

Annex

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Transport

Document 1 – 4 June

From: Liz Lloyd

Sent: 04 June 2020 13:06

To: [Redacted] Cabinet Secretary for Transport, Infrastructure and Connectivity [Redacted]
Cc: Chief Medical Officer [Redacted] Deputy First Minister and Cabinet Secretary for Education and Skills [Redacted] Chief Scientific Adviser for Scotland [Redacted] Permanent Secretary [Redacted] Minister for Business, Fair Work and Skills [Redacted] DG Economy [Redacted] SG CoronaVirus [Redacted] Economy Covid-19 Hub [Redacted] covid-19 Policy [Redacted] Communications Covid-19 [Redacted] Communications Economy [Redacted] First Minister [Redacted] Economy COVID-19 Hub Communications [Redacted] SGLD Covid-19 enquiries [Redacted] DL SpAds Finance and Economy [Redacted] SGLD Public Health Branch [Redacted] DFWES Keyworkers [Redacted] Cabinet Secretariat inbox [Redacted] Transport Scotland Directors [Redacted] Cabinet Secretary for Health and Sport [Redacted] Cabinet Secretary for Economy, Fair Work and Culture [Redacted] First Minister <firstminister@gov.scot>; [Redacted] Transport Scotland Media [Redacted]
Subject: RE: UKG - Face coverings on public transport - Change of Policy

All

There may be feedback coming from FMPO – but FM discussed this morning – and is keen to see advice as early as possible on moving our position to mandatory (for those without conditions etc) and how we do it.

Liz Lloyd

Chief of Staff to the First Minister
[Redacted]

Document 2 – 5 June

From: [Redacted]

Sent: 05 June 2020 16:59

To: First Minister <[Redacted]>; Cabinet Secretary for Transport, Infrastructure and Connectivity <[Redacted]>

Cc: [Redacted] Chief Medical Officer <[Redacted] Deputy First Minister and Cabinet Secretary for Education and Skills <[Redacted] Chief Scientific Adviser for Scotland [Redacted]>; Permanent Secretary <[Redacted] Minister for Business, Fair Work and Skills <[Redacted] DG Economy [Redacted]; SG CoronaVirus <[Redacted] Economy Covid-19 Hub <[Redacted]>; covid-19 Policy [Redacted]>; Communications Covid-19 [Redacted]>; Communications Economy [Redacted]; Economy COVID-19 Hub Communications <[Redacted]>; SGLD Covid-19 enquiries [Redacted]>; DL SpAds Finance and Economy [Redacted]>; SGLD Public Health Branch [Redacted]>; DFWES Keyworkers [Redacted]>; Kleinberg D (Daniel) [Redacted]; Cabinet Secretariat inbox [Redacted]>; [Redacted] Transport Scotland Directors <[Redacted] Chief Executive Transport Scotland [Redacted]; Cabinet Secretary for Health and Sport [Redacted]>; Cabinet Secretary for Economy, Fair Work and [Redacted] Transport Scotland Media

[Redacted]>; Transport Scotland Legal Advisers [Redacted] Cabinet Secretary for Health and Sport <[Redacted] Minister for Energy, Connectivity and the Islands [Redacted]>; Legal Secretariat to the Lord Advocate [Redacted]>; Solicitor to the Scottish Government [Redacted] First Minister Covid Briefing Unit Subject: FW: UKG - Face coverings on public transport - Change of Policy

PS/FM
PS/Cabinet Secretary

[Redacted]

I attach a submission, in response to the request (see email below), which provides an initial, high-level initial assessment of the potential mechanisms available to mandate the wearing of face coverings, and a summary of the work to follow to examine specific issues and options in detail.

I have for convenience appended the distribution list of the previous email to this email, as the issue cuts across so many areas.

As always, if there are any queries just call.

[Redacted]

[Redacted]
First Minister
Cabinet Secretary for Transport, Infrastructure and Connectivity

MANDATORY FACE COVERINGS ON PUBLIC TRANSPORT

Purpose

- To provide an initial, high-level initial assessment of the potential mechanisms available to mandate the wearing of face coverings, and a summary of the work to follow to examine specific issues and options in detail.

Priority

- Routine

Background

1. The UK Government announced yesterday that, as of 15 June, face coverings on public transport would be mandatory in England and advised that it is considering changes under the National Rail Conditions of Travel, the Public Service Vehicle Regulations for buses and each airline's Conditions of Travel as potential means of giving effect to that objective, though it is by no means certain that those means will be used. It may resort to health public legislation.
2. This submission discusses possible options under public health legislation, transport legislation, and non-legislative options. It also raises a number of other considerations that will need to be addressed.

