Department of Health & Social Care

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William Wragg MP
Chairman
Public Administration and Constitutional Affairs Committee
House of Commons

26 August 2020

Dear William,

Thank you for your letter of 16 July with some follow-up questions, further to the appearance of the Paymaster General and myself, along with senior officials from the Department of Health and Social Care and the Cabinet Office before your committee on 14 July. May I apologise for the delay in responding to your letter, however, there were a number of detailed questions within it, and we have used the time to give you answers which are as detailed as possible.

I have provided a response to your further points below, covering the matters for which my Department are responsible. I understand The Paymaster General has replied separately.

Ministerial responsibilities

I know that Paymaster General has responded to your question about ministerial responsibilities across government as a whole. In addition to the strategic direction provided by the Secretary of State, I have attached a list of DHSC ministers' Covid and non-Covid ministerial responsibilities at Annex A.

Exercise Cygnus

Question 103 was about Exercise Cygnus which as the committee will be aware was conducted in 2016, with its findings circulated to relevant Ministers in 2017. The

release of the Exercise Cygnus report is currently under review and Ministers will be making a decision shortly – for this reason, I am not currently able to share a copy with the committee.

I can, however, confirm that Government accepted the lessons identified by Exercise Cygnus which, along with learning from previous pandemics, infectious disease outbreaks and incidents, and other preparedness exercises, continue to inform work undertaken by Government and a range of stakeholders, including expert advisory groups and local emergency planners.

Following Exercise Cygnus, a cross-Government programme of work to strengthen the UK's preparedness was commissioned. This programme, jointly chaired by the Cabinet Office and DHSC, has involved all government departments, NHS England, Public Health England, and the devolved administrations in work to strengthen the multi-sector response to a future influenza pandemic.

Key achievements since this programme was established in 2017 include:

i. working across the whole of Government, and with the devolved administrations to develop draft legislation to support the response to a future influenza pandemic;

ii. supporting Departments to assess and improve the resilience of their sectors to operate in a pandemic, particularly in respect to a reduced workforce;

iii. establishing a group of experts / advisors to advise Government on moral, ethical and faith considerations in advance of and during a pandemic (DHSC's Moral and Ethical Advisory Group);

iv. working with MHCLG on local engagement around pandemic flu planning, including advice on best practice through the development of a Resilience Standard; and

v. improving plans of the health and care sectors to flex systems and resources to expand beyond normal capacity levels.

Coronavirus Act 2020 – Reporting Requirements

Q 131 was about the reporting requirements under the Coronavirus Act 2020. You asked whether we could commit to publishing in our Two-Month reports to Parliament the rationale for retaining those provisions we still need. These reports[1] do already set out in detail what each provision does, how each provision has been used and an explanation of why each provision is still deemed necessary at the end of the relevant reporting period. A great deal of analysis and explanatory material provided the relevant rationales when the Act was making its way through Parliament, and we continue to look at ways to further enhance the information available, adding another level of granularity and detail wherever possible. The first of the Two-Month reports was published in May, and the second in July; the third will be published towards the end of September and will again set out the rationale's for retaining provisions. This will be in advance of the six-month debate.

During its session, members of the committee highlighted in addition to the next Two-Month report, the benefits of an additional report setting out the evidence and analysis to justify the effectiveness and ongoing necessity of the Act and its provisions. You will recall, in the Committee hearing I acknowledged that this was a reasonable suggestion which I would raise in Government. As you will be aware, this is a complex undertaking which will require input from a number of departments, however the suggestion is being actively considered and the practicalities being worked through at present. We hope to provide a substantive response to this suggestion soon following further discussions. As I made clear during the committee hearing, I and the Government, fully recognise the importance of reporting to parliament in a timely way.

We do also provide regular updates on the wider context that drives policy decisions, and on how those policy decisions have worked in practice. We have therefore been clear about not only what these provisions do but why they are needed as part of the whole of government response to Coronavirus.

[1] https://www.gov.uk/government/publications/coronavirus-act-report-may-2020
https://www.gov.uk/government/publications/coronavirus-act-report-july-2020

Coronavirus Act 2020 - Equalities Impact Assessment

On Q 158-159, I can confirm that we published the Equalities Impact Assessment document on 28 July 2020 on GOV.UK. This complements and builds on the summary of impacts was published at the time that the legislation was going through Parliament. It is available at:

https://www.gov.uk/government/publications/coronavirus-act-2020-equality-impact-assessment

PPE

In your letter you also stated, that the committee would "also be grateful to receive the Government's estimate of the likely demand for PPE in a "second wave". (Q185)."

