ministers at least every 21 days. We are continuing our constructive engagement with the sector.

Summary and recommendations:

Introduction

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

Background

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

Whilst this BRIA is focused on funfairs, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view funfair 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. It compares these measures against the baseline / level 0 option. More detailed discussion of each of the levels and other 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 funfairs through their revenue generation and employment of staff, and on any supply chain businesses. However this would be off-set by the health risks associated with increased opportunities for virus transmission in funfair settings.

Funfairs are characterised by many of the high-risk factors associated with transmission of the virus. The health risks 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 industry as trade may be reduced due to customers being anxious about social interaction in hospitality settings, including funfairs, particularly where there are significant numbers of individual groups..

Option 2: Strategic Framework

Measure	Benefits	Costs
Funfairs open in Level 0 and 1 (with guidance to mitigate risk factors)	Funfairs are characterised by many of the high-risk factors associated with transmission of the virus. However, with robust guidance in place to mitigate the risks, funfairs could remain open in areas with low incidence of virus.	There will be costs associated with complying with guidance including enhanced cleaning regime and reducing capacity to ensure physical distancing can be maintained which will result in increased costs to the businesses.
Funfairs closed in Level 2-4	As above, given the high risk factors associated with funfairs in relation to virus transmission, keeping funfairs closed would contribute to reducing the R number and community transmission.	There will be costs for funfair operators which will be required to close and increasing concerns over financial viability of businesses in the sectors and jobs put at risk. A support package is being developed to mitigate this. There will also be impact in relation to reduced opportunity for social interaction and which will mainly but not exclusively be for younger children and their families.

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.

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

2021.

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).

However, this grant scheme will not support travelling showpeople as they do not have fixed venues with rateable values, and for this reason we are working on the grant scheme for travelling showpeople referred to earlier in the BRIA.

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

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

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

The UK Government also announced (2 November)

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

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

Title: Scotland's Strategic Framework: LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded

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 **LEISURE & ENTERTAINMENT measures** – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded 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 level of infection in the area it is being applied to, with progressively heightened restrictions implemented as necessary.

Please note that outdoor theatres are covered within the [BRIA for stadia and events](#) under outdoor events.

The key measures relating to **LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, comedy clubs and** any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded are set out in the table below:

LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, etc (as detailed above) Measures (socialising rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Performing Arts Venues	Open with restricted audience numbers (250 cap plus liaison with LA applied through guidance). Level 0 Hospitality rules apply	Open with restricted audience numbers (100 cap plus liaison with LA applied through guidance). Level 1 Hospitality rules apply	Closed, with exceptions for (a) premises, while those premises remain closed to members of the public, to— (i) record a performance or sporting event, (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event, (b) theatre premises or concert hall premises for education or training purposes, (c) concert halls, theatres, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for	Closed, with exceptions for (a) premises, while those premises remain closed to members of the public, to— (i) record a performance or sporting event, (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event, (b) theatre premises or concert hall premises for education or training purposes, (c) concert halls, theatres, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for	Closed, with exceptions for (a) premises, while those premises remain closed to members of the public, to— (i) record a performance or sporting event, (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event, (b) theatre premises or concert hall premises for education or training purposes, (c) concert halls, theatres, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for

			dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public) and (iii) provides music, whether live or recorded for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service, (d) any suitable premises to host blood donation sessions, (e) any suitable premises that are used for the purposes of professional sport.	dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public) and (iii) provides music, whether live or recorded for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service, (d) any suitable premises to host blood donation sessions, (e) any suitable premises that are used for the purposes of professional sport.	dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public) and (iii) provides music, whether live or recorded for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service, (d) any suitable premises to host blood donation sessions, (e) any suitable premises that are used for the purposes of professional sport.

Purpose and intended effect: Scotland's Strategic Framework : LEISURE & ENTERTAINMENT –

Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded

Protections

Introduction

The **LEISURE & ENTERTAINMENT sector** – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded is a very important part of Scotland's economy and society.

Based on the data we have available, which is dependent on how businesses are registered, there are 590 registered businesses in the performing arts, support activities for performing arts and operation of arts facilities¹¹³. Around 560 of these are classified as small businesses with 49 employees or less. These 590 businesses employ 4,600 people. Additionally, there is also a very high proportion of freelancers/self-employed working in the sector.

COVID-19 and the LEISURE & ENTERTAINMENT – Theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded

Lockdown has had a negative impact on the creative sectors. In April 2020 the Office of National Statistics reported that over 80% of the UK's Arts, Entertainment and Recreation sector reported temporary closure or a pause in trading.. Moreover, 13% of businesses in that sector reporting no or less than 3 months cash reserves left in mid October and 12% reported sever to moderate risk of insolvency in mid October. (SG BICS analysis).

Performing arts venues closed for performances with a live audience in March 2020 and many remain closed. From 2 November, venues will be able to open in levels 0 and 1, with restricted numbers (as outlined in <https://www.gov.scot/publications/coronavirus-covid-19-guidance-for-the-performing-arts-and-venues-sector/>) and while also adhering to hospitality rules around the serving of food and alcohol.

Performing arts venues and organisations make a large proportion of their income from ticket and associated sales, which largely ceased in March. Additionally, many were required to issue refunds for cancelled performances. Some organisations have presented performances and participation events through digital channels but these are often provided free of charge or have generated small amounts of income. Emergency funds have been put in place to support the sector and its freelancers and many organisations are using the furlough scheme which was extended to March 2021 on 5 November 2020 (see below). However, redundancies have been made by a number of venues.

At levels 0 and 1, with physical distancing and additional capacity restrictions in place, performing arts venues can open, although it may not be economically viable for many venues to do so, even as they approach the traditionally busy season of Christmas and New Year. There are also risks in planning future performances with the possibility of closure if a local authority is moved to a higher level or a further lockdown is introduced.

Furlough

The arts, recreation and entertainment as a whole had 43% of staff on furlough in mid-October, reflecting the higher share of businesses in those sectors that are temporarily closed or operating below full capacity. (ONS BICS survey)

Creative Scotland issued a COVID-19 impact survey to all 121 of its Regularly Funded Organisations (RFOs) in early May 2020. Although not covering the entire sector, this does give a representative sample. The purpose of the survey was to understand the current and prospective impact of the COVID-19 pandemic across the RFO network. In total 111 of the 121 RFOs responded to the survey, a response rate of 92%, recording a total of 1853 furloughed staff:

- 60 organisations had furloughed 1,378 permanent staff. Of those that have furloughed permanent staff, the number ranges between 1 and 264
- 25 organisations had furloughed a total of 475 contracted and freelance individuals. The number furloughed ranges from 1 to 97

¹¹³ Inter-Departmental Business Register 2019
<https://cy.ons.gov.uk/aboutus/whatwedo/paidservices/interdepartmentalbusinessregisteridbr>

The majority of furloughed staff were employed by building and venue-based organisations (just over 1,500 staff).

Freelance / Self-employed

Creative Scotland's Bridging Bursary Programme provided financial support to individuals who were unable to sustain their creative work and practice. The Bridging Bursary Programme was in two strands:

- A £2m Creative Scotland Bridging Bursary Fund to help sustain freelance creative professionals who had lost earnings due to the cancellation of work as a result of COVID-19.
- A parallel £1.5m Screen Scotland Bridging Bursary Fund for freelance or self-employed screen practitioners who had lost income from their work due to COVID-19

Across these funds, from March to May 2020, Creative Scotland made 2,293 awards (80% of applications) with a total value of £4,302,561. More detail on these awards including art form and geographic breakdown can be found here: <https://www.creativescotland.com/funding/archive/bridging-bursary>

Creative Scotland's Hardship funds for Creative Freelancers support freelance creative professionals working in the arts and creative sector in Scotland who are experiencing immediate financial difficulty due to the loss of income as a result of COVID-19. Following huge demand, applications through Creative Scotland and partners were paused on Tuesday 27 October, when the fund reached 60% allocation, in order to allow those who may need additional time and support in applying to access the fund.

LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded 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.¹¹⁴ The [guidance for Performing Arts and Venues](#) includes mitigations to help address such risks. These risks have formed the basis for consideration of measures in these settings in the Strategic Framework.

Policy Objective

The objective of the restrictions set out within the Strategic Framework is to ensure that the operation of **LEISURE & ENTERTAINMENT – Theatres, concert halls, comedy clubs and** any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded settings is appropriate to the level of COVID-19 risk within the Local Authority area, also taking into account the other restrictions and mitigations 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

¹¹⁴ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

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.¹¹⁵

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 where no face coverings are worn. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{116,117}.

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

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

Risk Factors

High-risk factors associated with transmission of the virus¹¹⁸ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly and the effects of alcohol consumption¹¹⁹. Another risk factor is when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing¹²⁰. Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus¹²¹.

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

¹¹⁵ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹¹⁶ 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

¹¹⁷ 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

¹¹⁸ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

¹¹⁹ [Collins A and Fitzgerald N \(2020\)](#)

¹²⁰ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹²¹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

toilets) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, venues which are attended by many people, typically from different households, specifically to meet for long periods of time, all amplify the risk of transmission. Theatres rely on people from many households coming together for prolonged periods and it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering¹²².