Health protection regulations

3. There are powers under the Coronavirus Act 2020 which enable Ministers to make regulations imposing special restrictions or requirements for the purpose of controlling the spread of coronavirus in Scotland. It does appear that there is sufficient *vires* to require individuals to wear protective clothing over their nose and mouth on public transport, though the need for such clothing would have to meet the test of being in response to a serious and imminent threat to health. The ability to meet this test will require further scrutiny. Enforcement options for such a restriction will require further consideration, but include making failure to wear a face covering a criminal offence.
4. Restrictions under these regulations could in principle be applied to all modes provided the clear public health rationale required by the enabling power can be evidenced.

Transport legislative options

Bus and tram

5. Ministers have powers under the Public Passenger Vehicles Act 1981 to regulate the conduct of passengers on public service vehicles, including bus services and trams. Failure to comply with the requirements of those regulations is an offence punishable by a fine of up to £1000. Certain enforcement powers are provided to operators and drivers under these regulations, including powers to require passengers who contravene them to provide their name and address, and powers to remove passengers who fail to comply with the regulations from vehicles.

6. [Redacted]

Aviation

7. [Redacted]

Rail

8. [Redacted]

Operator agreements – all modes except aviation

9. Ministers for the time being exercise a degree of operational control over rail, bus and ferry services in Scotland, through financial support schemes and regular franchise arrangements which are subject to conditions set by Ministers through contracts. [Redacted]

Operator conditions of carriage

Rail (not subway)

10. [Redacted – Out of Scope]

Subway

11. [Redacted]

Bus and tram

12. [Redacted]

Ferries

13. [Redacted]

Aviation

14. [Redacted]

15. [Redacted]

Other considerations

Consultation

16. We will need, as part of the using the principles set out in *Coronavirus (COVID-19): framework for decision-making*, to engage parties particularly Police Scotland, British Transport Police, transport operators and unions on matters relating to enforcement and revise our transport guidance.

ECHR

17. Personal choices as to an individual's desired appearance, in public or in private, relate to the expressing of the individual's personality and so fall within private life as protected by Article 8 ECHR.

18. [Redacted]

Supply

19. [Redacted]

20. [Redacted]

Exemptions

21. [Redacted]

Wider applicability

22. By seeking to mandate on public transport a distinction is drawn against other space constrained settings such as shops and education facilities.

23. The use of face coverings in education settings has been raised consistently by teaching unions, who have sought clarity over why they are not recommended for use in classrooms (which they argue are also confined spaces where physical distancing may be challenging). We have previously worked with health colleagues to engage with them and explain that wearing face coverings for the extended periods of time involved in teaching lessons is unlikely to mitigate risks. However, these proposals will inevitably shine a light on the issue again. will be important to be able to explain to teaching unions and school staff any logical distinction between the wearing of face coverings for longer journeys on public transport and the wearing of face coverings during lessons.

24. Accordingly, we will need to consult with other policy areas across the Scottish Government to ensure that we don't create anomalous situations which cannot be clearly explained. Therefore it may be likely that though the initiator may have been within the public transport arena the policy shift could have ramifications across many sectors with consequential implications for either sector by sector or pan implementation.

Recommendation

Ministers are asked to:

- note the considerations within the submission and
- note that a more detailed submission will be presented.

[Redacted – Scottish Government Officials Name]

Transport Scotland

[Redacted – Scottish Government Officials Name]

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Deputy First Minister			X		
Cabinet Secretary for Health & Sport			X		
Minister for Energy, Connectivity and The Islands			X		

PS/Transport Scotland Transport Scotland Directors Transport Scotland Media Press Transport Scotland [Redacted] Transport hub [Redacted] Copy list as per email from PO FM

Document 3 – 7 June

From: [Redacted]

Sent: 07 June 2020 18:39

To: Director of Health Workforce [Redacted] Covid-19 Director [Redacted] Chief Medical Officer; DCMO Health COVID19 [Redacted] DCMO : Director of CHIEF MEDICAL OFFICER [Redacted]

Cc: [Redacted]

Subject: WHO guidance on the use of face coverings/masks and proposed application in Scotland

Importance: High

Sending on behalf of [Redacted].

Thank you for your help in drafting the attached submission. I'd be grateful for final comments and help with a couple of questions from [Redacted] before sending to Ministers. Comments by 10am tomorrow (Monday) please.

[Redacted]

From: [Redacted]
Covid Ready Society
6 June 2020

REVISED WORLD HEALTH ORGANISATION GUIDANCE ON THE USE OF FACE COVERINGS/MASKS AND PROPOSED APPLICATION IN SCOTLAND

Purpose

1. To provide you with information on the use of face coverings and face masks in different settings following new WHO and UK Infection Prevention and Control (IPC) advice. This briefing sets out the current position in Scotland and the proposed position given the new advice.

Introduction

2. This advice builds on the advice given to you on 5 June co-authored by CNO, CMO, NCD and Director Mental Health and Social Care which focussed on hospital and Social Care settings. A copy is attached for ease.