We continue to model future demand for PPE to cover a range of possible scenarios, working closely with SAGE to ensure it is underpinned by the latest scientific assessments. Though the global market remains challenging, we continue to sign further deals to make our position more secure. We have now ordered over 30 billion items of PPE from UK manufacturers and overseas suppliers. To set this in context, since February 3bn items of PPE have been delivered and so we are confident that we will be prepared for a range of different Winter scenarios.

We are monitoring the rolling supply in both the immediate term (next 7 days) and medium term (next 90 days)

We have greatly strengthened and diversified our supply chains of PPE – looking to new suppliers abroad as well as boosting our domestic manufacturing capability. This has helped to build resilience for our supply of PPE into the future. In total, we have now procured over 30 billion items of PPE from UK manufacturers and overseas suppliers.

We are now confident in the stocks and sources of supply of PPE to meet the needs of health and social care over the 7 and 90 days; and are increasingly looking further ahead. We look at requirements on a daily basis over a 90-day period, and the 7 and 90 day points are highlighted as these reflect the key questions of whether there is sufficient supply of PPE in both the immediate and medium-term. This means we can accurately model the PPE demand of the health and social care over the next 90 days and prepare accordingly. At the height of the pandemic in the last week of March alone we distributed over 224 million units of PPE across England by comparison, we distributed over 112million units in this past week (03/08 – 09/09)[2].

While SAGE and scientific assessment continue to evolve regarding the likelihood of second wave and the impact on PPE demand, we continue to ensure modelling of PPE is aligned with these evolving assessments.

We have moved from an emergency situation a few months ago to a stable situation which allows us to prepare with resilience for any second spike or a new wave in the autumn or winter.

Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020

You also asked whether the Government should publish a written statement at the end of each review period setting out what decision it has made at the end of the review period and the basis for that decision.

Any amendment to the Regulations which imposes or substantially varies restrictions or requirements on persons or businesses will be subject to the affirmative procedure and require debate and approval by both Houses of Parliament.

Alongside scrutiny through these debates, the Government is committed to keeping Parliament updated and has done so through both written and oral statements in both Houses, as well letters to parliamentarians when appropriate. We will continue to engage with Parliament in an appropriate manner and make every effort to ensure Parliament is informed in a timely manner as changes are made along with their rationale. On this particular aspect, as on all others, we are of course open to considering any recommendations made by the Committee.

[2] https://www.gov.uk/government/statistics/ppe-deliveries-england-3-august-to-9-august-2020

A comprehensive list of all published legislation relating to coronavirus and ministerial statements can be found at https://www.legislation.gov.uk/coronavirus

Local lockdowns

You also asked about local lockdowns and the roles and responsibilities of local and central government.

Both local and central government have a key and shared role in managing disease outbreaks – effective partnership is key. For example, a local authority public health department will be providing advice and support to residents, businesses and other organisations, based on their detailed local knowledge, about how to minimise the risks of transmission, and what to do if they suspect an outbreak (supported by the Government's Action Cards). Likewise, as in Leicester, we could see a local lockdown, with legislative restrictions in place on, for example, gatherings and opening of non-essential retail. Although some of the national level actions, such as making lockdown regulations, are by definition central government functions, these decisions are taken in the light of evidence provided by local government.

The JBC provides two main services. The first is as an independent analytical function to provide real-time analysis about infection outbreaks. It will look in detail at data to identify and respond to outbreaks of Covid-19 as they arise. The centre will collect data about the prevalence of the disease and analyse that data to understand infection rates across the country.

The second is to advise on how the government should respond to spikes in infections – for example by closing schools or workplaces in local areas where infection levels have risen. The responsibility for deciding on and implementing responses to local lockdowns is therefore a shared one between local and national Government. For their part, local Directors of Public Health closely monitor incidence of Covid-19 in their areas and have full access to local data on infection levels. Directors of Public Health views are considered as part of Ministerial decision making through the Gold meeting, having been fed in through regional teams, If they conclude that they need additional support, resources or powers to respond to an outbreak, they are able to call on that through engagement with Public Health England and the NHS Test and Trace Service regional teams. A wide range of data is also monitored nationally, enabling Government to engage with the authorities in any areas where, for example, infection rates are rising fast, and if necessary, consider a national response.