Each place an individual visits brings different risks depending on a range of factors, such as¹²³:

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

Risk factors for different businesses in different sectors vary hugely and most will have a number of risk factors to consider. Some places are riskier due to touch points, some due to limited ventilation, some due to the mix and number of people coming and going, some due to pinch points at which people may gather. Others may cause people to speak more loudly, breathe heavily or cheer, potentially projecting aerosol particles further. Businesses which rely on close contact or on people from different households visiting or coming together are inherently at a high risk of spreading the virus^{124 125}.

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

It is recognised that performing arts venues are characterised by many of the high-risk factors associated with transmission of the virus¹²⁶ - they are indoor spaces, where ventilation will be of critical importance and where people come together to spend a prolonged period of time (more than 15 minutes) in proximity (albeit at 2 metres physical distancing), which may enable the virus to spread easily from person to person, especially in areas where transmission rates are higher.

Depending on the venue, issues of ventilation (with recirculation of air being particularly problematic), and pinch points (at areas such as toilets and entrance and exit points) all contribute to risk. Keeping surfaces clean and regulating movement throughout the setting is a further challenge. Fundamentally, performing arts venues are popular locations and are attended by many people, often from different households, sometimes for long periods of time, all of which amplify the risk of transmission.

¹²² SPI M paper 20 August 2020:

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

¹²³ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

¹²⁴ SAGE papers 21 September 2020:

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

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

¹²⁵ SPI M paper 20 August 2020:

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

¹²⁶ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

Where people from many households come together for prolonged periods, such as performing arts venues, it is important to understand that the number of potential transmission events increase much more quickly than the number of people gathering¹²⁷.

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 behaviours¹²⁸. Alcohol intoxication is associated with a number of well-characterized changes in psychological function, including disinhibition and reduced consciousness¹²⁹, as well as changes in mood and feelings of intoxication as well as impairments in psychomotor performance and cognitive processes such as memory, divided attention, and planning¹³⁰. It can cause people to lose their inhibitions, increase risk-taking and to make decisions they would usually would not¹³¹.

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 consumed¹³².

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'.¹³³ The sale and consumption of alcohol on premises is regulated separately within the Strategic Framework and the relevant measures are assessed in the BRIA relating to Hospitality.

Test and Protect

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

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

¹²⁷ SPI M paper 20 August 2020:

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

¹²⁸ <https://apps.who.int/iris/handle/10665/44395>

¹²⁹ https://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

¹³⁰ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999764/>

¹³¹ <https://www.nhsinform.scot/healthy-living/alcohol/the-risks-of-drinking-too-much>

¹³² [Collins A and Fitzgerald N \(2020\)](#)

¹³³ [World Health Organisation: Alcohol and COVID-19: what you need to know](#)

infection at that location.

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

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

Table showing information from Test and Protect interviews week ending 1 November 2020¹³⁴

Whilst these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. It is important to note, too, that 20% of people tested were asymptomatic and that asymptomatic and pre-symptomatic transmission of COVID-19 is now known to occur. This means that people who have no symptoms can still be infectious to others¹³⁵.

International Experiences

A number of European countries have introduced a range of restrictions on businesses, 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. These countries continue to adapt their package of restrictions in response to rising infection rates. During the week commencing 23rd October the following were identified:

- **Germany** - an emergency month-long lockdown was announced on 28 October. This includes measures such as the closure of restaurants (which can only provide a takeaway service), bars, gyms and theatres; closure of beauty parlours and tattoo artists (hairdressers can stay open); and overnight accommodation will only be available for essential travel.
- **Ireland** - had entered its second week of the highest tier of restrictions nationwide. This includes the closure of non-essential shops, along with barbers' shops, beauty salons, gyms, leisure centres and cultural amenities. Pubs, cafes and restaurants will be allowed to serve takeout meals only.
- **France** – on 28 October, a new nationwide lockdown was imposed, which includes the closure of all bars, restaurants, and all businesses considered "non-essential", and working from home will be the norm.
- **Belgium** - announced a strengthened lockdown on 27 October, including additional measures such as closure of non-essential shops (with click-and-collect and delivery services permitted), and closure of non-medical contact professions (such as hairdressers or beauty salons). This is in addition to existing restrictions, which include the closure of all restaurants and bars, a nationwide curfew, and closure of all cultural and indoor sports venues.

Current position of LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, comedy clubs and

¹³⁴ <https://beta.isdscotland.org/find-publications-and-data/population-health/covid-19/covid-19-statistical-report/>

¹³⁵ 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.

any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded

Performing arts venues closed in March 2020, and many remain closed. The opening of venues permitted at Levels 0 and 1 of the new Strategic Framework introduced from 2 November will apply currently to venues in Highland, Moray and the Islands.

Reopening performing arts venues at levels 0 and 1 is subject to physical distancing and restricted numbers. Capacity will be calculated based on ensuring 2m physical distancing and a fixed upper limit. Discussions on restricted numbers should take place between the local authority and venue, taking into account matters such as ventilation system, pinch points, transport, performance type, local circumstances and length of event to determine appropriate number for the event which might be below the upper limit.

As the sector was closed prior to 2 November, we have no evidence about compliance in theatres, concert halls and other indoor performing arts venues. However, it should be noted that the sector is highly controlled and regulated. It is well practised in managing risk and venues have been preparing for reopening with physical distancing and hygiene measures in place.

Conclusion

Limiting social mixing as much as possible particularly in indoor 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 and, for many, attending live performance. The effects of loneliness are profound and increased markedly during lock down, alongside big increases in mental health problems. The limitations on performing arts venues 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, social and economic harms. When the risk of COVID-19 rises, so too will the restrictions on the performing arts 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 performing arts venue settings
- Enabling as much of the sector as possible to open safely, in ways that enable organisations to remain viable and reduce the likelihood of redundancies
- The important role that the performing arts play in maintaining our wellbeing
- The economic costs, including wider costs and the impact on the supply chain.

Consultation

Business:

Consultation on the development of guidance and on the Strategic Framework was undertaken with performing arts sector stakeholders and trade union representatives, including: Creative Scotland, Federation of Scottish Theatre, Music Venues Trust, Scottish Chamber Orchestra, Celtic Connections, City of Edinburgh Council, National Theatre of Scotland, Royal Lyceum Theatre, Edinburgh Fringe Society, Dundee Rep and Scottish Dance Theatre, Eden Court Highlands, Aberdeen Performing Arts, Perth Concert Hall, Musicians Union, BECTU and Equity.

Stakeholder feedback:

1. Stakeholders raised what they felt to be the an inconsistent treatment of live performance events with cinemas, while recognising that the live performance element is a distinguishing factor (SAGE evidence has indicated that it is the accumulated aerosols of both performers and audiences that may increase the risk of transmission which differentiates cinemas from performing arts venues). They reported that reducing or delaying the opportunity to rebuild customer confidence in sitting close to strangers for any length of time jeopardise the return of financial viability for the sector, and also affect the health and wellbeing of people who previously enjoyed regularly attending performances. They pointed out that these venues are practised in assessing and handling risk (physical as well as artistic and commercial) and operate in an environment which can be controlled. They pointed to the earlier reopening of venues in England (though that feedback was before the latest restrictions closing all related venues in England came into effect). There was support for a programme of pilots to demonstrate the potential to reopen safely.

2. Unless proportionate to the overall capacity of a venue, a cap on audience numbers was considered to unfairly disadvantage larger venues, putting jobs and organisations at risk if reduced audience numbers make opening commercially unviable.

There was separate feedback from representatives of some non-professional groups (amateur theatre, choirs, orchestras, pipe and wind bands) making the case that these activities are permitted in England and seeking inclusion of greater indoor activity at level 2.

3. How to sustain sector while venues remain closed – further support required.

Particular changes requested to the Strategic Framework and outcome

1. Permit theatres, concert halls and other music venues to open at Level 2.
Outcome: open at levels 0 and 1 only. SAGE evidence has indicated that it is the accumulated aerosols of both performers and audiences that may increase the risk of transmission which differentiates performing arts venues from cinemas, the latter having no live performers.

2. Make further provision through guidance for performing arts and venues for non-professionals for 'organised outdoor activity' to include non-professional choirs, orchestras, drama groups, pipe bands, etc at Level 2 and 3.
Outcome: provision at levels 0 – 1 only, guidance currently under review.

3. Make provision for non-professionals such as non-professional choirs, orchestras, drama groups, pipe bands, etc to meet indoors at Level 1, at least. Non-professional sector would like to follow the same guidance as for professionals.
Outcome: provision at levels 0 – 1 being considered through guidance amendments

Officials remain in conversation with sector on all matters referenced above.

The content and operation of the levels will be kept under review and the impact on the sector of restrictions, including restricted numbers, across all levels will be monitored in the coming weeks, in order to review the content of the levels at the same time as reviewing the Regulations implementing them. The Regulations contain a statutory obligation to undertake a review at least once every 3 weeks, with the first review to be undertaken by 18th November.

Public Consultation: None (precluded by urgent implementation timescales).

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 including:

- physical distancing at 2 metres
- restricted numbers (cap on capacity)
- wearing of facemasks
- adequate ventilation
- hygiene measures
- adherence to guidance
- capture of contact data for Test and Protect

A range of exceptions also apply at all levels, for example, for recording, broadcasting, rehearsals and other required preparatory activity prior to reopening, and for training and education.