3. The UKG announced on Friday 6th June the introduction of face masks in non-clinical settings and face coverings for visitors and outpatients to be introduced from 15th June. The use of face masks in non-clinical settings goes further than the advice from WHO.

Summary of WHO advice

4. What has not changed in the WHO advice:

- WHO continues to recommend that people who are sick with symptoms of COVID-19 should remain at home, and should consult their health care provider.
- People confirmed to have COVID-19 should be isolated and cared for in a health facility and their contacts should be quarantined.
- If it is absolutely necessary for a sick person or a contact to leave the house, they should wear a medical mask.
- WHO continues to advise that people caring for an infected person at home should wear a medical mask while they are in the same room as the sick person.
- And WHO continues to advise that health workers use medical masks and other protective equipment when dealing with suspected or confirmed COVID-19 patients.

5. What has changed in the WHO advice:

- In areas with widespread transmission, WHO advises medical masks for all people working in clinical areas of a health facility, not only workers dealing with patients with

COVID-19. That means, for example, that when a doctor is doing a ward round on the cardiology or palliative care units where there are no confirmed COVID-19 patients, they should still wear a medical mask.

- In areas with community transmission, people aged 60 years or over, or those with underlying conditions, should wear a medical mask in situations where physical distancing is not possible.
- In light of evolving evidence, governments should encourage the general public to wear masks where there is widespread transmission and physical distancing is difficult, such as on public transport, in shops or in other confined or crowded environments.
- New information on the composition of fabric masks has been published by WHO, including choice of fabric, number and combination of layers, shape, coating and maintenance.

WHO advice for Health and Social Care

6. [Redacted – Out of Scope.]

WHO advice for Community

7. The WHO guidance has been updated to advise that, to prevent COVID-19 transmission in areas of community transmission, governments should encourage the general public to wear masks in specific situations and settings as part of a range of strategies in the fight against COVID-19

8. For the first time there is advice to encourage sectors of the general public to wear medical masks for their own protection. The general public should be encouraged to wear a **medical mask** in settings where physical distancing cannot be achieved and there is increased risk of infection and/or negative outcomes (e.g. for vulnerable populations including people aged ≥60 years and people with underlying comorbidities). This would include for example, hospital or care home visiting.

9. A risk-based approach is advised, weighing up risk of exposure, vulnerability of the mask wearer/population, the setting in which the population lives, feasibility in terms of e.g. availability and costs of masks, and medical mask versus non-medical mask.

10. The general public should be encouraged to wear a **non-medical** mask in areas with limited or no capacity to implement other containment measures (e.g. general population in public settings, such as grocery stores, at work, social gatherings, closed settings) and settings with high population density where physical distancing cannot be achieved (e.g. people living in cramped conditions, camp-like settings)

Applying the WHO advice in Scotland

11. The WHO advice is aimed at countries where there is community transmission and WHO have previously defined transmission in 4 phases:

Category	Name	Description
1	No Cases	no cases

2	Sporadic cases	One or more cases, imported or locally detected
3	Clusters of cases	Cases, clustered in time, geographic location and/or by common exposures
4	Community transmission	Larger outbreaks of local transmission defined through an assessment of factors including, but not limited to: - Large numbers of cases not linkable to transmission chains - Large numbers of cases from sentinel lab surveillance - Multiple unrelated clusters in several areas of the country/territory/area

12. There is no clear definition of all of the factors which should be taken into account in assessing this however; given that Scotland continues to see community transmission, albeit reducing, and that the UK has one of highest incidences of infection we consider that it is likely Scotland is transitioning out of community transmission – somewhere between 4 and 3.

Proposed application in hospital settings

[Redacted – Out of Scope.]

Proposed application in Primary Care settings

[Redacted – Out of Scope.]

Proposed application in the wider community

18. The WHO guidance would suggest possible additions and clarifications to the SG advice including:

- As restrictions are lifted further, encouraging the general public to wear a face covering in further areas with limited or no capacity to implement other containment measures, for example general population in public settings such as wider retail settings, in some work places, social gatherings, closed settings.
- Encouraging the general public to wear a medical mask in settings where physical distancing cannot be achieved and there is increased risk of infection and/or negative outcomes e.g. for vulnerable populations including people aged ≥ 60 years and people with underlying comorbidities. Vulnerable populations could include occupations that are most at risk for example security guards, taxi drivers and chauffeurs, bus and coach drivers, chefs, sales and retail assistants, lower skilled workers in construction and processing plants, and men and women working in social care.
- Being more prescriptive about the composition of non-medical face coverings to consist of at least three layers of different material.

