



OFFICIAL REPORT
AITHISG OIFIGEIL

COVID-19 Recovery Committee

Thursday 2 September 2021

Session 6



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CONTENTS

	Col.
SCOTLAND'S STRATEGIC FRAMEWORK	1
MINISTERIAL UPDATES ON CORONAVIRUS LEGISLATION AND SUBORDINATE LEGISLATION	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 27) Regulations 2021 (SSI 2021/238).....	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 28) Regulations 2021 (SSI 2021/242).....	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 29) Regulations 2021 (SSI 2021/252).....	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 30) Regulations 2021 (SSI 2021/255).....	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 31) Regulations 2021 (SSI 2021/262).....	23
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 32) Regulations 2021 (SSI 2021/263).....	23
Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (SSI 2021/277)	23
Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021 (SSI 2021/214)	23
Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) (No 2) Regulations 2021 (SSI 2021/236)	24
The Coronavirus (Extension and Expiry) (Scotland) Act 2021 (Evidence) (Saving Provision) Regulations 2021 (SSI 2021/280)	24
Coronavirus Act 2020 (Suspension: Disposal of Bodies) (Scotland) Regulations 2021 (SSI 2021/250) [Laid Only]	24

COVID-19 RECOVERY COMMITTEE

2nd Meeting 2021, Session 6

CONVENER

*Siobhian Brown (Ayr) (SNP)

DEPUTY CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Alex Rowley (Mid Scotland and Fife) (Lab)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Elizabeth Blair (Scottish Government)

Professor Jason Leitch (Scottish Government)

Dominic Munro (Scottish Government)

John Swinney (Deputy First Minister and Cabinet Secretary for Covid Recovery)

CLERK TO THE COMMITTEE

Sigrid Robinson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

COVID-19 Recovery Committee

Thursday 2 September 2021

[The Convener opened the meeting at 09:30]

Scotland's Strategic Framework

The Convener (Siobhian Brown): Good morning, and welcome to the second meeting in 2021 of the COVID-19 Recovery Committee. This morning, we will take evidence on Scotland's strategic framework from John Swinney, Deputy First Minister and Cabinet Secretary for Covid Recovery; and, from the Scottish Government, Dominic Munro, director for Covid-19 exit strategy; and Professor Jason Leitch, national clinical director. I welcome our witnesses, who are joining us remotely.

Deputy First Minister, I invite you to make a brief opening statement.

The Deputy First Minister and Cabinet Secretary for Covid Recovery (John Swinney): Thank you, convener, and good morning. I welcome the opportunity to appear before the committee for the first time since my appointment as portfolio minister for Covid recovery. This is a vital part of the process of parliamentary accountability, which will undoubtedly strengthen our approach to recovery.

I will be happy to respond to any line of inquiry that the committee wishes to pursue. I would like to take some time to first set out our developing approach to Covid recovery, before turning to the First Minister's recent announcement about the public inquiry, then to the current public consultation on Covid recovery legislation. Finally, I will update the committee on our on-going activity to respond to the pandemic, which unfortunately is still very much with us.

In reappointing me as Deputy First Minister, the First Minister also asked me to lead the cross-Government and cross-Parliament work necessary to guide the country through the pandemic and into a recovery that supports the national health service, protects and creates jobs, supports our young people and contributes to Scotland's ambition to be a net zero nation. Moreover, I am determined that our approach to recovery should take us closer to the kind of Scotland that we all want to see: a country that is more equal and addresses the inequalities that have been exacerbated by the pandemic; a country in which the economy guides us towards a more sustainable future, with good, green jobs and fair work for all; and a country in which public services

are supported to recover from the pandemic and to put person-centred design and delivery at their heart.

In the past 100 days, we have seen a real cross-Government effort to support key actions covering Covid recovery. The safe and effective remobilisation of the NHS is one of our top priorities. On 25 August, we published our national recovery plan, which sets out key commitments that will support recovery over the next five years, supported by the implementation of sustainable improvements and new models of care.

I recognise that achieving our ambition for recovery will require more than the efforts of national Government—wider collaboration and partnership is essential. To that end, I have used part of the summer to engage with a wide range of stakeholders, across the private, public and third sectors, on their priorities for Covid recovery. Just over 60 organisations have been involved in that exercise.

I have met regularly with the presidential team from the Convention of Scottish Local Authorities, recognising the crucial role that local government has played throughout our response to the pandemic, from assisting the roll-out of walk-in test centres to delivering self-isolation support and business grants. Our local authorities have provided vital support to individuals, organisations and businesses through close partnership with the Scottish Government.

I am determined to do all that I can to support that close partnership working as an essential element in our approach to recovery. I know that it is only by harnessing the collective work of both democratic spheres of government and involving as many of our partners as possible that we will be able to achieve the recovery that we want to see. I intend to set out more detail about the partnership that we will take forward with local government when the Covid recovery strategy is published in due course.

I am sure that members will be interested in how we intend to take forward the establishment of a public inquiry into the Covid response. The Scottish Government has always been committed to the establishment of a public inquiry into the pandemic, and it will be established by the end of this year, as was promised. We have published draft aims and principles for the inquiry, which, following consultation between now and the end of September with interested parties, including bereaved families, will become the formal terms of reference. Anybody who wants to can and should contribute to the consultation process.

The inquiry will look at all matters related to the handling of the pandemic that were within our devolved competence, which will include, of

course, the situation in care homes. The consultation will close on 30 September, and the Lord Advocate has begun discussions with the Lord President about appointing a member of the judiciary to head the inquiry.

It is worth stressing that we will still co-operate closely with other Governments, including the UK Government, on their inquiries into Covid. Apart from anything else, we recognise that, by doing that, we might lessen the burden on organisations and individuals who are making submissions to our inquiry. That will, of course, include people who have lost loved ones to Covid.

The need for discussion and co-operation cannot become a reason for delay. I believe that an inquiry into the handling of Covid in Scotland potentially has an important role to play in scrutinising the decisions that have been made in the past and in highlighting lessons for the future. I therefore believe that it is appropriate to establish the inquiry as soon as possible. The consultation that we have launched is an important early step towards doing that.

In addition to progressing the establishment of the inquiry, we have taken early steps to consult on how we recover from the crisis and ensure that we are prepared for any future ones, reflecting on the lessons that we have all learned over the past 18 months. As part of that, we must ensure that we review the impact of Covid on the Scottish statute book and carefully consider any benefits of legislative reforms that might be worth retaining.