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

Sectors and groups affected

These Regulations will affect:

- Performing arts venues, including indoor theatres, concert halls, music venues, comedy clubs
- Performing arts organisations and artists (those who perform in venues)
- Employees of venues and organisations, and freelancers engaged by them
- Businesses and individuals that provide goods and services to the performing arts sector,
- Local Authorities
- Audience members
- Businesses providing services to customers for the performing arts sector (e.g. transport providers, restaurants and bars)

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 **LEISURE & ENTERTAINMENT** – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded. 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, , 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.. Performing arts venues had not reopened prior to the introduction of the Strategic Framework, however they are included in Phase 3 of the route map and indicative dates for reopening had been set and delayed prior to 2nd November.

- 1) baseline/level 0 - open with physical distancing (2m) and hygiene measures and with cap on audience numbers set in guidance
- 2) open with physical distancing (2m) and hygiene measures with no cap on audience numbers
- 3) open with reduced physical distancing (1m) and hygiene measures

Option 1: Baseline - open with physical distancing (2m) and hygiene measures and with cap on audience numbers (set in guidance)

This option would mean that indoor performing arts venues could open with physical distancing (2m), hygiene measures in place and a cap on audience numbers at level 0. A cap on audience numbers (over and above that required for physical distancing compliance) is a tool to further control and reduce audience numbers in performing arts venues. This restriction on audience numbers to be implemented through guidance rather than regulation, to permit more flexibility in increasing the cap on numbers when considered safe to do so. This option would allow the sector to begin the process of reopening and start to build audience confidence in attending live events. The audience must be seated in allocated seating in household or social gathering groups with physical distancing between groups/households, and collection of customer contact details required.

The transmission risk will be significantly reduced by the introduction of restricted numbers, especially at the low numbers proposed (250 at level 0 and 100 at level 1).

Reopening could have a positive impact on revenue generation, employment of staff and freelancers, and on supply-side businesses. However, a cap on audience numbers over and above physical distancing requirement may mean that reopening is not commercially viable for many performing arts venues. These economic harms were acknowledged, however the risk of increasing virus prevalence by permitting higher numbers and therefore increasing the risk of social interactions was of greater concern. It was therefore determined that, in line with clinical advice, opening with physical distancing (2m) and hygiene measures and with cap on audience numbers set in guidance was appropriate.

Options considered but not selected

Option 2: open with physical distancing (2m) and hygiene measures with no cap on audience numbers

This option would allow the sector to reopen at lower levels and start to build audience confidence in attending live events and to demonstrate that it can reopen safely. The audience must be seated in allocated seating in household or social gathering groups with physical distancing between groups/households, and collection of customer contact details required. The transmission risk will be increased if no cap put on audience numbers beyond that required by physical distancing.

Reopening could have a positive impact on revenue generation, employment of staff and freelancers, and on supply-side businesses. Even without a cap on audience numbers over and above physical distancing requirement, it may mean that reopening is not commercially viable for some performing arts venues.

Option 3: open with reduced physical distancing (1m) and hygiene measures

This option would allow the sector to reopen at lower levels and start to build audience confidence in attending live events and to demonstrate that it can reopen safely. The audience must be seated in allocated seating in household or social gathering groups with 1m physical distancing between groups/households, and collection of customer contact details required. With 1m physical distancing in place, it may be commercially viable for more (but not necessarily all) venues to open. Transmission risk is significantly higher at 1 metre distancing than 2 metres distancing – 1 metre distancing carries between 2 and 10 times the risk of 2 metre distancing¹³⁶. As this sector is only now permitted to commence reopening, a more cautious approach is appropriate.

Conclusion

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. Even though at level 0 incidence is low, the virus is still circulating and, given nature of the activity which involves sitting for a prolonged period indoors, 2 metre distancing is considered appropriate (and will still be generally applied at this level in other areas/venues). A cap on numbers – implemented through guidance is required to enable further control of numbers and is managed through guidance to allow the numbers to be increased or reduced as required and as we learn more about impacts of reopening performing arts venues.

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 under control will be less extreme. They concluded that opening, with an upper capacity limit implemented through guidance, could both reduce interactions and have the desired impact on the R rate. Stricter options, such as closure, were determined as disproportionate at this level. Therefore, option 1 is considered appropriate for Baseline / Level 0.

Options for Level 1

- 1) Maintain baseline
- 2) open with physical distancing (2m) and hygiene measures and with lower cap (than baseline) on audience numbers set in guidance
- 3) open with physical distancing (2m) and hygiene measures
- 4) closure

Option 1: maintain Baseline

This option would mean that indoor performing arts venues could open with physical distancing (2m), hygiene measures and a cap on numbers in place at level 1. A cap on audience numbers (over and above that required for physical distancing compliance) is a tool to further control and reduce audience numbers in performing arts venues. This restriction on audience numbers to be implemented through guidance rather than regulation, to permit more flexibility in increasing the cap on numbers when considered safe to do so. This option would allow the sector to begin the process of reopening and start to build audience confidence in attending live events. The audience must be seated in allocated seating in household or social gathering groups with physical distancing between groups/households, and collection of customer contact details required.

¹³⁶ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

The transmission risk will be significantly reduced by the introduction of restricted numbers, especially at the low numbers proposed (250 at level 0 and 100 at level 1).

Reopening could have a positive impact on revenue generation, employment of staff and freelancers, and on supply-side businesses. However, a cap on audience numbers over and above physical distancing requirement may mean that reopening is not commercially viable for many performing arts venues.

These economic harms were acknowledged, however the risk of increasing virus prevalence by permitting higher numbers and therefore increasing the risk of social interactions was of greater concern. It was therefore determined that, in line with clinical advice, opening with physical distancing (2m) and hygiene measures and with cap on audience numbers set in guidance was appropriate.

Option 2: open with physical distancing (2m) and hygiene measures and with lower cap (than baseline) on audience numbers (compared to level 0) set in guidance

A cap on audience numbers (over and above that required for physical distancing compliance) is a tool to further control and reduce audience numbers in performing arts venues. This option would allow the sector to begin the process of reopening and start to build audience confidence in attending live events. The audience must be seated in allocated seating in household or social gathering groups with physical distancing between groups/households, and collection of customer contact details required.

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, maintaining the level 0 measures would not meet the public health objectives, therefore a lower cap on numbers (reduced from 250 at level 0 to 100 at level 1 - implemented through guidance) is proposed. The capacity cap will be monitored and reviewed regularly.

Reopening could have a positive impact on revenue generation, employment of staff and freelancers, and on supply-side businesses. However, a cap on audience numbers over and above physical distancing requirement will mean that reopening is not commercially viable for many performing arts venues.

In Level 0, where there is very low incidence of the virus, mitigating measures and continued restrictions on the numbers of people and households permitted to mix will still be in place. These mitigating measures support suppression of the virus at Level 0. However, in Level 1, there are slightly higher rates of virus prevalence and community transmission is starting to increase. Therefore there are greater public health risks associated with doing nothing to restrict opportunities for household mixing and social gathering while attending performing arts venues. Given the increased risk at Level 1, doing nothing and maintaining the baseline measures would not meet the public health objectives.

As this sector is only at this stage permitted to open, this cautious and controlled approach is appropriate.

Options considered but not selected:

Option 3: open with physical distancing (2m) and hygiene measures

This option would allow the sector to begin the process of reopening and start to build audience confidence in attending live events. As for Option 2, but to a lesser degree, physical distancing at 2 metres will impact on economic viability of performing arts venues reopening.

As this sector is only at this stage permitted to open, a more cautious and controlled approach (Option 2) is appropriate as limiting numbers mitigates risk. This will be monitored and reviewed.

Option 4: closure

Closure was felt to be disproportionate at level 1, where virus transmission is relatively low.

Conclusion

Option 2: open with physical distancing (2m) and hygiene measures and with cap on audience numbers (set at a lower number than for level 0) was considered most appropriate.

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 under control will be less extreme. They concluded that opening, with an upper capacity limit implemented through guidance, could both reduce interactions and have the desired impact on the R rate. Stricter options, such as closure, were determined as disproportionate at this level.

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 and only for as long as required to get the virus down to a low, sustainable level.

OPTIONS FOR LEVEL 2

- 1) Maintain baseline
- 2) closure
- 3) open with physical distancing (2m) and hygiene measures and with level 1 cap on audience numbers
- 4) open with physical distancing (2m) and hygiene measures and lower cap on audience numbers

Option 1: maintain Baseline / level 0 approach

Under level 2, there would be increasing community transmission and multiple clusters. For example, more than 75 cases per 100,000 population¹³⁷. 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, therefore a return to baseline is not appropriate.

¹³⁷ 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/>

Option 2: closure

Closure of performing arts venues would be most effective in suppressing virus transmission. Closure at this level would be difficult for the sector and could mean insolvency and redundancies, a need for further financial support, and could prolong and worsen the impact on mental health and wellbeing of those working in the sector and of audience members, particularly the more vulnerable.

Options considered but not selected

Option 3: open with physical distancing (2m) and hygiene measures and with level 1 cap on audience numbers

A cap on audience numbers (over and above that required for physical distancing compliance) is a tool to further control and reduce audience numbers in performing arts venues.

In level 2, with multiple clusters and increased community transmission, there are greater public health risks of doing nothing to restrict opportunities for social mixing. Given the increased risk at level 2, maintaining the level 0 or level 1 measures would not meet the public health objectives.

Option 4: open with physical distancing (2m) and hygiene measures and lower cap on audience numbers

As has been established, a cautious approach is appropriate in this sector and this is reflected in the options considered at levels 0 and 1. This means that audience numbers will already be very restricted at the lower levels, and to reduce them further would be unlikely to have significant impact on virus control and would make opening unviable for most organisations.