19. **The WHO recommendation on physical distancing is at least 1 metre, as compared with the 2 metre distance that we are asking the public to maintain in the UK.**

20. Our current advice on face coverings (that cloth coverings such as scarf are adequate) for those aged over 60 and the general public may be sufficient on the basis that we have taken a more precautionary approach and are requiring public facilities to maintain at least a 2 metre physical distance. The need for the three layer design could be limited to closer contact at less than 1 metre. We propose that Public Health Scotland (Health Protection Scotland) and the CMO Advisory Group be asked to consider this point.

21. The WHO guidance also makes clear that the decision on whether to recommend or make mandatory the use of masks, where there is community transmission, should be based on a range of criteria, including the capacity to implement other containment measures such as testing, contact tracing and isolate and care for suspected and confirmed cases.

22. The WHO guidance identifies a number of potential disadvantages of the use of mask by healthy people in the general public which should be considered in the development of any changes in our approach. These include, potential increased risk of self-contamination that can occur if nonmedical masks are not changed when wet or soiled and a false sense of security, leading to potentially lower adherence to other critical preventive measures such as physical distancing and hand hygiene.

PPE supply

[Redacted – out of Scope].

Advice and Guidance

29. Changing the SG policy on the use of face coverings would have implications for a number of pieces of sectoral guidance. See Appendix 2 for a list of guidance that may require to be amended. Public Health Scotland (Health Protection Scotland) will be asked to update their advice on face coverings, taking account of the WHO advice, and to align with any changes in policy.

Communications

[Redacted – Out of Scope.]

31. Communication to the general public would need to be clear that face coverings are not:

- intended as an infection prevention and control measure for the workplace, where there are other health and safety considerations and measures in place such as physical distancing and hygiene controls. The public may not always be able to observe physical distancing measures so face coverings in those situations are recommended.
- a replacement for self isolation if you have symptoms, good hand hygiene, cough etiquette and physical distancing.

[Redacted – Out of Scope.]

Engaging with Unions and Professional Bodies

[Redacted – Out of Scope.]

35. Mr Matheson met the STUC on 5 June and advised that there would be consultation on enforcement should Scotland adopt a policy mandating the wearing of face coverings for staff and the public on public transport.

[Redacted – Out of Scope.]

Conclusion

37. In conclusion, and in line with the response that FM gave at the press briefing on Friday 5 June, there are matters that we would like to explore further before making a final decision on whether and how we may change our position on the use of face coverings and/or face masks in different settings. These areas include:

- Seek clarity of advice for Scotland from Public Health Scotland including what clinical and public guidance would be needed to operationalise any change.
- Further engagement with Health Boards and Unions, including via the Workforce Senior Leadership Group (WSLG) on the impact that any change in guidance would have on the supply and distribution of PPE and the practical implications of enforcing any changed use of face masks/coverings.
- Full consideration of the equalities impacts.
- The feasibility of supply of medical face masks for vulnerable groups including those aged over 60

38. Ministers are recommended to ask the Covid Advisory Group for their view on the WHO advice and in particular:

- Does Scotland have “widespread community transmission”?
- Should vulnerable groups, including those over 60, be asked to wear medical masks for their own protection and in what circumstances?
- Should the Scottish Government be more prescriptive on the composition of non-medical face coverings used in particular circumstances?
- Should we continue to recommend 2m of physical distancing?
- If we were to require the wearing of face masks or coverings, which groups might need to be exempt from this and what equalities implications should be considered?

[Redacted]
Covid Ready Society
6 June 2020

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Public Health, Sport and Wellbeing Minister for Mental Health			x x		

DG Health and Social Care
Covid 19 Director
[Redacted]
Gregor Smith, CMO
[Redacted]
Covid-19 Health Finance
Covid-19 Policy
Covid-19 Health Workforce
CHSC Covid-19 Hub
FM Policy Team
HSC Analysis Hub
[Redacted]

Document 4 – 8 June

From: [Redacted]> **On Behalf Of** First Minister

Sent: 08 June 2020 09:16

To: [Redacted] SG CoronaVirus [Redacted]>; Chief Medical Officer [Redacted] Cabinet Secretary for Health and Sport [Redacted]>; First Minister Covid Briefing Unit [Redacted]>; Permanent Secretary [Redacted]>; Covid-19 Director [Redacted]; Cabinet Secretary for Transport, Infrastructure and Connectivity [Redacted]>; Deputy First Minister and Cabinet Secretary for Education and Skills <[Redacted]

Cc: First Minister <[Redacted]

Subject: FM Points for Action

All,

Some points from FM, for appropriate action. As always, grateful if this could be cascaded further and as appropriate. FM would like progress on the below points this week;

1. [Redacted] **Face coverings** – FM is keen that we come to a position on mandatory use ASAP, taking account of recent UKG announcements and updated WHO advice.

Thanks,
[Redacted]

Retail Documents

Document 5 – Advice to Ministers, mandatory coverings in retail – 19 June.