Our 12-week consultation has been publicised widely, and members of the public are already contributing their views. The consultation invites views on 30 specific legislative proposals that have the potential to support Covid recovery, such as greater public health resilience to protect against future threats, and the possible retention of improvements and modernisations to public services and the justice system. The consultation paper outlines our ambitions for Covid recovery and ends with an open question, inviting comments on the action that respondents think is required to support a fair, safe and secure recovery.

During the pandemic, the power to make public health regulations has been instrumental to managing the public health threat through a range of measures, at each point based on expert advice. The public health regulations proposal is not intended to make lockdown measures permanent, but is rather designed to ensure that Scotland continues to be able to respond proportionately and appropriately to a variety of public health threats.

A successful recovery will be unfeasible if we do not effectively respond to the immediate risks that

the virus continues to pose. An effective and sustainable response to the pandemic will lay the foundation for the sort of recovery that we want to see. As the First Minister set out yesterday, we have a steady and on-going increase in cases that has caused us real concern. However, it is important to note that vaccination is significantly weakening the link between high numbers of cases and serious harm to people's health. That is why the Scottish Government's aim in controlling Covid at this stage in the pandemic is different from its aim in previous stages.

We are no longer seeking to suppress Covid to the lowest possible level. Now that we have vaccinations, the restrictions required to suppress Covid could not be justified, given that those restrictions cause serious harms of their own. Instead, we are seeking to suppress the virus in a way that alleviates its harms but allows us to recover and rebuild for the future.

We need children to go to school, businesses to operate more normally and all of us to be able to socialise and live more freely. That is why so many restrictions—except for key baseline measures—were lifted on 9 August, and it is why, in many ways, we should not be too surprised by the recent rise in case numbers.

However, we cannot be relaxed about the figures. The link between new cases and serious health harms has been weakened, but it has not been broken. The surge that we have seen might well result in more people going to hospital and, sadly, more people losing their lives. That is why the Scottish Government is engaging with businesses and organisations in different sectors of the economy to enhance compliance with existing regulations and maximise the impact of baseline measures. It is vital that we all follow the baseline measures that remain in place. For example, we are asking people to continue to wear face coverings in indoor public places, which is a reasonably simple and straightforward way in which we can protect each other and reduce the risk of transmission. We are also asking people to be mindful of the basic steps that we should continue to take, such as washing hands and surfaces and, even though it is not the law anymore, keeping a safe distance from people in other households if you can.

The final step that we will take to protect individuals and the country as a whole in the short term and to reduce the risk of further restrictions being necessary is to propose vaccination certification, which is to be introduced later this month in certain limited settings, subject to parliamentary debate and a vote to signify approval.

The Scottish Government is pleased to see the establishment of the COVID-19 Recovery

Committee, which I know will play a crucial role in leading the country through the on-going pandemic and into a fair and just recovery. I welcome any questions that the committee might have, and I am grateful for the opportunity to make an extensive statement to open the committee's proceedings.

The Convener: We turn to questions. I remind members that we have approximately six minutes each for questions, so it would be helpful if we could keep our questions and answers concise. If there is time for supplementaries, I will indicate that once all members have had a chance to ask questions.

I will ask the first question, which is on something that you just touched on, Deputy First Minister. The Scottish Government committed to establishing a cross-party steering group on Covid recovery, which met before the summer. What role do you see the steering group playing, and how will that differ from the role of this committee?

John Swinney: The cross-party group and this committee have two very distinct roles. I see this committee fulfilling the role of parliamentary accountability, which is at the absolute heart of the operations of Parliament. The committee must be free to explore and examine any question that it considers to be appropriate in relation to Covid recovery.

The cross-party group that we established before the summer recess, which met on a number of occasions before the summer recess and will resume its meeting pattern next week, is designed to try to create a more informal sounding board, so that we can draw together parliamentary opinion on the difficult questions with which we still wrestle. We have a number of those questions on the handling of the pandemic and, given the current pattern of rising case numbers, that challenge remains obvious for members of Parliament for the foreseeable future. We view the cross-party group as providing an opportunity to bring together parliamentary opinion to address some of the difficult challenges that we face.

Murdo Fraser (Mid Scotland and Fife) (Con): Good morning, gentlemen. I am sure that I am not the only MSP either in this committee or in Parliament who has had, overnight, a large number of concerns raised by constituents about the Scottish Government's announcement yesterday on the introduction of vaccine passports or vaccine certification. I have a number of questions that I would like to ask about that announcement and the practicalities of it.

I will start by trying to understand the policy intent behind the measure. We know that double vaccination, although it helps to protect individuals against the symptoms of Covid-19, is not in itself a

protection against people either catching the illness or carrying it and passing it on to others. Against that backdrop, what is the primary reason for the Scottish Government considering the measure? Is it to prevent the spread of Covid-19, or is it more about pushing those who are presently resistant to getting vaccinated, particularly younger people, down the route of taking up vaccination?

John Swinney: The primary purpose of the policy proposal that the First Minister set out yesterday is to strengthen resistance to the virus by maximising compliance with the measures that we know will have the greatest impact in stemming the prevalence of serious illness as a consequence of people contracting it.

We face a very difficult situation just now. Members will be familiar with the fact that the number of cases has risen sharply in recent weeks, since the relaxation of restrictions on 9 August. Earlier in the summer, there was a very sharp rise and then a very sharp fall in the number of infections. At this stage, the Government is concerned that the rise in the number of infections needs to be tackled with measures to try to reduce its significance.

09:45

As the First Minister set out to Parliament yesterday, even if 2 to 3 per cent of individuals who test positive for Covid have to be admitted to hospital, 2 to 3 per cent of a very large number is a lot of people, and that equates to the levels of hospitalisation at previous stages in the pandemic, which we wish to avoid. We are trying to take steps within the measures that are available to us, without reintroducing restrictions, to maximise the capacity of the population to resist the spread of coronavirus. The purpose of the move is to maximise resistance within the population and reduce the danger that we will have to impose further restrictions in the future. It is clear that the Government is keen to ensure that that does not happen.

Murdo Fraser: I am grateful to Mr Swinney for that answer, but I am not sure that it entirely addressed the question that I asked, which was more about which of the two purposes was the primary intention behind the new initiative that has been introduced. However, constituents have raised a number of other issues with me, so perhaps I could raise a couple of them.

It is clear that there are concerns about the civil liberties angle of introducing vaccine passports. The Scottish Government has said, entirely reasonably, that those who have medical conditions that mean that they cannot be vaccinated will be exempt from the requirement.

Does the Government intend to exempt those who might have objections to taking passports—for example, because they might be a member of a religious group that believes that the vaccination is wrong? Will individuals in that category also be treated as exempt?