Conclusion

Option 2: closure of performing arts venues at level 2 was considered most appropriate.

In considering the evidence around options for level 2, 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 would contribute to reducing social interactions and reducing the R rate. This was felt to be proportionate at level 2: decisions on closures of entertainment settings were made in order to strike the right balance between the need to suppress the virus in the temporary brake levels and the wider harms caused. The content and operation of the levels will be kept under review and reviewed at the same time as the review of the regulations implementing them. The regulations contain a statutory obligation to undertake a review at least once every 3 weeks, with the first review to be undertaken by mid-November.

It is questioned why cinema is permitted to open at level 2 but not performing arts venues. This is considered appropriate as cinema does not involve any live performance, and SAGE evidence has indicated that it is the accumulated aerosols of both performers and audiences that may increase the risk of transmission. It is, therefore, not comparing like with like as the risk categories are different.

Closure at level 2 will mean continuing and increasing difficulty for the sector. It carries the risks of insolvency and further redundancies, further hardship for the freelance/self-employed and a need for further financial support. Maintaining relationships with audience members is increasingly challenging,

which could impact on the longer term viability of businesses.

Further prolonging the closure of performing arts venues will mean many people's mental health and well-being will be further impacted, both amongst audience members and amongst those working in the sector. It will also have a negative impact on socialisation, increasing the risks of harm from social isolation and loneliness as people continue to lose access to a popular social setting.

However, closure of performing arts venues would have the most significant positive impact on transmission rates and spread of the virus. Where there is community transmission of the virus, it is important to limit the ways in which the virus spreads. Closure will reduce opportunities for people to meet in areas which are characterised by some of the risk factors associated with transmission of the virus identified by scientific evidence and modelling. It is implemented in order to reduce the spread of the virus and to avoid areas having to move into higher levels.

This option was considered as clinical evidence demonstrates that performing arts venues continue to be high risk settings due to the gathering of large groups of people. Therefore, given that in Level 2 there is increased incidence of the virus, including multiple clusters and increased community transmission, closures of performing arts venues to audiences offered the chance of restricting gatherings and thus reducing the risk of virus transmission.

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 population¹³⁸. 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.

- 1) Maintain baseline / level 0
- 2) closure
- 3) open with physical distancing (2m) and hygiene measures and with lower cap on audience numbers

Option 1: maintain Baseline / level 0 approach

Baseline option not appropriate, as for level 2.

Option 2: closure

Closure of performing arts venues would be most effective in suppressing virus transmission. Continued closure at this level would be difficult for the sector and could mean insolvency and redundancies, a need for further financial support, and could prolong and worsen the impact on mental health and wellbeing of those working in the sector and of audience members, particularly the more vulnerable.

Option considered but not selected

Option 3: open with physical distancing (2m) and hygiene measures and with lower cap on audience

¹³⁸ 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/>

numbers

A cap on audience numbers (over and above that required for physical distancing compliance) is a tool to further control and reduce audience numbers in performing arts venues.

However, in level 3, with multiple clusters and increasing community transmission, there are greater public health risks of doing nothing to restrict opportunities for social mixing.

Conclusion

Given the increased risk at level 3, closure is considered the best option to meet public health objectives. As closure is the recommend position at level 2, this is the logical conclusion and there is a potential cumulative impact if move from level 2 to level 3 and vice versa.

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

- 1) Maintain baseline / level 0
- 2) Closure

Option 1: Maintain baseline

Baseline option not appropriate, as for levels 2 and 3.

Option 2: Closure

This option would mean that all performing arts venues could not open within a level 4 Local Authority Area. This would affect all performing arts businesses within the area – both venues and performing companies and their artists – and their audiences. It will impose further substantial costs on businesses affected, impacting revenues and leaving businesses still having to meet fixed costs.

Suppliers to the sector and freelancers and self-employed would also be affected, as would complementary industries, such as transport and hospitality.

In general, the impacts would be the closure of businesses and inability to generate income to cover costs (overheads such as rent, rates and water).

Conclusion

Evidence from the lockdown period shows that the immediate closure of businesses led to a stop in income and immediate cash flow and viability challenges for many sectors of the economy. The performing arts sector has already suffered a long and very difficult period of closure and, in most of the country, continues to do so. Closure continues to threaten the viability of businesses, puts more jobs at risk and leads to higher unemployment. Maintaining relationships with audience members is increasingly

challenging, which could impact on the longer term viability of businesses.

Closing performing arts venues may mean people's mental health and well-being could be negatively impacted, both amongst audience members and amongst those working in the sector. It could also have a negative impact on socialisation, increasing the risks of harm from social isolation and loneliness as people continue to lose access to a popular social setting.

However, closure of performing arts venues (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 reduce opportunities for people to meet in areas which are characterised by some of the risk factors associated with transmission of the virus identified by scientific evidence and modelling.

Scottish Firms Impact Test:

There has been engagement with Scottish **LEISURE & ENTERTAINMENT – Theatres, concert halls and other indoor performing arts venues** businesses in developing the provisions within the Strategic Framework. This engagement is set out within the consultation section of this BRIA.

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

Based on the data we have available, which is dependent on how businesses are registered, there are 590 registered businesses in the performing arts, support activities for performing arts and operation of arts facilities (IDBR 2019). Around 560 of these are classified as small businesses with 49 employees or less. These 590 businesses employ 4,600 people. Additionally, there is also a very high proportion of freelancers/self-employed working in the sector.

Fixed capacity limits (applied through guidance) will disadvantage larger venues and make opening more challenging for them. They will be seriously limited in their ability to achieve commercial viability. Venues are impacted more severely than performing organisations (those which are not venue based). Measures will impact on the many freelancers / self-employed working in the sector, and on supply chains and associated sectors such as travel and hospitality.

• What is the likely cost or benefit to business?

There will be costs associated with reopening performing arts venues to ensure that they can do so safely, such as installation of screens, hygiene measures, signage for one-way and queuing systems and additional staff costs.

Fixed costs remain whether open or closed, with no income to meet these costs during periods of closure and significantly reduced income when open due to restrictions on numbers. It may not be commercially viable for many venues to reopen with restricted numbers and physical distancing in place. For some, it will not be commercially viable to reopen with physical distancing in place, even without any further restriction on numbers. This may lead to business closures and risk jobs.

Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded have been closed since March. This has resulted in some businesses closing, redundancies and a loss of income for freelancers / self-employed. Government support will be available for those businesses which are still closed.

Competition Assessment:

Closing sections of the wider leisure and entertainment sector will likely impact on competition between businesses.

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

“Competition” with other businesses in this sector is less related to audiences, and more to the attraction of high quality performing artists and technicians, as well as non-public financial support. These measures do not affect companies’ ability to perform online and record. Since there are similar physical restrictions in place for performing arts venues elsewhere in the UK and elsewhere in Europe (although the exact measures fluctuate over time), the impact on competitiveness of Scottish companies is not considered to be significant.

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

Performing arts venues (indoors) have been closed since March. They rely on income from ticket sales and in-venue spend (bars, cafes, etc). With restrictions on audience numbers in place, over and above physical distancing requirements, and closure at level 2 and above some businesses may be at risk of insolvency and could limit the number and range of suppliers.

Some venues which have been less reliant on public subsidy, may be disproportionately impacted. There is risk that businesses will cease to trade and the number of suppliers therefore reduced.

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

Restricted capacity measures may disadvantageously affect larger venues, as proportionately they are more severely impacted by cap on audience numbers.

Guidance advising restricting movement between local authorities may impact on competitiveness - guidance against non-essential travel in and out of level 3 and level 4 areas may impact on city centre and rural venues as people are discouraged from traveling into town and city centres and visiting rural venues.

Cinema and other leisure and entertainment business which are open at higher levels and/or have less onerous restrictions may benefit as a result of measures for performing arts and venues.

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

N/A

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

There is a likelihood that the measures relating to performing arts venues and organisations 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 **LEISURE & ENTERTAINMENT** – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded measures within the Strategic Framework on consumers.

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

Yes. Choice will be limited due to closures and, where venues are able to open, the restrictions on audience numbers will have a direct impact on the type of performances that can be staged. Lower ticket revenue from smaller audiences will mean that what is presented on stage has to be less expensive to present, and will limit choice. Due to the closure in March 2020 and the time (and money) needed to prepare many productions, there is a paucity of productions available for touring to venues. This will take some time to be addressed and will be difficult in a circumstance where a change in level or a further lockdown may occur. Companies cannot get insurance to cover them for this risk.

• **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?**

Data about audience members will need to be stored for Test and Protect purposes. However, most performing arts venues collect audience data and are already registered with the ICO.

• **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 came into effect from the 2 November 2020. We are continuing our constructive engagement with the sector in particular in relation to restricted numbers and options to open at level 2.

Summary and recommendations:

Introduction

This BRIA has examined the **LEISURE & ENTERTAINMENT** – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded measures within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

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

Whilst this BRIA is focused on **LEISURE & ENTERTAINMENT** – Indoor theatres, concert halls and other indoor performing arts venues, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view **LEISURE & ENTERTAINMENT** – Indoor theatres, concert halls and other indoor performing arts venues 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 audience numbers (in levels 0 -1)
- Closing performing arts venues (in levels 2 - 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 (indoor performing arts venues open with physical distancing (2m) and hygiene measures and with cap on audience numbers set in guidance) would have a negative impact on performing arts venues - on 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 performing arts venues settings when open.