From: [SG officials names - redacted - s38(1)(b)]

Sent: 19 June 2020 15:19

To: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet Secretary for Economy, Fair Work and Culture; Minister for Business, Fair Work and Skills < Cabinet Secretary for Justice; Cabinet Secretary for Health and Sport; Cabinet Secretary for Transport, Infrastructure and Connectivity

Cc: Quinlan K (Kevin); Pathirana S (Stephen) (Dr); McAllan M (Mary); Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Greig S (Stuart); Leitch J (Jason); Transport Scotland Legal Advisers; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley) (Covid-19); First Minister Covid Briefing Unit; Griffin J (Joe); Hicks C (Clare); Burgess WG (George); Ogle G (Geoff); Maxwell S (Stewart) (Special Adviser) [SG officials names - redacted - s38(1)(b)]

Subject: Advice to Ministers - Mandatory Face Covering - Retail

P/O First Minister,

As requested below, please find attached further advice on mandatory face coverings in retail environments for the consideration of the First Minister. Officials present the health policy, legal, sectoral and enforcement impacts.

Regards

[SG officials names - redacted - s38(1)(b)]

From: [Redacted]
Directorate for International Trade and Investment
19 June 2020
First Minister

ADVICE ON THE MANDATORY WEARING OF FACE COVERINGS IN SHOPS DURING THE EMERGENCY PERIOD

1. This advice refers to impacts for consideration on an option to make face-coverings mandatory in retail environments for the purposes of controlling the spread of Coronavirus (COVID-19) which would apply to staff and/or the general public when they are inside shops and branches.

Background

1. The First Minister confirmed in the update to the Route-map out of lockdown that face-coverings will be made mandatory in public transport. Given this development, advice has been requested on mandatory face coverings in the retail sector.
2. There are no immediate instructions to advance this issue for retail, unlike for transport. Health advice has not changed but this submission presents impacts that the First Minister may wish to consider.

Relevant legislation

[Redacted]

Policy requirements

If the introduction of mandatory face coverings is to proceed we would seek the following measures.

5. We would seek measures, for a period of time at the discretion of ministers, to ensure that staff and the general public wear face coverings in retail environments.
6. The purpose of a face covering is to supplement, not replace the physical distancing and hand hygiene measures in place to protect the public from the transmission of the coronavirus.
7. If instructed, we would seek that face coverings must be worn in shops, branches and salons when they re-open, this measure extends to non-food retail including shops, department stores, shopping centres, indoor markets, and salons such as hairdressers and beauticians, but it does not extend to private healthcare services such as dentists, physiotherapists, etc.
8. If instructed, we would be seeking provisions that exclude certain classes of people from the requirement of wearing of a face covering, for example:
 - Children under a certain age or any person who suffers from a permanent or temporary ailment which causes difficulties in breathing and for whom a face covering would prove problematic. In Scotland under the health regulations, fixed penalty notices can't be issued to under 18 years.
 - Where health and safety advice over-rides the imperative to wear a face covering.
9. We would seek provisions that would require staff to remove their face coverings in response to members of the public who request information and who may have a hearing impairment or lip read and for age related sales.
10. We would ask that the chosen measure to define the nature of the face covering i.e. that it must be made of breathable fabric. We do not want a particular type or standard of face covering to be mandated, there may be discrimination and equalities issues if certain individuals could not

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afford to purchase coverings of the prescribed type or standard. We want to ensure that we enable the wearing of traditional or home-made face coverings as well as any other item of clothing, such as wearing a scarf provided that it covers the area of the face as defined below. Consideration is needed on whether this would be a separate item.

Legal

[Redacted]

Enforcement

[Redacted]

Health Policy Advice

[Redacted – Out of Scope.]

18. The Covid-19 Advisory Group, is not recommending face coverings should be mandatory in the community which includes retail.

[Redacted – Out of Scope.]

19. A recommendation from **the World Health Organisation** where the purpose of mask use is to prevent the infected wearer transmitting the virus to others (that is, source control) and/or to offer protection to the healthy wearer against infection (that is, prevention) includes where there is close contact with the public e.g., cashiers; and settings in which the population are unable to keep a physical distance of at least 1 metre (3.3 feet) (e.g. public transportation).

Extracts from SAGE Minutes – 21 April 2020

20. The extracts below from SAGE provide the current guidance relevant to this proposal.

- a) The evidence on effectiveness of masks for source control (i.e. stopping infectious people – pre-symptomatic/asymptomatic – from infecting others) is weak. Evidence for protecting the mask wearer from becoming infected is also weak. The unusual situation for COVID is the relatively high infectiousness before symptoms appear.
- b) Overall, the evidence that exists is marginally positive for the use of masks.
- c) Any policy decision taken must not jeopardise supply of masks to those settings where the evidence for use of masks is stronger and the effect size important (i.e. Health and Social Care settings).
- d) SAGE advice refers to cloth masks – specifically in the context of releasing lockdown measures. - On balance, there is evidence to recommend the use of cloth masks in certain higher-risk settings as a precautionary measure where masks could be at least partially effective.
- e) **The common denominator is that these settings are enclosed spaces where social distancing is not possible consistently, creating a risk of close social contact with multiple parties the person does not usually meet.**
- f) **Public transport and some shops (if crowded) are examples of such settings. Distancing remains the preferred option where possible.**
- g) In such settings, evidence would support a policy where cloth masks could be used for short durations where unavoidable closer interactions with others are occurring or likely.