Local Public Health Directors also have powers to take action in response to disease outbreaks. These powers have recently been supplemented by regulations made under the Public Health (Control of Disease) Act 1984: the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, made on 16th July, which gave local authorities the power to close or restrict premises, events and public outdoor spaces in their areas, as necessary and proportionate in response to increased incidences or spread of coronavirus. The Secretary of State also has the power to direct local authorities in relation to their use of these powers.

Where it is necessary to impose a wider local lockdown, specific regulations could be made under the 1984 Act setting out the restrictions and the area to which they apply – for example, the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020, made on 3rd July 2020, which imposed the Leicester lockdown announced on 29th June. Section 45I, act 1984.

NHS Test and Trace works closely with council and local health structures to take rapid action to deal with any new local spikes in infections. We are clear that NHS Test and Trace must be locally led, and we need to work with local leaders and communities to take swift action to prevent and manage outbreaks, ensuring that our response works for them, supported by a national service which they plug into. Across the county local authorities have done exceptional work to prepare their communities for COVID-19 outbreaks, protecting the most vulnerable and saving lives. We have maintained that we will flex the Test and Trace system to suit the needs of the crisis. Test and Trace is a citizen service driven by local on ground knowledge and delivered with the support of national resource.

On 24th July, we published in draft a set of legislative options that the government will draw upon to effect any future lockdowns, showing a range of restrictions that will be considered in response to the outbreak, although they may be adapted to meet the local circumstances and other measures may be considered where necessary.

Section 45I of the Public Health (Control of Disease) Act 1984

You asked about the powers referred to by the Secretary of State in his statement to the House on 29th June.

The powers being referred to are those under section 45I of the Public Health (Control of Disease) Act 1984, under which local authorities can seek an order (a “Part 2A Order”) from a Magistrate imposing restrictions or requirements on particular premises for public health reasons. The restrictions or requirements which could be imposed include:

a) closure;

b) in the case of a movable premises or structure, that the premises is detained;

c) disinfection or decontamination of the premises or structure;

d) destruction.

A Magistrate would need to be satisfied that:

a) the premises are or may be infected or contaminated;

b) the infection or contamination is one which presents or could present significant harm to human health;

c) there is a risk that the premises might infect or contaminate humans; and

d) it is necessary to make the order in order to remove or reduce that risk

Any person who fails to comply with a restriction of requirement under a Part 2A Order would be guilty of an offence and liable on summary conviction to a fine.

I hope that your Committee finds these additional contributions helpful, however if further clarification on my point is needed, please do let me know. I look forward to seeing your report.