John Swinney: Obviously, we can consider the issues and questions that Murdo Fraser's constituents have raised on that particular point. It is important that we try to ensure that we have the widest possible consent to, and endorsement of, the policy measures that we take forward and that any exemptions that are applied to such an approach are properly founded. However, it is very important to put in place clear parameters around the proposal that the Government has advanced. This is about the application of a proposal to a certain limited number of events in the country, all of which are entirely voluntary for individuals who wish to participate in them. There is absolutely no question that the Government would apply any such approach to accessing public services, such as those that are based on entitlement, because that would of itself raise significant and additional civil liberties questions.

We will certainly consider the issues that Murdo Fraser and other members raise as we formulate the specific nature of the proposal that Parliament will consider.

Murdo Fraser: I would like to raise one more issue in relation to Covid vaccination, if I may. I go back to correspondence on the issue that I have received from constituents. My question is about the practical implementation of the measures. We know from what was announced yesterday that vaccine certification will be required for outdoor events that are attended by more than 10,000 people.

We can see what would happen at football or rugby matches, for example. As I understand it, 50,000 people turning up at Murrayfield, Hampden, Ibrox or Parkhead would be required to have proof of vaccination. From a practical point of view, how would you expect that to be addressed? It would require the authorities at stadia to employ stewards to check people as they arrive. I presume that they would have to have the technology to be able to do that and that there would be training and cost implications, as well as issues with supply of the technology. Has the Scottish Government given thought to how those issues might be dealt with? What timescale are you looking at for the introduction of the measures, given that all those issues have to be considered?

John Swinney: The timescale that we are looking at is for the proposal to be implemented around the end of September. The technology that would underpin it would be a QR code, which is now a reasonably routine way in which individuals

interact with some aspects of ticketing for events. In all circumstances—such as large football or rugby games, for example—ticketing arrangements will already be in place and ticketing checks will be undertaken. I have seen commentary overnight from some of the football authorities on this question, and we will of course engage constructively with them on the practical issues that need to be considered in taking forward the policy.

I stress that, as I said in my opening remarks, given the nature of the proposal, it will be the subject of a parliamentary vote. Parliamentary approval will be required.

Alex Rowley (Mid Scotland and Fife) (Lab): Deputy First Minister, you were clear in saying that the proposal is about maximising compliance, but what evidence are you basing that on? You want to introduce passports for nightclubs and probably about four football clubs in Scotland. Unfortunately, my football club, Kelty Hearts, will not require them. Where is the evidence to show that the measure will maximise compliance with vaccination? What evidence is it based on and what is the science? What are the numbers? Not every young person under 30 goes to nightclubs—the majority in Scotland probably do not. The proposal is aimed at increasing and maximising compliance with vaccination, but where is the evidence for it?

John Swinney: Mr Rowley should never say never in relation to the crowds that might appear at Kelty Hearts.

The Government has looked at the evidence base and the wider issues around participation in events. I accept that, on all these questions, there will be different opinions and contested opinions. We have looked at the information in the round to satisfy ourselves that the approach has the potential to provide us with greater levels of participation in the vaccination programme and to further incentivise individuals, particularly those in younger groups, to take up vaccination. We have to balance that against the likelihood that, if we do not take action to further improve vaccination levels, we might have to take action at a later stage that could lead to the application of further restrictions. The Government is keen to enlist the support and participation of members of the public in helping us to avoid getting to that position. Having looked at the balance of evidence on the question, we have concluded that this would be an effective way of strengthening population-wide resistance to the virus through maximising the uptake of the vaccination.

Alex Rowley: Can you provide the committee with the evidence on which you have based your decision on nightclubs and these—perhaps four—football clubs? As well as that, can you provide the

committee with the other options and the evidence that you looked at? I understand why you want to maximise compliance with vaccine take-up, but the committee needs to know by next week exactly what the decision is based on, what you hope to achieve from it and what other options you have looked at.

John Swinney: I am certainly happy to provide the committee with the range of measures that we have taken to strengthen the vaccination programme. A pretty established part of the discussion about the suppression of Covid is that vaccination is a critical and absolutely fundamental element of our strategy.

We need only look at where we are today and the current level of cases. If we had had anything approaching a proportion of those cases at a prior stage of the pandemic, we would, as we know, have been applying lockdown measures. We had to do that in January, when case levels were much lower than they are currently, but at that time we did not have the protection of the vaccination programme. Vaccination is absolutely central to the Government's response to the pandemic. I am very happy to marshal that evidence and to set out to the committee what steps the Government has taken to reach the extraordinarily high levels of vaccination in the country.

That said, we have some challenges with uptake in lower age groups. Although the uptake among the over-40s is extraordinarily high, we still have some way to go in the 18 to 40-year age groups, and we are taking steps to maximise vaccination levels. That is our clear strategy, because with such an approach, we are taking steps to try to avoid applying any further restrictions later.

As I have said, I am happy to marshal that evidence and information for the committee. There will be a parliamentary debate on the wider question of vaccine certification next week, and the Government will make the necessary information available to enable Parliament to make an informed decision on that question.

Alex Rowley: I will absolutely praise everyone involved in the roll-out of the vaccination programme, but from what you have said this morning, it seems that we have a problem of compliance among the under-40s, and you are introducing this step to try to increase the number of under-40s getting vaccinated. Before next week, you need to show us the evidence for why the specific measures that you have talked about have been chosen, what you believe will be achieved and what other options have been considered for increasing uptake among the under-40s. I absolutely support the vaccination programme and any action to increase

vaccination, but we need to see the evidence that the decision is based on.

Finally, with regard to compliance, I note that in some places, particularly shops, there seems to have been a relaxation with regard to people wearing face coverings. If you are going to introduce new measures, you should also ensure that the measures that are currently in place are being enforced. This week, workers from different chains of shops have told me that, in some shops, people—again, the young in particular, but the group is growing—are simply not complying with the requirement to wear face coverings. What action can the Government take, working with retailers, to look at the increasing problem of people simply not complying?

10:00

John Swinney: I agree 100 per cent with Alex Rowley's point about compliance with what I would describe as baseline measures, including the wearing of face coverings in the indoor settings that are specified in the regulations. No retail or transport employee around the country should get any stick from a member of the public if they are called on to wear a face covering, because that is what the law requires individuals to do.

On the action that we have taken, I reassure Mr Rowley that the Cabinet is actively engaged in supporting different sectors in ensuring the effective application of the baseline measures. I highlight three steps in particular. First, for the best part of the past 10 days, members of the Cabinet and our officials have been in regular discussion with all our sectoral contacts to encourage and support them in ensuring that they apply the baseline measures that are necessary. Yesterday, Professor Leitch, I, the chief medical officer and some members of the Cabinet met more than 150 representatives of different sectors of our society—from the operators of some of our transport companies to figures within the retail industry and to other business organisations, representatives of trade unions and the workforce—to reinforce the necessity of the application of the baseline measures. There has been very active dialogue between Cabinet members and our officials with all sectors to try to achieve the objectives that Mr Rowley has correctly highlighted as important.