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h) By contrast, SAGE does not think there is good evidence for use for long periods where people regularly mix with the same people.

i) This advice does not replace or change existing advice on other measures – such as hand washing, 2-metre distancing and self-isolation – which remain more important (because of stronger evidence and larger effects).

21. There is Scottish legislation – the Business and Physical Distancing Regulations that places a legal duty on shops to control numbers and enforce to the best of their ability physical distancing so there should be no instances of crowding in shops. This is a view that is supported by industry, including the Scottish Retail Consortium.

22. We have also published comprehensive health and safety guidance for retailers to ensure their premises can re-open safely based on a comprehensive risk assessment process. The guidance states that if a member of staff wishes to wear a face mask, it should be provided free of charge.

Industry Feedback

23. The Scottish Retail Consortium undertook a survey of members and 14 out of 15 retailers opposed the measure. The reasons key points of feedback are:

- Mandatory face coverings may give some shoppers a false sense of security and stop them pursuing effective measures such as using hand sanitiser at shop entrances, following good cleaning practices or social distancing etiquette.
- There is concern over the potential for more conflict over sales of age-restricted products and requests for identification. Members are already concerned about the growth in incidents of abuse towards retail staff, often triggered by shop-workers delivering and enforcing what the State increasingly asks of them. Therefore, if the wearing of masks is to become compulsory they would strongly argue that retail workers should not be responsible for enforcing this.
- Members have noted that mandatory face coverings could make it more difficult to track and ultimately prosecute those undertaking shop theft, even when using video evidence.
- Some retailers have asked whether customers turning up to a store with no face covering could precipitate another flashpoint or friction, particularly in light of the expected queuing which will be required.

Food Retail (Advice from Food Standards Scotland)

24. Food Standards Scotland (FSS) has advised that they consider there to be no difference between non-food and food retail with regard to the rationale for requiring the wearing of face masks by the general public. Indeed it could appear odd to consumers that non-food retail required masks and food outlets didn't.

25. FSS has noted that such a requirement could be perceived by some food retail staff as contradictory to their guidance on COVID-19 for food business operators (including retailers) which does not recommend the wearing of face coverings by employees involved in food handling due to food hygiene risk.

26. However FSS has recognised that there may be particular roles in food retail environments (e.g. shelf-stackers, cashiers) where a face covering would not pose this risk, and is aware that some of the major supermarkets already offer masks to their staff. It is therefore intended that, should a decision be taken to mandate the wearing of face coverings in retail settings, FSS will update its guidance for consumers and food retail businesses to reflect these differences.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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27. Due to the diversity of the retail sector and the food retail sector, clarity is needed on whether this is focused on the general public not the food industry;

Recommendation

28. The advice provides an overview of the issues that need to be considered in whether you wish to pursue a policy instruction to mandate the wearing of mandatory face coverings in retail environments. Good communications will be key in explaining the proposal to members of the public.

You are invited to advise whether you wish to proceed with a policy instruction to mandate face mask/coverings in retail environments and if this is the instruction whether this should cover retail customers and/or workers.

[Redacted]– Retail Policy [Redacted]

19 June 2020 Copy	For Action	For Comments	For Information
List:			
Portfolio Interest	Constit Interest		General Awareness
First Minister	X		X
Deputy First Minister			X
Cabinet Secretary, Economy,			X
Cabinet Secretary, Health,			X
Cabinet Secretary, Justice			X
Cabinet Secretary, Transport			
Minister for Business, Fair Work and Skills			

From: [SG officials names - redacted - s38(1)(b)] **On Behalf Of** First Minister

Sent: 16 June 2020 14:31

To: Minister for Business, Fair Work and Skills; First Minister; Cabinet Secretary for Justice; Cabinet Secretary for Transport, Infrastructure and Connectivity; Cabinet Secretary for Economy, Fair Work and Culture

Cc: Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Greig S (Stuart); Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Fair Work and Culture; Leitch J (Jason); Transport Scotland Media; Transport Scotland Legal Advisers; Cabinet Secretary for Health and Sport; Minister for Energy, Connectivity and the Islands; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley); First Minister Covid Briefing Unit; Quinlan K (Kevin); Pathirana S (Stephen) (Dr); Hicks C (Clare); Burgess WG (George); Ogle G (Geoff) [SG officials names - redacted - s38(1)(b)]