Performing arts venues are characterised by some of the high-risk factors associated with transmission of the virus. The health risks posed by the performing arts venues 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 performing arts sector as trade may 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
Open Restrictions on numbers (in level 0-1 via guidance only)	Performing arts venues are characterised by many of the high-risk factors associated with transmission of the virus. Restricting audience numbers reduces opportunities for virus transmission.	Restricting audience numbers will reduce revenue and turnover for the performing arts businesses. As restrictions are tightened moving to higher levels will increase the negative economic impact on businesses and increase the risk of business closures and associated job losses.

<p><i>Closure (in levels 2 – 4)</i></p>	<p>Closure of the sector will provide public health benefits. It will reduce social interaction in these higher risk settings, and hence the spread of infection and help reduce the R rate.</p> <p>Closure enables businesses to draw on support for closed businesses from the UK Government and support grants from the Scottish Government as outlined below.</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 threatens the viability of businesses, puts jobs at risk and causes severe hardship for the sector's freelancers/self-employed. Higher unemployment is a likely result as is the loss of skills through people leaving the sector.</p> <p>Social harms are significant in terms of impact on mental health and wellbeing of those working in the sector and of audience members, particularly the more vulnerable. Could increase the possibility of harm from social isolation and loneliness.</p>
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Conclusion LEISURE & ENTERTAINMENT – Indoor theatres, concert halls, comedy clubs and any other venue which— (i) normally opens at night, (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and (iii) provides music, whether live or recorded

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.

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

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

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

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

The UK Government also announced (2 November)

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

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

Title: Scotland’s Strategic Framework: Unregulated Organised Activities for children

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.

Legislative Background:

The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to make 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 and were amended over the following months to implement changes to restrictions nationally and locally.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 implement the new Strategic Framework and were published on 30th October and came into force on 2 November. They were amended on 13th November to permit organised activities for under 18s to continue outdoors¹³⁹.

The regulations at all stages have been complemented by a comprehensive suite guidance on the Scottish Government website covering both what is required by the law and other measures that individuals and other organisations are advised take.

This BRIA is focused on the set of **Unregulated Organised Activities for children** 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 **Unregulated Organised Activities for children** are set out in the table below:

[Unregulated Organised Activities for children] Measures (gatherings rules apply)	Level 0 (Baseline)	Level 1	Level 2	Level 3	Level 4
Allowed indoor (with maximum numbers advised in guidance, with reduced maximum numbers from level 2	x	x	x	x	

¹³⁹ Amended by the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No.2) Regulations 2020.

and prioritising services for under 5s and limiting services that are delivered in other people's own homes to Level 0 only)					
Allowed outdoor (with reducing maximum numbers from level 2 and prioritising services for under 5s)	x	x	x	x	x

Scientific evidence on coronavirus transmission and children shows that younger children appear to have a limited role in the transmission of the virus. The risk of transmission from children to children and children to adults in primary school and day care settings appears low, particularly when enhanced infection control measures are in place¹⁴⁰.

Based on current scientific evidence on coronavirus transmission and associated ill health, risk increases with age, particularly indoors, it shows that the transmission risks are high, higher than that for children alone. We want activities to continue to be available for all age groups (0-17) and we know that for younger children in particular, they will need a parent/carer to support them to take part. To keep these services as safe as possible, we need to have a cap both on overall numbers and on the adult:child ratio within that cap.

The protection levels provide a route to ensure that as many children can participate in these activities as possible, particularly when prevalence is low (Levels 0&1). But even these levels, services cannot go back to normal, and due to the varied nature of these activities, venues used and a limited broader Covid security oversight, such as Covid officers for sporting activities overseen by sport governing bodies, being in place, we need to take a more cautious approach.

Within the Strategic Framework, unregulated activities for children should be differentiated at Levels 2&3 and cease indoors at Level 4. That means that for all activities, where possible, they can continue outdoors at any level.

Table 1: Unregulated children's activities in public indoor and public outdoor places

Levels	0	1	2	3	4
Unregulated (children's) activities (incl. children's groups).	Permitted	Permitted	Permitted	Permitted	Not permitted indoors
Maximum numbers in guidance (indoors)	30	30	20	10	n/a
Maximum numbers in guidance (outdoors)	30	30	25	20	15

An additional restriction within the levels is where services are provided inside someone's own home. In line with the general gatherings restrictions in the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020, no one is allowed in another person's home, except for certain reasons such as childcare, at any Level apart from baseline (Level 0). This also applies to unregulated activities for children, where the service or activity provider would count towards the number of households and the overall numbers in the gathering. The Strategic Framework as published

¹⁴⁰ <https://www.gov.uk/government/publications/phe-sars-cov2-susceptibility-and-transmission-risk-in-children-an-overview-of-current-evidence-from-phe-surveillance-work-19-august-2020>

stated that this would be kept under review in Level 1. An exception was made by way of amendment to the Regulations on 13 November, which allowed indoor household visiting, subject to the 6 people/2 household rule, in the local authorities of Orkney Islands, Shetland Islands and Na h'Eileanan Siar at Level 1. Children under 12 years of age are to be counted towards the number of households attending such a gathering in those areas, but not towards the number of people in attendance.

Table 2: Unregulated children’s activities inside private homes (indoor)

Levels	0	1	2	3	4
Unregulated (children’s) activities (incl. children’s groups).	Permitted Where the maximum numbers and households are not exceeded eg. No more than 8 people from up to 3 households	Not generally permitted ¹⁴¹	Not permitted	Not permitted	Not permitted

Outdoors, in private spaces, the same rules on gatherings apply. Where the rules currently allow for gatherings in private gardens the service or activity provider will count towards the number of households and the overall numbers in the gathering.

Table 3: Unregulated children’s activities in a private garden (outdoors)

Levels	0	1	2	3	4
Unregulated (children’s) activities (incl. children’s groups).	Permitted Where the maximum numbers and households are not exceeded eg. No more than 15 people from up to 5 households	Permitted Where the maximum numbers and households are not exceeded eg. No more than 6 people from up to 2 households	Permitted Where the maximum numbers and households are not exceeded eg. No more than 6 people from up to 2 households	Permitted Where the maximum numbers and households are not exceeded eg. No more than 6 people from up to 2 households	Permitted Where the maximum numbers and households are not exceeded eg. No more than 6 people from up to 2 households

Purpose and intended effect: Scotland’s Strategic Framework Unregulated Organised Activities for children Protections

Introduction

Unregulated Organised Activities for children are an important part of Scotland’s society.

¹⁴¹ The Strategic Framework as published stated that this was not permitted, but would be kept under review at Level 1. On 13 November 2020 amendments were made to the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations to permit indoor visiting in the Level 1 local authority areas of Orkney Islands, Shetland Islands, and Na h'Eileanan Siar (but not other local authority areas in Level 1).

Indoor unregulated children's activities are provided by a range of service providers can include:

- organised indoor play, activity clubs (excluding indoor sport and dance) operating either in the school estate or in other community settings.
- unregulated wrap around clubs and activities operating before and after school, including private tutoring
- Faith-based activities for children and young people (not in schools and not taking place as part of an act of worship).
- Activities to support parents with new-born and pre-school age children, supported learning sessions such as Bookbug, parent/toddler groups, baby massage.

Outdoor unregulated children's activities are similarly provided by a range of service providers and can include:

- adventure play
- non-sport related exercise
- can be any indoor activity that is moved outdoors

COVID-19 and the Unregulated Organised Activities for children

Due to the complexity of the landscape of these activities, it is not possible to disaggregate types of activity into particular sub-sectors that match business statistics categories. The venues, size and type of provider varies within activity type. The types of businesses affected include community and third sector as well as some private sector businesses.

Statistics on the more aggregated sub-sector of childcare services more generally shows that there are 1000 businesses, the vast majority of which (96%) are small. As such, small businesses providing children's activities are likely to be adversely affected by business closures.

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 **Unregulated Organised Activities for children** in various 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.

The Strategic Framework as published stated that at levels 1 – 4, no in-home services for unregulated activities for children, that do not fall within the purposes allowed under the regulations, is allowed. This is in line with the scientific evidence available at this time, and may be subject to change as the evidence changes. An exception was made by way of amendment to the Regulations on 13 November, which allowed indoor household visiting, subject to the 6 people/2 household rule, in the local authorities of Orkney Islands, Shetland Islands and Na h'Eileanan Siar at Level 1. Children under 12 years of age are to be counted towards the number of households attending such a gathering in those areas, but not towards the number of people in attendance.

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.^{142 143}

We know from contact tracing, international evidence and scientific research that a wide range of social,

¹⁴² [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹⁴³ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

residential and workplace settings have been associated with transmission.

The Government recognises from Test and Protect data¹⁴⁴ that a high proportion of new cases came from social interactions between different households in our homes, where it can be difficult to maintain physical distance and have good ventilation. Given transmission of the virus within homes is high risk¹⁴⁵¹⁴⁶, gatherings in private dwellings was targeted first and will be restricted to some degree across all of the 5 levels.

However, other settings also have the potential to transmit the virus due to the risk factors. High-risk factors associated with transmission of the virus¹⁴⁷ include indoor spaces, where ventilation and physical distancing may be less easy to maintain, and are places where people come together to spend prolonged periods of time (more than 15 minutes) in close proximity, enabling the virus to spread easily from person to person. Risks are further compounded by speaking loudly. Another risk factor is when a 2m distance cannot be maintained, as evidence suggests that 1m distancing carries between 2 and 10 times the risk of 2m distancing¹⁴⁸.