Secondly, the Government has used public messaging to make sure that the application of baseline measures is clearly understood by members of the public. We have used countless opportunities to reinforce that message.

Thirdly, the Government's public information and communications campaigns are being adapted to reinforce the message that Mr Rowley

talks about. If we do not have a greater application of the baseline measures, we will not achieve the intervention that is required to depress the increasing levels of the virus; if we do not interrupt those increasing levels, more admissions to hospital will naturally flow; and if we have more admissions to hospital, we will have greater pressure on the national health service. Clearly, we are trying to avoid that, and to sustain the recovery in the national health service that is currently under way.

I am whole-heartedly in agreement with Mr Rowley about the importance of members of the public acknowledging and realising that, by applying the baseline measures, we can all play our part in suppressing the rise of Covid in our community and that, although it is not generating the degree of serious illness that it did at a previous stage, it still has the capacity to undermine the sustainability of the national health service.

The Convener: If I may, I will bring in Professor Jason Leitch to address the concerns of some members about evidence-based decision making when it comes to the restrictions.

Professor Jason Leitch (Scottish Government): I will make a couple of general points about the questions that have been asked, and I will then be happy to take follow-ups.

Thank you for having me. It is nice to be back in this slightly refreshed version of the committee. Congratulations, convener. It is nice to be asked to be here.

The Deputy First Minister has covered the situation very well. Requests for neat evidence are always slightly challenging because the pandemic is not as neat or as linear as we would perhaps like. Let me make a couple of initial points.

Vaccinated individuals are safer than unvaccinated individuals. They do actually stop transmission. They do not stop it entirely, but they are less likely to transmit. However, Mr Fraser is absolutely right to say that the delta variant has made that equation a little bit difficult. With delta, the transmission reduction is less than it was with the previous versions of the virus. However, people are still less likely to transmit the virus, they are less likely to catch it, and they are definitely less likely to be seriously unwell. However, that is not as dramatic as it was with the previous versions. Vaccinated individuals are safer in themselves, but they are also safer in crowds, so vaccinated crowds are safer than unvaccinated crowds, for sure.

A third thing about vaccination that we are only just learning—there was a big study yesterday—is that vaccinated people are 50 per cent less likely to get long Covid. That is a massive gain from

vaccination, and it is another reason, if we needed one, to add to the vaccination incentives and the vaccination programme.

I would say to Mr Rowley that the things that you mention are not mutually exclusive. We are not suggesting that vaccine certification replaces anything else or that, if we put screens back in supermarkets, we do not need Covid certification. We are suggesting that those are layers of protection against a vicious infectious disease that is still killing tens of thousands of people a day across the world, and that we need to double down on everything that we are doing.

The meeting that we had yesterday with representatives from football and sport, retail and entertainment—with the whole of the country—was all about getting everybody vaccinated, getting everybody tested twice a week and people following the guidance, or in fact going beyond the guidance if they possibly can.

The vaccination certificate is there for both of the reasons that Mr Fraser mentioned at the beginning. It is, of course, to incentivise those who are unvaccinated, and it is to protect those areas where the unvaccinated will go, because it is safer to go to vaccinated crowds—there is no doubt about that. It is not my job to decide if that is something that Scotland wants to do; that is Mr Swinney's job and the Parliament's job. My job is to provide the advice that says that vaccinated crowds are safer.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): I thank the panel very much for attending this morning. I have two or three questions that I would like to cover. They might be a wee bit jumbled up, but please bear with me.

I absolutely agree with what Mr Rowley said about compliance. More than half of the people in my hotel dining room this morning were not wearing face masks. There is possibly an issue about the fact that although we still have face mask control in Scotland, it is not in place in other parts of the country. People coming in really need to know what the regulations are in this country.

When we had a panel of young people here last week, we asked them, "Do you feel that the restrictions have been done to you or are you complying with them because you are part of the process?" They very much came back with the belief that it was being done to them, and the vaccine passports will again feel like something that is being done to people. That goes back to the messaging that Mr Swinney spoke about. While we are putting the Covid vaccine passports in place, could there be something far more visible and vibrant and stronger in the messaging that we put out about how important it is to get the vaccine to that specific demographic?

John Swinney: It is important that we constantly revisit the messaging on the whole issue of Covid to ensure that it is achieving its purpose. I think that, in general, over the course of the pandemic, Government communications have been very effective and very focused in getting the message across. Particularly for younger people, we must ensure that good, strong evidence is available to them about the dangers to which they are exposed as a consequence of Covid. The committee has discussed and Parliament has extensively discussed long Covid, which could be a very serious factor in younger people's lives.

The most important thing is that we have to ensure that we properly and fully address the issues and perspectives of young people in identifying how we can most effectively communicate such a message and ensure that young people are persuaded that they are as much at risk from Covid as other members of our society are. It is important that we do not have a message that suggests anything other than that young people face significant risks as a consequence of the virus.

Jim Fairlie: Okay. When people are young, they think that they are invincible. We need to get over that mental block in the first place.

On the requirement for vaccine passports, is there likely to be any extension to the areas that we are talking about?

My next question is perhaps more directed to Mr Leitch. We know that the virus is in the community and, as Mr Swinney has said, we are trying to suppress it with the range of measures that we have in place. Is it accepted that the disease will continue to be with us? Are we trying to create community immunity while we manage the disease to the next stage?

John Swinney: Mr Fairlie's latter point is an important one that gets to the heart of a point that I made in my opening statement. The Government has changed its approach to the handling of the pandemic. I said earlier that we are no longer seeking to suppress Covid to the lowest possible level and that, now that we have vaccinations, the restrictions required to suppress Covid could not be justified, given that they cause serious harms of their own. We are trying to operate within a context in which vaccination is available to us and, if we maximise the uptake of vaccinations, we will provide the greatest amount of protection against the prevalence of the virus.

The best way to explain that is to go back to the situation that we faced in January. In January, the Government got advice that basically said to us that, unless we applied a further, immediate lockdown, there would be a very serious risk—if not an inevitability—that our health service would

be unable to meet its central purpose and commitment to members of the public. We had to follow that advice because such a low level of the population—a tiny proportion—had been vaccinated at that time, and even then, only one dose had been given.