Subject: RE: UKG - Face coverings on public transport - Change of Policy

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[SG officials names - redacted - s38(1)(b)]

[Redacted]

[SG officials names - redacted - s38(1)(b)]

**Deputy Private Secretary - Diary
Office of the First Minister**

From: [SG officials names - redacted - s38(1)(b)]

Sent: 11 June 2020 16:47

To: Minister for Business, Fair Work and Skills; First Minister; Cabinet Secretary for Justice; Cabinet Secretary for Transport, Infrastructure and Connectivity; Cabinet Secretary for Economy, Fair Work and Culture

Cc: Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Greig S (Stuart); Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Fair Work and Culture; Leitch J (Jason); Transport Scotland Media; Transport Scotland Legal Advisers; Cabinet Secretary for Health and Sport; Minister for Energy, Connectivity and the Islands; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley); First Minister Covid Briefing Unit; Griffin J (Joe); Quinlan K (Kevin); Pathirana S (Stephen) (Dr); Hicks C (Clare); Burgess WG (George); Ogle G (Geoff)

[SG junior officials names - redacted - s38(1)(b)]

Subject: RE: UKG - Face coverings on public transport - Change of Policy

Minister,

You requested further advice on mandatory face masks in the retail sector. The advice is attached and covers non-food retail recognising that Food Standards Scotland covers food retail. The advice has built on the advice issued previously from Transport Scotland and I am aware further advice from Transport Scotland will be following on this issue.

Regards

[SG officials names - redacted - s38(1)(b)]

ADVICE ON THE MANDATORY WEARING OF FACE COVERINGS IN SHOPS DURING THE EMERGENCY PERIOD

1. This advice refers to issues that you may wish to consider in order to make mandatory the guidance on the wearing of face coverings for the purposes of controlling the spread of Coronavirus (COVID-19) which would apply to staff and the general public when in a shops and branches.

Relevant legislation

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2. Schedule 19 of the Coronavirus (Scotland) Act 2020. However this could only be enacted if there is confirmation that face coverings in retail are necessary and proportionate to the aim sought to be achieved, which is the public health response to the threat of the incidence and spread of coronavirus in Scotland, and that such a measure is to be imposed in response to a serious and imminent threat to public health.

Background

3. On 5 June Transport Scotland issued to the First Minister and Mr Matheson an initial, high-level assessment of the potential mechanisms available to mandate the wearing of face coverings on public transport which also referenced the Retail and Education sectors. That assessment referenced a number of possible options to achieve the policy outcome under public health legislation, transport legislation, and non-legislative means. The Minister for Business Fair Work and skills subsequently requested advice on mandatory face covering in the retail environment.
4. You met the USDAW, the shop-workers union and GMB trade union and industry bodies on Wed 9 June at the Retail Sub-Group. Feedback from the group membership is provided in Section 20 of this submission.
5. There are no immediate instructions to advance this issue for retail, unlike for transport but it is recognised that if transport adopts this policy other sectors including retail may follow. Consideration for wider workplaces would also be appropriate.

Policy requirements

If the introduction of mandatory face coverings is to proceed we would seek the following measures (based on material from draft transport provisions).

6. We would seek measures, for a period of time at the discretion of ministers, to ensure that staff and the general public wear face coverings in retail environments.
7. The purpose of the face covering is to supplement not replace the physical distancing and hand hygiene measures in place to protect the public from the transmission of the coronavirus.
8. We would be seeking provision that face coverings must be worn in shops, branches and salons when they re-open, this measure extends to non-food retail including shops, department stores, shopping centres, indoor markets, and salons such as hairdressers and beauticians, but does not extend to private healthcare services such as dentists, physiotherapists, etc. that would fall under separate policy provision as would supermarkets and food based retail.
9. We would be seeking provisions that exclude certain classes of people from the requirement of wearing of a face covering, for example:
 - Children under a certain age or any person who suffers from a permanent or temporary ailment which causes difficulties in breathing and for whom a face covering would prove problematic. [In Scotland under the health regulations, fixed penalty notices can't be issued to under 18 years]
 - Where health and safety advice over-rides the imperative to wear a face covering.

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10. We are seeking provisions that would require staff to remove their face coverings in response to members of the public who request information and who may have a hearing impairment or lip read and for age related sales.
11. We wish the chosen measure to define the nature of the face covering i.e. that it must be made of breathable fabric. We do not want a particular type or standard of face covering to be mandated, there may be discrimination and equalities issues if certain individuals could not afford to purchase coverings of the prescribed type or standard. We want to ensure that we enable the wearing of traditional or home-made face coverings as well as any other item of clothing, such as wearing a scarf provided that it covers the area of the face as defined below.