Edward Argar MP

Annex A

Ministerial-portfolio-July-2020.pdf

Minister of State for Health – MS(H)	Minister of State for Care – MS(C)	Minister of State for Patient Safety, Suicide Prevention, Mental Health - PS(PSM)	Parliamentary Under Secretary of State for Prevention - PS(P)	Parliamentary Under Secretary of State for Innovation - PS(I)
Covid-19 - NHS resilience (acute capacity) - Supply (Ventilators) **EU Future Relationship and Trade** - Readiness for the end of the Transition period - EU FTA - US FTA **Operational performance:** - Elective, urgent and emergency care - Ambulances - NHS 111 - Winter planning - Improved hospital flow **Long Term Plan Bill** **Finance, efficiency and commercial:** - DHSC RDEL and ALB revenue budgets - NHS revenue finance, incl. CCG allocations - Economic regulation incl. NHSI - Efficiency challenge - Procurement - Cost recovery and immigration health surcharge **NHS capital, land and estates:** - 40 new hospitals - Car parking (manifesto commitment) - INHS Property Services **Transformation:** - CCGs (incl. accountability framework) - Reconfigurations - STPs/ICS, including improved integration of NHS services **NHS England mandate:** - NHSE mandate, business plan - NHS Long Term Plan - *Attends accountability meetings* **Devolved Administrations, Crown Dependencies and Overseas Territories** **Lead on secondary legislation** **Overall lead on DHSC litigation and legal cases** **Departmental Management incl. work with SofS on Departmental Board** **Sponsorship: NHSE, NHSI**	**Covid-19** - Social Care resilience - NHS Workforce - Test and Trace: JBC **Adult social care:** - Finance - Social care workforce - Quality and regulation - Provider market - ASC contingency planning - Ageing Grand Challenge - Carers - Liberty Protection Safeguards - ASC reform **Health/care integration:** - Integration, incl. Better Care Fund - Devolution - Personal health budgets - End of life care - Health and Wellbeing Boards **NHS Workforce**: - 50,000 more nurses - Supply, education and training - Leadership - Pay and pensions - Contract reform - Professional regulation - Workforce Race Equality Standard **Dementia, disabilities, long term conditions:** - Dementia - Learning disabilities, autism - Physical disabilities - Long term conditions **Abortion** **NHS Continuing Health Care** **Sponsorship: HEE**	**Covid-19** - Test and Trace: Contain framework - Social distancing **Mental Health**: - Children and Young People and early intervention - Mental health services and treatment - Mental Health Act - Quality and Safety - Workforce - Sleep **Suicide Prevention and Crisis Prevention** **Offender health:** - Prison health - High security hospitals - Immigration removal centres **Vulnerable groups:** - Homelessness - Veterans' health - Violence against women and girls **Patient safety:** - Quality regulation incl. CQC and Healthwatch - Special measures regime - HSSI Bill - Sepsis - Death certification - Clinical negligence - Litigation, incl. indemnity **Women's health strategy** **Maternity care:** - Baby loss and bereavement - Maternity Safety incl. HSIB investigations into neonatal death - Screening in pregnancy **Inquiries:** - Historic inquiries e.g. Gosport, Paterson - Ongoing work on Primodos/valproate/mesh, in collaboration with PS(I) as lead Minister for drug and device safety - Ockenden and Linden Centre - Infected Blood Enquiry **Patient experience:** - Ombudsman and complaints - Friends and Family Test and Patient Reported Outcome Measures - Whistleblowing **Cosmetic regulation** **Sponsorship: NHS Resolution, CQC**	**Covid-19** - Supply (PPE) - Shielding and vulnerable groups - Vaccine deployment **Public health system:** - PHE - Finance **Health improvement:** - Tobacco - Obesity and physical activity - Alcohol, drugs and addiction - NHS Health Checks - Children's health, incl. school nursing, health visitors - Sexual health - Health and work **Health inequalities** **Public Health Delivery:** - Seasonal and pandemic flu - Emergency preparedness and response - Environmental health (air quality, chemicals, radiation) - Immunisations/ vaccines and screening - Infectious diseases **Primary Care:** - Workforce – 6000 GPs - Access – 50m appts. - Community pharmacy - Dentistry, Ophthalmology - Non-emergency patient transport - Social prescribing and third sector/volunteering **Gender identity services** **Major diseases:** - Cancer - Diabetes - Stroke **Community health:** - Community services - Community care workforce - Reablement - Allied health professionals **Lead minister for crisis response** **Sponsorship: PHE, FSA**	**Covid-19** - Supply (medicines and testing) - Treatments and vaccines - Long term health impacts - Test and trace: testing, trace, technology **Research and life sciences:** - Science and Research & Development - Genomics, genetics, regenerative medicine - Accelerated Access Collaborative - NHS Test Beds - NIHR Overseas Development Assistance Budget **Anti-Microbial Resistance/Global health security** - AMR - Global Health Security **International Diplomacy and Relations** - Multilateral events (G7, G20 and WHO) - Foreign and Commonwealth Office-led international funds **Data and Technology:** - NHS IT - Data to support innovation **Medicines:** - Regulation - Pharmaceutical Price Regulation Scheme - Uptake of new drugs and med tech, including Adaptive Licensing and Early Access - Cancer Drugs Fund - Complementary and Alternative Medicine - Prescription charging - Specialised commissioning policy **Rare diseases** **NHS Security Management incl. cyber security** **Lords' business** **Blood and transplants, organ donation** - Health ethics - Fertility and embryology **Sponsorship: NHSBT, HTA, HFE, MHRA, NICE, NHSD, HRA, NHSX. BSA**

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Edward Argar MP
Minister of State (Minister for Health)
By email

16th July 2020

Follow-up from 14th July evidence session

I am very grateful to you and Clara Swinson for giving evidence to our Committee on Tuesday 14th July as part of our inquiry into the Coronavirus Act 2020. This letter sets out those further points and some requests for additional information that could not be covered in the session due to time constraints. I enclose with this letter a copy of the transcript of the session.