Today, we find ourselves in a very different situation with a very successful vaccination programme for the over-40s and a vaccination programme for the under-40s that still has some way to go. We are trying to take steps, essentially, to enable us to maximise the protection that we can achieve from the vaccination programme. That is the strategy that the Government is pursuing. We are trying to utilise vaccination as the means of resisting the pressure that the virus can put on us and to avoid having to take any further restrictive measures.

We knew from the four harms analysis—on which the previous committee questioned me before the election in May, and which dominated our thinking and planning as we took steps to relax restrictions over the past 12 months or so—that we had to take steps that would adapt and change, given the presence of the vaccination programme in our society and its effectiveness. There has been a change in the way that the Government is handling such issues. It recognises that Covid causes multiple harms that we need to avoid. The best way to do that is by having very high participation rates in the vaccination programme and by following the baseline measures that I discussed earlier with Mr Rowley.

Mr Fairlie asked whether there are any plans to extend the need for certification beyond the very limited number of groupings that we have highlighted. The Government has no plans to do that.

I do not know whether Professor Leitch wants to add to anything that I have said.

10:15

Professor Leitch: I will add a couple of things. Mr Fairlie's point about youth comms, if I might call it that, is a good one. I make it often to my marketing colleagues, because I am very involved in the communications. Their answer is that a lot of the messages are invisible to 52-year-olds. When they are shown to those people, they say that they have never seen them, because they are in mediums that they do not use. I might be wrong, but I imagine that you do not use them either, Mr Fairlie.

We have enormous advertising campaigns on podcasts, on TikTok, in schools and in all the places where you would expect them to be. We use different voices—not a 52-year-old guy's voice. Over the past few weeks, I have spent a lot

of time with Young Scot, which has a health panel. I talk to the health panel and it then talks to young people. There are all kinds of mechanisms to get the messaging out, whether that is through education, the National Union of Students Scotland or Young Scot. It is hard. Young people get bombarded with information that is not from trusted sources, and we have to compete against that. Anything that MSPs can do in their environment to help us with the messaging is, of course, appreciated, but much of the youth comms is invisible to 50-year-olds, because it is elsewhere.

Mr Fairlie, your second question about endemic infection has been answered by the Deputy First Minister in a political sense, in relation to what we are headed to. In a scientific sense, you are kind of right that we are moving from a pandemic infection to an endemic infection. However, I remind everybody that three quarters of a million people caught the virus yesterday. What Scotland does is only part of the puzzle. It is a global pandemic and we are a long way from done. Yesterday, 24,000 people around the world died of Covid, and that is a big underestimate, because testing and registration are not done everywhere. The pandemic will continue for some time, until we can vaccinate our way out of it.

In Scotland, we are moving gradually towards making the infection an endemic one—an infection that we will live with—but that is a very gradual process. We have to be very cautious, because there is still harm with an endemic virus. There is still hospital pressure. We are not quite sure, because we cannot be sure, what that will look like in the medium to long term. The change in immunity—principally vaccination immunity, but also previous disease immunity, which involves people who have had the disease and have or have not then been vaccinated—will help us to get out of our situation. That is absolutely the route out. We also have to protect ourselves from other variants. Delta will not be the last global variant, so we have to think very carefully about what Scotland does and about what the rest of the world does.

Jim Fairlie: I have a final quick question, which relates to constituent requests overnight. I think that every committee member has talked about the flood of emails that we all had last night. I can almost answer this myself, but will the passport be time limited?

John Swinney: In what respect?

Jim Fairlie: Will they be time limited? If we accept that we have an endemic disease in our community, will the passports be required forever? That is the terminology that is being used in the emails that I am getting.

John Swinney: That depends on the course of the pandemic and the degree to which it becomes less of a present and prevalent threat to us. The Government is not doing this because it has just decided to do it; we are doing it because we are considering what steps we have to take to protect the population and specifically to try to avoid having to apply further restrictions on the population. We want to avoid that if we possibly can. We consider the proposal to be another step to try to help us to avoid having to take a step of that nature.

The Convener: I am conscious of time. Brian Whittle is next.

Brian Whittle (South Scotland) (Con): I want to raise a couple of issues, one of which is about vaccine passports. We all recognise that tackling the pandemic is a moving feast and that ideas change as we go along. It is not a criticism at all to say that, not all that long ago, vaccine passports were ruled out but, as evidence has come forward, the Government has decided that they should be ruled in.

Against that backdrop, I know from speaking with the music industry, nightclubs and the sports industry that they feel that they have not been consulted as decisions have been made, although the understanding is that it will be businesses' responsibility to practically implement the policy. I have a couple of questions on that. First, how do you envisage the measure being policed? Secondly, how does the Scottish Government consult with the industries that are involved prior to making such decisions? As my colleague Jim Fairlie suggested in relation to younger people, surely it is much better to have the industries' input into the decision-making process rather than impose measures on them. How is the consultation process done?

John Swinney: I agree with Mr Whittle's description of Covid as a moving feast. We are facing a constantly moving challenge. If we are to be realistic about addressing the implications of Covid, the Government has to be prepared to adapt and change our position should we need to do so, and that is precisely the approach that the Government has taken throughout the pandemic. We have not sat and been oblivious to the changing circumstances or prevalence of the virus. If we had done that, we would have had a much more serious situation on our hands than the very serious situation that we have faced. The Government has to adapt to changing circumstances, which is exactly what we have done.

We try to discuss issues with business sectors on an on-going basis. We have a huge amount of dialogue with all sectors of society, and we take on board the practical feedback that we get.

Ultimately, however, the Government has to make choices, and sometimes it is difficult to make choices in a way that involves as much open prior dialogue and consultation as we would ordinarily like.

Yesterday, Mr Fraser raised a point of order with the Presiding Officer about the fact that, prior to the First Minister standing up to give a statement, there had been some media commentary about the Covid certification issue. I understand exactly why Mr Fraser said that, but I think that the time difference between the First Minister standing up and that point appearing in the media was maybe 20 to 30 minutes. It is pretty clear that, if the Government had had open consultation with sectors beforehand, that information would have been out before Parliament heard it and Parliament would understandably have been pretty aggrieved about that.

In response to earlier questions, I said that the Government will of course engage with the sectors to ensure that we hear all the issues before Parliament comes to a conclusion on these points, and I give that assurance to Mr Whittle today. It is important to have that dialogue. As I have said, I had a very constructive discussion yesterday with more than 150 sectoral representatives about the importance of applying the baseline measures, and among all those organisations I detected a willingness to be part of that journey with us. If we are all part of that journey, we can reach a good and positive outcome.