Risks outdoors are lower, with the risk of aerosol transmission considered to be very low outdoors due to high dilution of virus carrying aerosols and UV inactivation of the virus. The virus is not likely to survive for long periods of time on outdoor surfaces in sunlight, although it may survive for more than 24 hours in indoor environments. Outdoors, face to-face exposure (e.g. $\leq 2\text{m}$ for a prolonged period) should still be considered a potential risk for transmission via respiratory droplets.¹⁴⁹

Many of the high risk factors for transmission are present in unregulated organised activities for children:

- close and prolonged contact (more than 15 minutes) indoors amongst people from different households
- crowding and the ability to regulate the distance between people
- the likelihood of pinch points where adults and children might gather (e.g. toilets and corridors, entrances and exits),
- the likelihood of people touching surfaces and equipment and issues keeping facilities clean
- the potential for significant aerosol projection activity, including though speaking loudly and cheering¹⁵⁰.
- Mixing of age groups, particularly where older children or adults are indoors¹⁵¹

Current position of Unregulated Organised Activities for children

¹⁴⁴ <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-22-september-2020/>

¹⁴⁵

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

¹⁴⁶ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

¹⁴⁷ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

¹⁴⁸ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹⁴⁹ [Transmission of SARS-CoV-2 and Mitigating Measures, SAGE EMG June 2020](#)

¹⁵⁰ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

¹⁵¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/10/coronavirus-covid-19-children-and-transmission/documents/coronavirus-covid-19-children-and-transmission---report-from-the-advisory-sub-group-on-education-and-childrens-issues/coronavirus-covid-19-children-and-transmission---report-from-the-advisory-sub-group-on-education-and-childrens-issues/govscot%3Adocument/Coronavirus%2B%2528COVID-19%2529%2B-%2Bchildren%2Band%2Btransmission%2B-%2Breport%2Bfrom%2Bthe%2BAdvisory%2BSub-Group%2Bon%2BEducation%2Band%2BChildren%25E2%2580%2599s%2BIssues.pdf>

Activities can take place in venues that remain open, and also in outdoor places, provided that the organiser takes reasonable measures to ensure physical distancing and other reasonable measures to reduce the risk of transmission. In doing so they must have regard to guidance issued by the Scottish Ministers. At levels 0 – 3, the maximum numbers who can attend are set out in guidance and reduce with the levels. Under the regulations at level 4, only activities that take place outdoors are permitted.

These activities cannot usually take place in a persons' own home. Whether or not this is allowed will depend on the purpose of the activity and the protection level within that local authority area.

Conclusion

It is appropriate to consider how these services can remain open at each level, and which settings and activity type carry most risk. Small businesses providing these services are most likely to be adversely affected, particularly if they operate indoors, in a persons' own home, or require large numbers to meet their general operating costs.

Consultation

Public Consultation: Although no formal consultation was undertaken, we carried out a high level analysis of correspondence on this issue, including some from members of the public and users of unregulated organised children's activities.

Business: No formal consultation undertaken, but we engaged extensively with overarching bodies, largely from the voluntary and third sectors to provide some more insight to the various challenges, which were similar across the sector.

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 including:

- wearing of face coverings (required by legislation)
- social distancing measures (required by legislation)
- requirement for providers to take other reasonably practicable measures (required by legislation)
- adherence to guidance set out in health protection measures in non-NHS settings

Sectors and groups affected

These Regulations will affect:

- anyone providing an unregulated organised service or activity to children (0-17) that do not fall under any other guidance eg. youth work or services for vulnerable children and families directed under social work or other statutory body
- children and young people who access these services, including their parents/carers

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 **Unregulated Organised Activities for children**. 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, 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 in Phase 3 of the route map, and is what is permitted at level 0 in the strategic framework.

Service providers can run activities indoors, with up to a maximum of 30 people advised in guidance, and the same outdoors. The service must be aimed at children aged between 0-17, and guidance provides that no more than 50% of attendees should be adults (18+). To continue to prioritise the needs of younger children, included in guidance that under 5s no longer count to overall numbers at this level.

Service providers can also carry out activities inside a person's own home at this level, as long as there are no more than 8 persons from 3 households, and is in line with scientific guidance on household mixing and appropriate hygiene and public health measures in private dwellings. Children under 12 are to be counted towards the number of households in attendance, but not towards the number of people in attendance.

Options for Level 1

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

A range of options were considered:

- 1) Maintain baseline
- 2) Allow service providers to run activities indoors with up to a maximum of 30 people, and the same outdoors, but do not allow service providers to carry out activities in a person's home
- 3) Retain an outdoor option only
- 4) Close all activities

- 1) Maintain baseline

Maintaining the baseline was considered. Given at this level, the virus is more prevalent and transmissions risks are slightly greater, particularly for indoors, it was decided that the public health risks required additional measures beyond the baseline position.

- 2) Allow service providers to run activities indoors with up to a maximum of 30 people, and the same outdoors, but do not permit service providers to carry out activities in a person's home.

Under this option service providers are permitted to run activities indoors and outdoors in public places, with a maximum of 30 people advised in guidance, as in the baseline. Although there is a slight increase in the prevalence of the virus at this level it was felt that sufficient public health measures were in place to mitigate any general increase in risk and that service providers could be permitted to run activities indoors and outdoors in public places, and that the 30 person could be retained. To continue to prioritise the needs of younger children, this option includes guidance that under 5s no longer count to overall numbers at this level. This would have economic benefits in terms of business income, viability and jobs and deliver social benefits to the children and parents and carers using these services.

However, some indoor activities such as singing, use of woodwind instruments - where there are greater risks of aerosol transmission - and sharing of food and utensils present higher transmission risks and the option to restrict them, through the issuing of guidance, at this level was considered. This would include activities like choir practice, singing in large groups particularly if adults are present, and playing of certain musical instruments. The public health impact outweighed the negative impact on service providers operating in these areas, as well as the social harms to children, parents and carers from not being able to take part in these activities. Therefore, under this option guidance advises against some indoor activities.

This option also includes not permitting service providers to carry out activities inside a person's home. This reflects the higher transmission risks associated from operating indoors in a home where the environment is harder to control and Covid safety measures are less assured. Household mixing inside your own home or another persons' home is not permitted at this level and there are strong public health arguments to apply the same rules to unregulated organised activities at this level. Some activities that are delivered a persons' own home, could potentially be moved outside or delivered through virtual means, helping to minimise the economic and social harms associated with this measure. The range of activities and potential businesses affected is not easily quantifiable.

3) Retain an outdoor option only

Although at this level, the virus is more prevalent and transmissions risks are slightly greater than at the baseline, particularly for indoors, it was felt that the public health mitigations set at baseline level were sufficient to mitigate any increased risk and indoor activities should remain available. Moving to an outdoor only option could have a significant economic impact in terms of income, business viability and jobs as well as a significant social impact on the children, parents and carers using these services.

4) Close all activities

In line with the arguments for option 3 above, it was felt that the public health mitigations set at baseline level were sufficient to mitigate any increased risk and indoor and outdoor activities in public places should remain available.

Conclusion

Option 2) was chosen. This would ensure that most indoor and outdoor activities can remain open at these levels. Access to other people's homes will be restricted in line with the general gathering restrictions where mixing of households in private dwellings is not permitted. This will impact on some indoor activities, such as party organisers. Guidance will advise that higher risk activities, such as singing in groups with mixed ages (especially adults), use of woodwind instruments and activities that involve shouting or sharing of food or utensils should no longer be allowed indoors due to greater risk of aerosol transmission.

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

1) Maintain baseline

2) Allow service providers to run activities indoors with up to a maximum of 20 people indoors and up to a maximum of 25 outdoors, but do not permit service providers to carry out activities in a person's home

2) Retain an outdoor option only

3) Close all activities

1) Maintain baseline

At this level, the virus is more prevalent and transmissions risks are greater, particularly for indoors. For the reasons set out in option 2) above (in level 1) the public health risks associated with the base line are too great to outweigh the economic and social impacts of adopting this option.

2) Allow service providers to run activities in public places indoors with up to a maximum of 20 people, and in public places outdoors with up to a maximum of 25, but do not permit service providers to carry out activities in a person's home

This option is the same as that discussed in option 2 in level 1, above, other than it reduces the group size allowed indoors from 30 to 20 and from 30 to 25 outdoors, through guidance. Under guidance up to 50% of attendees could be adults, e.g. parents/carers. To continue to prioritise the needs of younger children, this option includes guidance that under 5s no longer count to overall numbers at this level

Group size is considered a factor in transmission risk and reducing the numbers should have a positive impact. The differential between indoors and outdoors caps reflects the lower transmission risk outdoors. Although this may have an effect on the viability of some activities to continue indoors, the cap has been carefully considered based on the concerns raised from the more limited cap of 10 which has been in place until 11th November, and balanced against the potential health harms.

