

8th November 2021 by email to

Covid.Leg.Consultation@gov.scot

Coronavirus (COVID-19) recovery - justice system, health and public services reform: consultation

Chapter 2

Question 1:

It is proposed that the provisions for Topic H1 (Education: powers to make directions to close educational establishments, and to ensure continuity of education) as described will be made permanent. Which of the following best describes what you think about this?

SOSCN Comments

Whilst we support measures for the current pandemic, we believe Scottish Ministers must account to the Scottish Parliament for decisions on closing educational establishments, which includes school age childcare services. We believe that making these provisions permanent give far too much power to the Chief Medical Officer with not enough checks and balances in place.

Topic H2 – Power to make public health protection regulations

Legislative reference: [Schedule 19 of the UK Act](#)

25. In order to ensure the continuance of the provisions which enable the Scottish Ministers to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health in Scotland, we are proposing to make permanent the provisions in schedule 19 of the UK Act.

26. Schedule 19 of the UK Act provides the Scottish Ministers with a regulation-making power for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination by Covid in Scotland. These powers are limited to Covid infection by virtue of section 1(2) of the UK Act.

27. These powers have been appropriately relied upon during the response to the Covid pandemic in Scotland and have enabled necessary and proportionate legal restrictions and requirements to be implemented to protect public health. During the pandemic, among other uses, they have been the means of prohibiting or limiting numbers at gatherings; introducing lockdown measures; and requiring that face coverings are worn.

28. Our experience of using these regulations during the pandemic has demonstrated the importance of ensuring the Scottish Ministers can respond effectively and rapidly to any future threats to public health in Scotland. The proposal is therefore to give the Scottish Ministers the same powers to protect the people of Scotland from any incidence or spread of infection or contamination which presents or could present significant harm to human health in Scotland, not just Covid. It should be noted that, although the regulation-making powers are proposed to remain the same as those used throughout the pandemic, it does not follow that future public health responses using these powers would involve the same restrictions or measures. The benefit of adopting the

approach set out in schedule 19 is that it will enable Scotland to respond flexibly and proportionately to specific threats as they arise.

29. Powers equivalent to those included in schedule 19 (although not restricted to use in response to the Covid pandemic) are already in statute in England and Wales in the Public Health (Control of Disease) Act 1984 and these are not temporary measures. As mentioned, the proposal is to put Scotland in a similar position in having permanent powers available to protect against the spread of infection or contamination that is or could present a significant threat to human health in Scotland.

30. As mentioned above, because the UK Act is specifically about responding to Covid, extension of provisions using the powers in the UK Act would only operate in relation to Covid; it should therefore be stressed the consultation proposal is for permanent legislation that would operate to protect against the spread of any infection or contamination that is or could be a significant threat to human health in Scotland.

Question 2:

It is proposed that the provisions for Topic H2 (Power to make public health protection regulations) as described will be made permanent. Which of the following best describes what you think about this?

SOSCN Comments

We agree with this as it brings provisions in line with measures already legal across the rest of the UK.

Topic H3 – Vaccinations and immunisations

Legislative reference: [Section 36 of the UK Act \(legislation.gov.uk\)](https://legislation.gov.uk)

31. The proposal is to make permanent the relaxation of the restriction within the National Health Service (Scotland) Act 1978 on vaccinations and immunisations being carried out by doctors or persons acting under their direction and control.

32. The purpose of this proposal is to allow a wider range of health professionals to administer vaccinations and immunisations (such as nurses, midwives and paramedics, in accordance with existing regulatory provisions about the administration of vaccines in the Human Medicines Regulations 2012) in order to make it easier to quickly protect the population from infectious diseases.

33. There are currently requirements set out in the National Health Service (Scotland) Act 1978 which provide that vaccinations and immunisations must be administered by medical practitioners or persons acting under their direction and control.

34. Scottish health boards are restricted to delivering vaccination programmes through doctors, or persons acting under their direction or control in terms of section 40 of the National Health Service (Scotland) Act 1978. Section 36 of the UK Act removes this requirement until March 2022. The purpose of this provision was to give health boards the ability to arrange for any vaccinations during the pandemic to be delivered more flexibly – this would include routine vaccinations such as the seasonal influenza programme, as well as Covid vaccinations.