Brian Whittle: I want to ask a quick follow-up question before I move on. An issue that is highlighted in something that came into my inbox this morning is how we define a nightclub. Again, this is why consultation is so important. We could have something designated as a nightclub with 250 people in it on one side of a street while, on the other, a pub with 250 people in it could be blasting out loud music. One of those places will require vaccine passports and the other will not. How do we ensure that consultation is carried out in a way that makes everyone feel that they have been treated fairly?

John Swinney: That very material point was raised with me yesterday by some of the sectoral representatives, who said that there can be a pretty fine line between different venues. We will discuss those issues with the relevant sectors.

As the First Minister made clear yesterday, we do not want the measure to be applied to the hospitality sector as a whole and we want to avoid any steps that might take us into that territory. As for the point of distinction that Mr Whittle has raised, it is important that we get this right in the judgments that we make.

Brian Whittle: Another topic that was raised with me just this morning is the implications for specific sectors of people having to isolate as they await the results of Covid tests. Nurseries, for example, have had to close; there has been a knock-on effect on the business world and our economic recovery; and significant numbers of teachers have been missing in schools. How do we bring schools back to full learning capacity if there is such a shortage of teachers?

The same applies to our NHS, where I know there have been significant shortages in a lot of disciplines through people being absent as they wait for Covid test results. How can we tackle and recover from the backlog in our NHS if there are such shortages? Obviously it is incredibly difficult to square that circle, but how is the Scottish Government looking at this issue as we hopefully recover from the virus?

John Swinney: It is a critical issue. The Government has recently changed the regulatory environment around self-isolation, specifically in the educational context, and that move has been based on a risk assessment of the effectiveness—or necessity, I should say—of self-isolation in the context of a more highly vaccinated at-risk population. We now have less onerous self-isolation requirements than we had at previous stages of the pandemic, and our justification for that is the higher levels of vaccination in the population.

That said, I acknowledge the point that Mr Whittle fairly makes that having a number of cases in a school or early learning centre is clearly disruptive to a range of children and young people. We are trying to minimise the disruption to their education, but if they are required to self-isolate, it will have knock-on effects at home and among those who might ordinarily expect to be at their place of employment.

10:30

It is a difficult circle to square. We believe that we have taken pragmatic and risk-assessed judgments about the approach to self-isolation, but that does not insulate us entirely from the impact of the virus. What will do that is having compliance with the baseline measures, reducing our contact with people and seeing a fall in the number of cases. It is the high number of cases that is the problem in driving this process, not the requirements on self-isolation—they are a consequence of the high number of cases. If we concentrate on the steps that will reduce the number of cases, apply the baseline measures and pursue other factors, such as vaccination, we can contribute significantly to addressing the issue.

Professor Leitch might want to add something on the self-isolation requirements.

Professor Leitch: I will add some context, Deputy First Minister. We must remember how big a change this was in terms of risk. Of course, nothing is safe; safety is a relative concept, not an absolute concept—whatever we do in this regard carries a risk.

We gave a massive piece of advice and the Government made a very big decision to change the self-isolation rules for adults and children so that, instead of self-isolating for 10 days for close contact, they should wait for a negative polymerase chain reaction test result and then be released from self-isolation. That is a huge change in terms of risk, and it is relatively recent. We were under huge pressure from industry, education, parents and kids because many people were isolating and not many people were converting into positive cases. We now know that, in some sectors, about 5 per cent of people were converting from contact to a positive case.

We made a big judgment about risk. Some other countries did not do that—there are countries that are more free in that sense and others that are tighter. We made a choice to say that, because of the list of things that Mr Swinney measured, principally vaccination, it was time to move to a more risky approach by requiring people to isolate only until they get a negative test result, whereupon they can be released.

There is a specific nuance in healthcare, where we believe there is more risk than there is in other settings, because of the nature of the job. In that setting, if the close contact is a household contact, people still have to isolate for 10 days. That is causing some challenges in the healthcare workforce, but there is a balance between the risk that is connected to the difficulties that are caused in the workforce, and the risk that is connected to sending those people back to work with or without Covid. Each of those equations is challenging, but we have made a big change—I think that it is the correct change for this point in the pandemic. Eventually, we will relax the approach even further, but not yet.

John Mason (Glasgow Shettleston) (SNP): I have three questions that I want to ask.

On the issue of vaccination certificates, I suppose that their usefulness depends on how robust the underlying information is in the NHS system. Constituents have contacted me who have had one jag in Scotland and the second jag in England, Germany or some other country, which causes a problem in terms of the vaccination certificate. Similarly, I had both my jags in Easterhouse in Glasgow, but the NHS system says that I have had only one jag, so I

cannot get a certificate. NHS Greater Glasgow and Clyde tell me that that is a national problem, not just a Glasgow issue. My question is: how robust are our records?

John Swinney: More than 4 million people have been vaccinated in Scotland, and I am confident that, for the overwhelming majority of those individuals, vaccine records will be strong and robust. Because of what John Mason has just put to me, I have to accept that there are instances where there are issues with the accuracy of the information.

Any suspected errors in a person's Covid vaccination record should be reported to the national helpline; there is a telephone number available on the NHS Inform website. In general, however, the quality and strength of health records in Scotland are very good, fundamentally because they are anchored in the community health index number that every citizen has. That provides us with a robust footing and foundation for the delivery of information about the vaccination records of individuals. However, I accept that there will be a limited number of cases in which that information may not be entirely complete.

John Mason: Thank you for that—I shall continue phoning that number, as I have been doing.

I have another question—it is still on vaccination, I suppose. I have a moral dilemma as to whether I should take a third, or booster, vaccine when half the people around the world have not yet had any vaccine. That strikes me as a bit greedy on my part. Where are we with boosters? Should we be holding back a bit so that the rest of the world can get some?

John Swinney: There is a moral and ethical dilemma in respect of that particular issue, which I suspect could keep us here for a long time debating its contents. We expect to receive advice fairly soon from the Joint Committee on Vaccination and Immunisation in relation to booster jags, and we will be ready to implement a deployment programme for those booster vaccinations when the JCVI gives us its strategic decision.

As the committee will be aware, we have, as our predecessors have, followed the JCVI advice on all questions in relation to vaccination, and we await the advice to come in relation to booster jags.

There is a moral dilemma here. We take part in official discussions with the United Kingdom Government, which takes part in international discussions about the necessity of ensuring fair and equitable access to vaccination around the globe. As Jason Leitch indicated in one of his answers, we know from the data that that remains

a significant global problem. Until such time as there is effective vaccination around the world, we will still face significant and acute effects as a consequence of Covid.

John Mason: Thank you for that answer also.