3) Retain an outdoor option only

This option was considered to be too restrictive. Many other similar services remain in place at this level and legislative requirements on organisers to take reasonable measures and robust guidance in relation to appropriate hygiene and public health measures could continue to reduce the risk of transmission indoors in public places. By fully closing indoors activities, many more businesses would be affected, as the majority operate solely in this environment, particularly for younger children, and would cause social harms to both children and their parents or carers

4) Close all activities

This was considered as an option, and was not considered appropriate at this level. The social benefits of these services, to many children and their parents outweighed the potential increased risks of transmission. It was also felt that the legislative requirements on organisers to take reasonable measures and robust guidance in relation to appropriate hygiene and public health could continue to reduce the risk of transmission, both indoor and outdoor in public places.

Conclusion

Option 2) was chosen. Most indoor and outdoor activities in public places should remain open at these levels. Maximum group sizes should be restricted further in guidance, in line with the increasing transmission risks to twenty for indoors and twenty five for outdoors. Parents/carers will still be able to attend activities with their children, provided they do not make up more than 50% of the overall group numbers.

OPTIONS FOR LEVEL 3

1) Maintain baseline

2) Allow service providers to run activities indoors in public places with up to a maximum of 10 people, and outdoors in public places with up to a maximum of 20, but do not permit service providers to carry out activities in a person's home

2) Retain an outdoor option only

3) Close all activities

1) Maintain baseline

This option was considered, but the increased incidence of the virus and higher levels of community transmission at level 3 mean that the public health risks of adopting the baseline option outweigh the economic and social benefits.

2) Allow service providers to run activities indoors in public places with up to a maximum of 10 people, and outdoors in public places with up to a maximum of 20, but do not permit service providers to carry out activities in a person's home. Introduce exemptions in guidance for under 5s activities.

This option is the same as that described as option 2) in level 1 and in option 2) in level 2. To reflect higher transmission rates the cap on group size is lower and is ten indoors and twenty outdoors. Up to 50% of attendees could be adults eg. parents/carers where children are over 5.

To continue to prioritise the needs of younger children, this option includes guidance that under 5s no longer count to overall numbers at this level, so up to 10 parents/carers can attend at any one time indoors and up to 20 outdoors. This is likely to have a more significant effect on the viability of some activities to continue indoors for most age groups, but by providing further exceptions for the under 5s this continues to provide opportunities for socialisation for those age groups, further reducing social harms.

3) Retain an outdoor option only

This was considered to be too restrictive. Many other similar services remain in place at this level and legislative requirements to take reasonable measures and robust guidance in relation to appropriate hygiene measures and public health could continue to reduce the risk of transmission indoors in public places. By restricting in this way, a number of solely indoor based activities could not be undertaken, impacting on those providers who only operate in this way, as well as impacting on the users of these services.

4) Close all activities

This was considered as an option and was considered inappropriate at this level. The benefits of these services, to many children and their parents outweighed the potential increased risks of transmission if appropriate legislative requirements and reasonable measures were adhered to.

Conclusion

Option 2) was chosen. Most indoor and outdoor activities in public places are permitted at this level.

Although restricting numbers further by guidance to maximum group sizes to 10 indoors and 20 outdoors (excluding under 5s) will impact on the viability of some providers it will help reduce transmission of the virus. Further prioritising the needs of the youngest children, parents/carers are not restricted to 50% of group size at this level where all participants are under 5, providing important socialisation benefits for this group.

Options for Level 4

Level 4 will be deployed only if absolutely necessary, intended 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

- 1) Maintain baseline
- 2) Retain an outdoor option only with a cap
- 3) Close all activities

Option 1: Maintain baseline

At this level, it is not feasible to maintain the baseline. Moving to Level 4 requires decisive action on everyday life, and restrictions need to be seen collectively, across all sectors. At level 4 the public health concern outweighs the economic and social benefits associated with the baseline. Indoor mixing of households creates the highest risk. Most of the children who attend these activities will be in ELC or school, and the message has been clear that these need protected, as far as possible.

Option 2: Retain an outdoor option only with a cap

In terms of settings and transmission risk, evidence is clear that outdoors is lower risk. This provides scope at this level for an option to retain some outdoor activities, by limiting in guidance the number of people who should attend at one time to make them as safe as possible – down to 15. Where all the child participants are under 5, they do not count towards these numbers and up to 15 parents/carers can continue to attend.

This should enable continuing prioritisation of activities for those children who are less likely to mix with their peers in any other setting, for example very young children not yet in ELC or schools. They are also the least likely to transmit the virus, but with more adults (18+) brings more risk, which is why a cap is required. This will impact most on those delivering activities solely based indoors, but many services are provided outdoors or can be adapted.

Option 3: Close all activities

Evidence suggests that transmission risks are lower for children under 10, and reduce by age. This is not true of older children, 15+ and adults. Where activities take place indoors the risk is greater. Some activities have adapted to deliver on-line or other virtual content during the previous period of very strict measures. However, it is considered that some activities could reasonably continue outdoors at this level, and it would protect a minority and those solely based outdoors from complete closure.

Conclusion

Option 2) has been chosen. This level is intended to be in place for a short period of time, so impact of tighter restrictions should be minimised. Indoor activities would be required to close.

Outdoor activities in public places could be maintained at this level, limiting numbers attending by guidance will continue to reduce the risks associated with household mixing. Those that could move outdoors, even if previously indoors, or to some other mode of delivery eg. digital, would also be able to continue to some extent. Prioritising activities for under 5s to allow as many parents/carers to continue to support them to participate as safely as possible was a key objective with this option. Allowing some organised activities to continue at this level in public places outdoors provides some additional social options for children, particularly young children, outwith formal education and childcare. It does, however, significantly restrict many businesses from operating at this time.

Scottish Firms Impact Test:

There has been no direct engagement with Scottish **Unregulated Organised Activities for children** businesses in developing the provisions within the Strategic Framework.

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

Because of the complexity of this landscape of activity, it is not possible to disaggregate types of activity into particular sub-sectors that match business statistics categories. The venues, size and type of provide varies within specific types of activity. The types of businesses affected include community and third sector as well as some private sector businesses.

Statistics on the more aggregated sub-sector of childcare services more generally shows that there are 1000 businesses, the vast majority of which (96%) are small. As such, small businesses providing children's activities are likely to be adversely affected by business closures.

• What is the likely cost or benefit to business?

Unable to fully quantify, but could significantly impact on viability for some businesses in this area, particularly at level 4. Costs incurred could include costs associated with enhanced health and safety. Indoor closure options will limit demand and will result in revenue forgone. This will be exacerbated under full closure options and threaten the viability of businesses.

Competition Assessment:

Where services can move on-line or outdoors, previously indoors only, this could provide them with different opportunities to retain their customers. This may, however, disadvantage providers that are unable to do this.

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

It will indirectly limit both the number and range of suppliers for indoor activities where the restrictions mean the businesses are no longer viable.

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

To continue to deliver indoor services, where there are either insufficient numbers to make the service viable or the measures required to make the service safe cannot be fully complied with.

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

There is no evidence, at this time that would be the case.

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

Choices for consumers may be limited by the ability of services to freely open up.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of the **Unregulated Organised Activities for children** measures within the Strategic Framework on consumers..

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

Business that cannot meet their operating costs due to limiting of numbers who can attend will be impacted and potentially, reduce availability of these services.

Further limiting of available and/or quality may occur if the services need to adapt to deliver virtual or outdoor offerings, that there normally delivered in other ways.

• **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 came into effect from the 2nd November 2020. Further changes to regulations came in on 12th November to permit activities to continue outdoors. We are continuing our constructive engagement with the sector and amended guidance for unregulated, organised activities will be forthcoming, based on these discussions and previous high level analysis of issues largely relating to viability.

Summary and recommendations:

Introduction

This BRIA has examined the **Unregulated Organised Activities for children** measures within each level of the Strategic Framework and compared these measures with the baseline option, the equivalent of Level 0 in the Strategic Framework.

Background

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

Whilst this BRIA is focused on **Unregulated Organised Activities for children**, measures are also being taken to reduce opportunities for transmission across a range of settings. It is important to view **Unregulated Organised Activities for children** 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:

- a) Restrictions on entering other people's homes (in levels 0)
- b) Restrictions on maximum numbers in public indoor settings provided in guidance (graduating by level 0-4)
- c) Only permitting activities to continue outdoors with a cap on numbers provided in guidance for public places, graduating in levels 2-4. Where the activity takes place in a private garden, the general gathering rules on what is permitted apply eg. 6 people from 2 households (in levels 0 - 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 some unregulated organised activities for children, through their revenue generation. However this would be off-set by the health risks associated with increased opportunities for virus transmission, particularly within indoor settings.

Unregulated, organised activities for children are more likely to take place in venues that are characterised by many of the high-risk factors associated with transmission of the virus. The health risks posed by these services could increase as the R rate increased meaning there would be potential for increased community transmission and multiple clusters, although small in comparison to other sectors due to the scale and the client group focus eg. children.

Higher rates of infection may ultimately impact negatively on the unregulated, organised activities sector as attendance at activities may be reduced due to customers being anxious about social interaction, particularly in indoor venues.