35. The expanded seasonal influenza programme and the possibility of having to provide “boosters” for Covid immunisation will both require large vaccination workforces and flexibility within delivery models. This is currently supported under section 36 of the UK Act, and we are now proposing that this should be a permanent change in order to run effective vaccination programmes to protect the population from infectious diseases.

36. The Scottish Government had also agreed with representatives of general practice several years ahead of the pandemic that GP practices should no longer routinely be providing vaccinations and there is an ongoing programme (the Vaccination Transformation Programme) to transfer vaccinations to health board delivery.

Question 3:

It is proposed that the provisions for Topic H3 (Vaccinations and immunisations) as described will be made permanent. Which of the following best describes what you think about this?

SOSCN Comments

We agree that a wider pool of those trusted to deliver vaccinations and a health board response takes pressure off GPs.

Topic H4 – Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010

Legislative reference: proposed new provisions so no existing legislative reference

37. The Schools (Consultation) (Scotland) Act 2010 (“the 2010 Act”) sets out the requirements education authorities must comply with when consulting on particular changes to how school provision is organised in their area. The definition of ‘school’ is wide and includes any institution that provides primary and/or secondary education (including a nursery school and a special school) that is under the management of an education authority. It does not include private, voluntary or independently run early learning and childcare settings.

38. The requirements of the 2010 Act are aimed at ensuring that local communities have an opportunity to have their views heard. This will help ensure that proposals meet the needs of communities and support education authorities' decision making.

39. The 2010 Act requires that a public meeting is held as part of the consultation process. Public meetings are a crucial part of the consultation process and enable members of the local community to give their views on proposals. Importantly, they allow attendees to hear the range of views there may be in the wider community. The Scottish Government sees a continuing role for public meetings in the 2010 Act consultation process. The 2010 Act also requires paper copies of proposal papers and reports to be made available physically at council offices and other locations.

40. The Covid pandemic has, however, brought unprecedented changes to the operation of public services to minimise the risk of spread of the virus. It has meant that education authorities face uncertainty over whether it is safe to hold such meetings both for their own staff and the public who may wish to attend. Other public services, such as planning, had the flexibility during the pandemic to issue regulations permitting public meetings to be held virtually.

41. We intend to legislate so that in the event of a significant health emergency in the future, akin to the Covid pandemic, local authorities will have the flexibility to hold public meetings virtually. We wish this to be in place on a permanent basis so it can be utilised during any future pandemic. This

will provide education authorities with greater certainty about what arrangements to make and help keep the public safe. The current statutory requirement on education providers to hold public meetings in-person would remain in place during normal times. Similarly, we intend to legislate to introduce more flexibility in these circumstances around the current requirement for paper copies of documents to be made available at council offices or other locations.

Question 4:

It is proposed that new permanent legislative provisions for Topic H4 (Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010) as described will be developed. Which of the following best describes what you think about this?

SOSCN Comments

We think this should be developed, however, where possible paper copies should be provided as not everyone accesses the digital world or is able to pay for the internet etc.

Chapter 5

To help shape the scope of where you focus your attention we have identified three themes highlighted through Stakeholder Roundtables^[28] and where we are seeking views; they are **(i) sustainable, good and green jobs; (ii) financial security for low income households; and (iii) supporting children's wellbeing and mental health.** In responding please also consider our commitment to a **person centred approach** to delivering change.

213. In this section of the consultation, where it makes sense to do so, please reflect "in the round" on your proposal - taking into account the needs of the individual, the private, public and third sectors and society as a whole. Acknowledging the tensions between the needs of different actors such as public service providers and businesses in addition to those of individuals and families will provide fuller background on which to base any future proposals.

Question 34:

To support the key three themes for Covid recovery as described, do you have any proposals for legislation which goes beyond or is different to the consultation proposals in Chapters 2 to 4?

Yes

We welcome the current government's commitment to wraparound school age childcare by the end of this parliament. This should be accelerated by the Scottish Government, as the current school age childcare sector is in real danger of collapsing just as children need them for the support to their health, wellbeing, social and personal development. Services enable parents, especially from low income households, recover and re-enter the jobs market, or have help from school age childcare services to give their children experiences and opportunities that they cannot afford at present.

Respondent information
Scottish Out of School Care Network (Organisation) Email: irene@soscn.org
4 th Floor, 41 St Vincent Place Glasgow G1 2ER
Permission to publish (YES) Permission to share across Scottish Government (YES)