My third and final point is on a completely different subject. We have heard suggestions from the airline industry and the wider tourism industry that they hope to go back to the same level that they were at pre-pandemic. However, we also have the 26th United Nations climate change conference of the parties—COP26—coming up, and we have climate change concerns. Does the Government feel that we should be aiming to get the airline industry back to 100 per cent of where it was—I think that it is currently at 20 or 25 per cent—or should we be aiming at something in between for the benefit of tackling climate change?

John Swinney: In the immediate term, we have to ensure that we take the necessary steps in relation to international travel that are appropriate to tackling Covid. These issues are the subject of controversy; I have read a lot of commentary from people who tell us that we have been far too restrictive on international travel at different stages of the pandemic. I do not think that the United Kingdom has been strict enough, but these are difficult issues to wrestle with.

We will have to address the whole question of the scale and nature of air travel and the environmental issues that come with it as part of the measures to tackle climate change. That will be a wider policy process in which Government is involved, and it will be at the heart of the decisions around COP26 in Glasgow later this year.

All societies will have to wrestle with that question, but the immediate challenge that we face is to ensure that we take the correct approach on international travel in a way that is commensurate with the steps that we need to take to suppress Covid within the population as effectively as we can.

Alex Rowley: On that specific point, Mr Swinney, the industry has raised several concerns, one of which is that people who require to be tested say that there is a monopoly in the provision of tests, which means that the tests are far more expensive than would otherwise be the case. Have you heard of that or looked at the issue?

John Swinney: I am familiar with that issue. There have been many discussions about that point. Much of that is driven by the systems of which we are a part, through operating on a UK-wide basis. The ability to have some flexibility is being assessed as part of addressing the concerns raised by the airline industry.

The Convener: I appreciate that we are running slightly over time, but I hope to fit in two more short questions. I understand that, in the previous parliamentary session, the Scottish Government routinely provided the COVID-19 Committee with draft regulations for consideration before they were made law. Do you envisage that the committee will continue to be provided with draft health protection regulations on Wednesdays by 4 pm, ahead of our meetings on Thursday mornings?

John Swinney: I expect that to be the case, convener, although we are in a period where I would hope that we are not in the position of applying any further restrictions. I hope that, in the future, there will be fewer occasions when it will be necessary to come to the committee for regulatory change of that type. However, I want to maintain the protocols that were in place before. Dominic Munro, who is online with me, might want to add to that.

Dominic Munro (Scottish Government): I do not need to add too much to that, DFM. I hope that you can hear me okay. I would say just two things. My colleague Liz Blair, who I think will join the panel of witnesses later, covers our legal issues, so she might be able to follow that point up. With regard to all restrictions and particularly those that are made through regulations, we are required by law to keep them under regular review. Although, as the DFM says, the intention is not to bring new regulations back regularly to the committee, because we are trying not to impose new restrictions. We intend to keep those regulations that remain in place under regular review, to ensure that they are proportionate, necessary and justified, which is what we are required to do under the current legislation.

The Convener: Murdo Fraser has the final question.

Murdo Fraser: To go back to the issue of vaccine passports, John Mason mentioned COP26, which will be held in Glasgow in November. I assume that, under the plans being announced by the Scottish Government, everyone attending COP26 will have to provide proof of double vaccination. Is that the case?

John Swinney: There are discussions under way with the United Kingdom Government and the United Nations about the arrangements for accessing COP26. Many of these issues are the subject of active discussion with the authorities who are running COP26 to ensure that we have the appropriate arrangements in place.

The Convener: Thank you. That concludes our consideration of the first agenda item.

Ministerial Updates on Coronavirus Legislation and Subordinate Legislation

10:44

The Convener: We move on to take evidence on the latest ministerial statement on Covid-19, on the two-monthly report on the Coronavirus Acts and on subordinate legislation.

I welcome Elizabeth Blair, team leader for Covid co-ordination, governance and decision making in the Scottish Government, who will join the Deputy First Minister for this agenda item.

The committee will consider the following regulations that were laid over the summer recess.

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 27)
Regulations 2021 (SSI 2021/238)**

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 28)
Regulations 2021 (SSI 2021/242)**

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 29)
Regulations 2021 (SSI 2021/252)**

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 30)
Regulations 2021 (SSI 2021/255)**

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 31)
Regulations 2021 (SSI 2021/262)**

**Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 32)
Regulations 2021 (SSI 2021/263)**

**Health Protection (Coronavirus)
(Requirements) (Scotland) Regulations
2021 (SSI 2021/277)**

**Coronavirus (Scotland) Act 2020 (Early
Expiry of Provisions) Regulations 2021
(SSI 2021/214)**

**Coronavirus (Scotland) Act 2020 (Early
Expiry of Provisions) (No 2) Regulations
2021 (SSI 2021/236)**

**The Coronavirus (Extension and Expiry)
(Scotland) Act 2021 (Evidence) (Saving
Provision) Regulations 2021 (SSI 2021/280)**

**Coronavirus Act 2020 (Suspension:
Disposal of Bodies) (Scotland)
Regulations 2021 (SSI 2021/250)
[Laid Only]**

The Convener: Deputy First Minister, would you like to make any remarks before we move to questions?

John Swinney: I will make some remarks on the Scottish statutory instruments, six of which amended the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (SSI 2020/344). The six instruments made various adjustments to the levels rules that were in place at the time and were then removed when we moved beyond level 0 on 9 August. In order to assist the committee, I will run through the changes made by the regulations.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 27) Regulations 2021, which came into force on 11 June, made provision for local authority officers to have a power of entry in relation to restrictions on stadia and events. The regulations also adjusted the physical distancing requirements in place at Hampden stadium and at Glasgow Green during the Union of European Football Associations championship.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 28) Regulations 2021 removed travel restrictions in relation to the Republic of Ireland and Bedford in England, and introduced travel restrictions in relation to travel to and from Manchester and Salford. Those regulations came into force on 18 June.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 29) Regulations 2021 came into force on 26 and 28 June and made a number of changes including adjusting physical distancing requirements at funerals and for an event at Murrayfield, extending hospitality opening hours for the knockout stages of the Euros and adjusting the face covering rules at weddings and civil partnerships.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 30) Regulations 2021

removed all travel restrictions in relation to Bolton, Manchester and Salford on 30 June.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 31) Regulations 2021 adjusted the physical distancing requirements at the Scottish Open golf championship and removed travel restrictions in relation to Blackburn and Darwen. Those regulations came into force on 8 July.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 32) Regulations 2021 came into force on 19 July. The regulations moved all of Scotland into level 0 and made various adjustments to the levels regulations. Physical distancing requirements were reduced to 1m indoors and outdoors. The regulations also removed the requirement for physical distancing between people in a gathering of up to 15 people outdoors. They provided that children under the age of 12 years did not count for the purpose of calculating the number of households permitted for gatherings indoors, and altered hospitality trading times at level 0.