Option 2: Strategic Framework

Measure	Benefits	Costs
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Restrictions on entering other people's homes (in level 0 - 4	There is strong evidence that community based transmission is more likely to occur indoors in a private home. This is because there is less ability to take the preventative measures such as greater ventilation, regular cleaning of all surfaces, physical distancing, in that setting. Restricting in-home services in line with other social gathering restrictions, means that the key messages for parents and carers continues to be the same. For a number of these services, there is an ability to use virtual means to continue to deliver, or the service could be delivered outdoors, even in a private garden, provided that all other restrictions on social gatherings are adhered to.	Due to the varied nature of these services, there is no quantifiable measures of the cost impact. However, it is clear for some services, particularly those delivered in a home, including group based activity in the home, and they are less likely to be able to continue, particularly if they cannot be adapted to an outdoor or virtual option.
Restrictions on maximum numbers in guidance (in level 0-4)	<p>Venues used by those delivering unregulated, organised activities for children are characterised by many of the high-risk factors associated with transmission of the virus. They are also more likely to have parent/carer attendance for younger children participation Age is a factor in transmission rates, and by reducing those who can attend at any one time, this also reduces the risks of transmission. These create welcome opportunities for children to interact with their peers and other children on things that interest them.</p> <p>Clinical advice is that indoor settings, with larger groups, type of activities undertaken and older participants eg. young people/parents/carers present a higher risk. By limiting the numbers who can attend at any one time, and taking enhanced hygiene measures including regular cleaning of shared surfaces, limiting aerosol producing activities such as singing, formalising attendance (so reducing drop-in activities)</p>	<p>Reducing numbers who can participate at any one time could lower demand, reduce revenue and turnover.</p> <p>As restrictions are tightened moving to higher levels will increase the negative economic impact on businesses.</p>

	provides a safer environment for those attending.	
Only permitting Outdoor activities with a further cap on numbers (in 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. Stopping indoor unregulated organised activities for children (along with the package of other measures under level 4 of the Strategic Framework) would help towards a reduction in infection rates.	Due to the varied nature of these services, there is no quantifiable measures of the cost impact. However, it is clear for some services, particularly those that can only be delivered indoors, are less likely to be able to continue, particularly if they cannot be adapted to an outdoor or virtual option.

Closures and restrictions imposed upon businesses are unwelcome, but are necessary to control the virus. The progressive approach taken in the measures ensures that business can remain open where it is safe to do so, but we recognise that there are significant resultant costs to business.

We have set out a comprehensive package of financial support from the UK Government and the Scottish Government for businesses to mitigate the negative impacts of the restrictions, although we recognise it may not cover all losses. Subsequent to the regulations commencing on 2nd November, there have been changes to the financial support package, notably the extension of the UK Government Coronavirus Job Retention Scheme until the end of March 2021.

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 £2,100 (depending on rateable value) for businesses that remain open but are specifically required to modify their operations by protective measures, payable every four weeks for the duration measures are in place

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

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

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

be re-employed and claimed for

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

The UK Government also announced (2 November)

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

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

Conclusion Unregulated Organised Activities for children

This BRIA cannot fully 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. This is because of the complexity of the businesses that may fall within the unregulated organised activities for children sector.

Summary and recommendations:

Introduction

This BRIA has examined the measures included within Scotland's Strategic framework which relate to the closure or restricting of the following sectors:

- Casinos
- Cinemas
- Adult entertainment & nightclubs
- Bingo halls
- Funfairs
- Theatres and music venues
- Unregulated children's activities

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 has focused on a number of sectors, 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. It is important to view individual measures within the broader context of the package of measures within each level.

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 types of measures that the BRIA have examined include restricting use to only essential purposes; requiring additional protective measures; restricting numbers or seating arrangements; restricting operations to outdoor settings; and closing businesses/premises. The option appraisal has considered the impact that the measures would have on transmission risks, and on economic costs.

Transmission and Risk Factors

We know from contact tracing, international evidence, and scientific research that a wide range of social, residential, and workplace settings have been associated with transmission. The highest risks of transmission, including those from super-spreading events, are associated with poorly ventilated and crowded indoor settings with increased likelihood of aerosol emission and no face coverings are worn such as bars, nightclubs, parties/family gatherings, indoor dining and gyms and exercise classes. Poor ventilation and crowding have been suggested to be factors in numerous transmission clusters^{152,153}.

¹⁵² 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

¹⁵³ 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

The Government recognises from Test and Protect data¹⁵⁴ that a high proportion of new cases came from social interactions between different households in our homes, where it can be difficult to maintain physical distance and have good ventilation. Given transmission of the virus within homes is high risk¹⁵⁵, gatherings in private dwellings was targeted first and will be restricted to some degree across all of the 5 levels. However, other settings also have the potential to transmit the virus due to the risk factors. Understanding settings where multiple risk factors come together, and large outbreaks are likely to occur, is important in controlling the epidemic. Limiting social mixing as much as possible in all settings is the most effective measure against transmission of the virus until a vaccine and treatments become available.

Each place an individual visits brings different risks of the transmission of COVID-19 depending on a range of factors, such as¹⁵⁷:

- the mix and number of people present
- the amount of time individuals are likely to spend there
- the ability to maintain 2 metre distancing
- the likelihood of pinch points where people might gather (e.g. toilets, entrances and exits)
- the standard and type of ventilation
- the likelihood of people touching surfaces and goods
- the potential for significant aerosol projection activity¹⁵⁸

Risk factors for different businesses in different sectors vary hugely, and most will have a number of risk factors to consider. This BRIA has examined a range of options which will have different impact on reducing these risk factors. In general, there is a greater increase in risk factors, and therefore in the potential for COVID-19 transmission, as we move through the five levels of the Strategic Framework.

- In Levels 0 and 1, we would expect to see low incidence of the virus with isolated clusters, and low community transmission. Many sectors can continue to operate, with a range of mitigating measures in place. However, for some sectors, such as nightclubs, the risk factors are so significant that they cannot be re-opened safely.
- In 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. For example, in sports and exercise level 2 the graduated measures include restricting indoor contact sports for age 18+, where there would be reduced ability to maintain 2m distancing, increased likelihood of people touching surfaces etc. In level 3, this graduated measure is extended so that only individual exercise is permitted indoors (for 18+ age).
- In Level 4, we would expect to see very high or rapidly increasing incidence, and widespread community transmission which may pose a threat to NHS capacity. Measures would be in place for a short period, to provide a short, sharp response to quickly suppress the virus. This could include the closure of aspects of all of the businesses within the scope of this BRIA, subject to exceptions.

¹⁵⁴ <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-22-september-2020/>

¹⁵⁵

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

¹⁵⁶ <https://www.gov.uk/government/publications/sars-cov-2-transmission-routes-and-environments-22-october-2020>

¹⁵⁷ [COVID-19: NOTE BY THE CHIEF MEDICAL OFFICER, CHIEF NURSING OFFICER AND NATIONAL CLINICAL DIRECTOR 7th October 2020](#)

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

Economic Costs

In general, the negative economic impact increases as we move through the levels. Some of the packages of levels disproportionately affect the sectors of the economy that were impacted more in the first lockdown. These sectors may continue to struggle for viability and are now less resilient for a second period of further restrictions / closure, such as accommodation, culture and events. At the extreme, a level 3 or level 4 lockdown could leave many businesses and households extremely vulnerable and risk redundancies.

- Level 0: The negative economic impact within the lowest level of the Framework will be minimised, with the majority of sectors operational. However, it is important to note that some restrictions will still be in place to minimise transmission of the virus, with social distancing measures in particular impacting on the events and entertainment sectors.
- Level 1: The main negative economic impacts come through firms operating at below capacity as a result of physical distancing rules as well as the socialising rules which weaken demand particularly in the hospitality sector. Nightclubs and sexual entertainment venues will be required to close and these sectors will be particularly impacted by their inability to open at any of the levels. Guidance on travelling to higher risk areas may further weaken demand in the economy. Restrictions will result in revenue forgone for many businesses.
- Level 2: Further closure of businesses such as venues and stadia will disproportionately affect the events sector and threaten its financial viability and associated jobs. The closure of more parts of the economy, such as the events sector, funfairs, casinos, music venues, theatres and snooker halls will have negative economic impacts.
- Level 3: The economic impacts of level 3 are high as more parts of the economy are closed down such as all leisure and some visitor attractions and restrictions on some sports activities. Closure would come at time when businesses have already incurred substantial and sustained losses. Once a business has closed it is not a simple reversal to re-open and could be a trigger for permanent closure. The situation is now very different to the period of the first lockdown in March and evidence shows that the risk of insolvency is real for many businesses in the hardest hit sectors. Further restrictions therefore represent a tipping point for the businesses affected. The travel guidance applying in level 3 areas will also have an impact on businesses outwith the local authorities at that level.
- Level 4: The economic impacts of level 4 are very high as restrictions includes closure of non-essential retail as well as close contact personal services and gyms. Closing non-essential retail could have particular adverse economic effects at a time when the sector is entering its 'golden quarter' in the run up to Christmas and when it makes most of its sales. Closing tourism will have a significant negative impact leading to business closure, unemployment and serious impacts on the food supply sector in Scotland. Impact on wider business and consumer confidence will also be significant. The economic context, has changed since the lockdown in March and business support is therefore crucial but may not be sufficient to cover losses. Second time around the negative impacts of closing down a large part of the economy may be amplified. The economic recovery is already fragile and a further lockdown will lead to a greater degree of structural damage to the economy from which it may take decades to recover and with long term scarring in terms of unemployment and the associated negative impacts on health and wellbeing.

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.

Closures and restrictions imposed upon businesses are unwelcome, but are necessary to control the virus. The progressive approach taken in the measures ensures that business can remain open where it is safe to do so, but we recognise that there are significant resultant costs to business.

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

Declaration and publication

Sign-off for BRIA:

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

Signed: Michael Russell

Date: 18th November 2020

Minister's name: Michael Russell

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