During the session an offer was made to provide the Committee with more information on different strands of COVID-19 work and ministerial accountabilities across the Department of Health and Social Care. I would be grateful to receive such information for the Department of Health and Social Care but also for all Government Departments, which I am following up with the Cabinet Office. (**Q111)**

A point of interest in the Committee's inquiry has been the suggestion that the Government could have used the Civil Contingency Act 2004 in response to COVID-19. Particularly, for example, as a "stopgap" measure to allow more time for Parliamentary scrutiny. The Government has previously stated that it did not use the Civil Contingencies Act because of legal advice it received. I appreciate the Government will not ordinarily publish legal advice but it would be helpful if such advice could be shared with the Committee confidentially, as was raised during the evidence session. **(Q119)**

Exercise Cygnus, conducted in 2016, made several recommendations to improve the UK's pandemic preparedness. I have been to the Cabinet Office to review the report of this exercise. Please could we have a list of things that were changed as a result of that Exercise's findings and recommendations. (**Q130**)

As covered during the evidence session, there have been recommendations made to us about the two-monthly reports produced under the Coronavirus Act and the debate that

will take place six months after the passing of that Act. It would be helpful if the Government could commit to publishing in its two-monthly reports:

- why provisions under the Coronavirus Act are still necessary; and
- the evidence base for their necessity and their effectiveness.

It has been suggested to us that the Government should publish, in good time for the debate at the six month point:

- the original rationale for the non-temporary provisions in the Coronavirus Act 2020;
- why those provisions are still justified; and
- the evidence base to demonstrate those provisions are still effective.

Can the Government commit to publishing this information no later than two weeks before the debate? (**Q131**)

During the evidence session, the Committee asked if we could receive a precis of exercises that had been conducted to measure and prepare for the economic impact that a pandemic would have. (**Q136-139)**

An updated version of the 2017 National Risk Register has not yet been updated. I would be grateful if you could write to us setting out what changes have been made between the 2017 and 2019 national risk assessment, and also update the Committee when the latest risk register will be published, acknowledging that it is a document that is constantly updated. (**Q141-143)**

An equalities assessment of the Coronavirus Act 2020 has not been published. During the session it was suggested that the Committee may receive some information on the equalities impact of both that Act and other parts of the Government's coronavirus response. I would be grateful to receive such information as soon as possible. (**Q158-159)**

The Committee would also be grateful to receive the Government's estimate of the likely demand for PPE in a "second wave". (**Q185)**

Additional matters

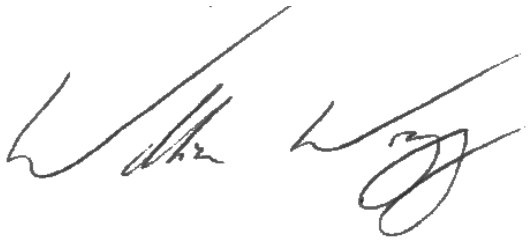
Under the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, the Secretary of State must review the need for the regulations every 28 days. I have previously raised in the Chamber the suggestion that the Government should at least publish a written statement at the end of each review period setting out what decision it has made at the end of the review period and the basis for that decision. Could you please consider this request again and, if you are not inclined to accept it, set out the reasons for not doing this.

It is clear that local lockdowns will be an important part of the Government's management of the coronavirus going forward. Please could you provide an overview of the responsibilities and powers local authorities and the UK Government will have for imposing local lockdowns and what the statutory framework is in which those powers will be exercised. During the evidence session, it was suggested that the responsibilities for local lockdowns sit with the Ministry of Housing, Communities and Local Government. I would be grateful if you could clarify the split of responsibilities between the Department of Health and Social Care, MHCLG and the Cabinet Office for local lockdown, perhaps with an illustrative example.

In addition, in his statement to the House on 29th June, the Secretary of State for Health and Social Care described local Directors of Public Health as having statutory powers to close individual organisations. I would be grateful if you could set out to which statutory powers the Secretary of State was referring.

I appreciate we have requested a large amount of information in this letter but we would be particularly grateful if we could receive a response by Monday 27th July to enable the Committee to continue its work. I would be happy to receive any information as it is ready, rather than wait for a single letter responding to all my requests.

I have written in the same terms to the Paymaster General, Rt Hon Penny Mordaunt MP.



William Wragg MP
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