As the committee knows, we were able to move beyond level 0 on 9 August. At that point, baseline measures were put in place in the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021, which set out four sets of legal requirements as baseline measures.

First, relevant hospitality and entertainment premises are required to obtain and record customer information for a period of at least 21 days for the purpose of preventing the spread of coronavirus or monitoring the spread of infection and the incidence of coronavirus disease.

Secondly, the regulations require persons responsible for places of worship, carrying on a business or providing a service to have regard to relevant guidance issued by the Scottish ministers and available on the Scottish Government website about measures to minimise risk of exposure to coronavirus.

Thirdly, the regulations also provide that people in specified indoor places and on public transport must wear a face covering unless a specific exemption applies.

Finally, the regulations cap numbers at live events at 5,000 people for events held outdoors and at 2,000 people for events held indoors, subject to local authority approval of higher attendance limits. The Scottish ministers are also provided with powers to call in applications for exemption from capacity.

The new regulations, like the previous levels regulations, provide for enforcement of the

requirements. The new regulations also provide that the requirements must be reviewed at least once every 21 days and that the Scottish ministers must revoke any requirement as soon as it is no longer necessary. The first review had to take place by 30 August. The regulations remain in force, but we are keeping the requirements under review.

Finally, I inform the committee that the Scottish Government's report on the Coronavirus (Extension and Expiry) (Scotland) Act 2021 will be laid before the Parliament tomorrow. That will fulfil the requirement in sections 5 and 7 of the act to lay a one-off report before the Scottish Parliament one month after the act has received royal assent.

I am happy to answer any questions that the committee may have about the regulations.

The Convener: Thank you, Deputy First Minister. Will the committee be able to consider secondary legislation on vaccine passports, or will that be considered by means of a motion taken in the chamber? If subordinate legislation is forthcoming, what is the timescale for that and will it be subject to the affirmative procedure, rather than the emergency made affirmative procedure?

John Swinney: The committee may well have to consider SSIs on the issue. Obviously, the purpose of a plenary debate is to seek parliamentary approval in principle for the approach that the Government is taking, in recognition of the very different and distinctive character of the decision, but any other requirements for legislative provision or enforcement will require to come to the committee and to the Delegated Powers and Legislative Reform Committee. The Government will fulfil all requirements in that respect.

I cannot answer today as to whether the emergency procedure will be required, but I will answer when we have come to conclusions on that point, and we will advise the committee of that.

The Convener: Thank you. Other members have questions.

Murdo Fraser: My question is on SSI 2021/277, which requires, subject to some exemptions, that face coverings should still be worn in some indoor spaces. That was the subject of some discussion in the Parliament's Delegated Powers and Law Reform Committee on Tuesday of this week. It identified that

"The guidance ... states that face coverings are not required to be worn while dancing in a nightclub or dance hall. However, a specific exemption for dancing is not listed in the instrument."—[*Official Report, Delegated Powers and Law Reform Committee*, 31 August 2021; c 2.]

I ask for clarity on that issue. Has there been an omission from the terms of the instrument?

John Swinney: I will have to look in detail at the point that Murdo Fraser has raised. The regulations will have been framed in an attempt to provide the greatest degree of clarity and certainty about their policy purpose. The intention will have been to draft on that basis. Elizabeth Blair may want to add to my comments.

Elizabeth Blair (Scottish Government): The regulations provide an exemption to the face covering requirements if a person is exercising. That is the basis on which a face covering is not required when a person is dancing.

Murdo Fraser: Thank you for that answer. I suppose that the question is then, "When is dancing not dancing?" Perhaps that question is for Michael Gove, rather than for the Deputy First Minister. However, if there is an exemption for people who are exercising, does that apply to people who are walking, for example? What constitutes exercise?

John Swinney: The difference and distinction are in the greater degree of physical participation beyond what would be considered routine elements of everyday human function, such as walking.

Murdo Fraser: Thank you. I am sure that we could pursue the matter in great detail, but I think that the discussion highlights the need for a degree of precision in relation to the drafting of the instruments.

Professor Leitch: It is exactly as Elizabeth Blair said. It is a commonsense exemption for exercise. Walking to the bathroom in a nightclub is not exercise, but walking on a treadmill in a gym is. We are asking people to use their common sense. People are exempted from wearing face coverings if they are eating, drinking or exercising.

The Convener: As no other member has any questions, that concludes our consideration of this agenda item. I thank the Deputy First Minister and his officials for their evidence.

John Swinney: Thank you.

The Convener: The next agenda item is consideration of motions to recommend approval of the made affirmative instruments that we have just discussed. Deputy First Minister, would you like to make any further remarks on the SSIs before we consider the motions?

John Swinney: No, convener.

The Convener: Are members content for motions S6M-00695, S6M-00694, S6M-00693, S6M-00692, S6M-00702, S6M-00701 and S6M-00901 to be moved en bloc?

Members indicated agreement.

Motions moved,

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 27) Regulations 2021 (SSI 2021/238) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 28) Regulations 2021 (SSI 2021/242) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 29) Regulations 2021 (SSI 2021/252) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 30) Regulations 2021 (SSI 2021/255) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 31) Regulations 2021 (SSI 2021/262) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 32) Regulations 2021 (SSI 2021/263) be approved.

That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (SSI 2021/277) be approved.—[*John Swinney*]

Motions agreed to.

The Convener: The committee will in due course publish a report to the Parliament setting out our decisions on the statutory instruments considered.

That concludes our consideration of this agenda item and our time with the Deputy First Minister. Thank you for your attendance.

John Swinney: Thank you.

The Convener: I suspend the meeting briefly to allow the witnesses to leave the meeting.

11:00

Meeting suspended.

11:01

On resuming—

The Convener: The final agenda item is consideration of the evidence that we heard earlier on three negative instruments: the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021 (SSI 2021/214); the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) (No 2) Regulations 2021 (SSI 2021/236); and the Coronavirus (Extension and Expiry) (Scotland) Act 2021 (Evidence) (Saving Provision) Regulations 2021 (SSI 2021/280).

As these are negative instruments, the Parliament has 40 days to consider a motion to annul them. We have taken evidence on the instruments from the Deputy First Minister and motions to annul the instruments have not been lodged.

If no member has any comment, is the committee content that this concludes our scrutiny of the negative instruments?

Members *indicated agreement.*

The Convener: Thank you. That concludes our business. Our next meeting will be on 9 September, when we will take evidence from the Cabinet Secretary for Net Zero, Energy and Transport on international travel regulations.

Meeting closed at 11:03.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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