Legal and Enforcement Considerations

12. Scottish Government Legal Directorate have been consulted on this proposal and have provided advice below.
13. [Redacted]

Discussion

14. A recommendation from the World Health Organisation where the purpose of mask use is to preventing the infected wearer transmitting the virus to others (that is, source control) and/or to offer protection to the healthy wearer against infection (that is, prevention) includes where there is close contact with the public e.g., cashiers; and settings in which the population are unable to keep a physical distance of at least 1 metre (3.3 feet) (e.g. public transportation).
15. We have published guidelines to ensure that health and safety measures limiting close contact are applied in the retail environment and face mask wearing is advised for customers via the customer guidance.
16. Feedback from trade unions represented in the ministerial retail subgroup was that unless there is a strong health directive they would not support mandatory face coverings in retail environments due to primarily the likely increased levels of abuse that shop workers would face in enforcing this.
17. [Redacted]

Recommendation

The advice provides an overview of the issues that need to be considered in whether you wish to pursue a policy instruction to mandate the wearing of mandatory face coverings in retail environments. **You are invited to advise whether you wish to proceed with further consultation with Police Scotland, trade unions and Local Authorities in order to progress with a policy instruction for mandatory face coverings in retail environments.**

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From: [SG officials names - redacted - s38(1)(b)] **On Behalf Of** Minister for Business, Fair Work and Skills

Sent: 08 June 2020 09:29

To: First Minister; Cabinet Secretary for Transport, Infrastructure and Connectivity;

Cc: Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; Minister for Business, Fair Work and Skills; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Transport Scotland Directors; Chief Executive Transport Scotland; Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Fair Work and Culture; Leitch J (Jason); Transport Scotland Media; Transport Scotland Legal Advisers; Cabinet Secretary for Health and Sport; Minister for Energy, Connectivity and the Islands; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley) (Covid-19); First Minister Covid Briefing Unit [SG junior officials names - redacted - s38(1)(b)]

Subject: RE: UKG - Face coverings on public transport - Change of Policy

Thanks [SG officials names - redacted - s38(1)(b)]

[Redacted]

[SG officials names - redacted - s38(1)(b)]

Private Secretary

Minister for Business, Fair Work and Skills

The Scottish Government

Edinburgh

[Redacted]

From: Liz Lloyd **On Behalf Of** First Minister

Sent: 04 June 2020 15:40

To: Cabinet Secretary for Transport, Infrastructure and Connectivity

Cc: Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; Minister for Business, Fair Work and Skills; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); First Minister; Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Greig S (Stuart); Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Fair Work and Culture; First Minister; Leitch J (Jason); Transport Scotland Media; Transport Scotland Legal Advisers [SG officials names - redacted - s38(1)(b)]

Subject: RE: UKG - Face coverings on public transport - Change of Policy

[SG officials names - redacted - s38(1)(b)]

[Redacted]

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Many thanks

[SG officials names - redacted - s38(1)(b)]

PS/First Minister

[Redacted]

From: [SG officials names - redacted - s38(1)(b)]

Sent: 04 June 2020 15:28

To: Cabinet Secretary for Transport, Infrastructure and Connectivity

Cc: Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; Minister for Business, Fair Work and Skills; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); Reid A (Adam); First Minister; Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Greig S (Stuart); Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Fair Work and Culture; First Minister; Leitch J (Jason); Transport Scotland Media; Transport Scotland Legal Advisers [SG officials names - redacted - s38(1)(b)]

Subject: RE: UKG - Face coverings on public transport - Change of Policy

[SG officials names - redacted - s38(1)(b)]

[Redacted – Out of Scope].

We have commissioned colleagues in SGLD to provide high level option analysis for tomorrow. [Redacted – Out of Scope] That information together with practical considerations on enforcement will inform initial advice for tomorrow afternoon.

[SG officials names - redacted - s38(1)(b)]

Head of Rail Policy

I am working remotely and can be contacted by email and mobile 'phone.

[Redacted]

Document 6 – FSB – 23rd June

From: [Redacted]

Sent: 23 June 2020 14:07

To: [Redacted]

Subject: face coverings

Hi [Redacted]

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There is some concern that I can detect from small businesses about this and the impact it might have on small shops. Particularly, I'm not sure all small shops would be able to get their hands on masks by Monday and we absolutely don't want anything stopping those shops – who are otherwise prepared – from opening on the 29th.

That said, our preference would be to keep the mandatory option in reserve at the moment and try other options first.

I'm also concerned about the knock-on implications for retail staff if customers have to wear masks. All of the underlying thrust of advice on PPE to businesses has been that employees would only wear PPE in circumstances where they previously did this, or, where there was no other way to keep 2m distancing during business activity.

[Redacted – Out of Scope]

[Redacted]

[Redacted]

[Redacted]

Federation of Small Businesses

[Redacted]

Document 7 – Minister/Retail Consortium call note – 23rd June

From: [SG officials names - redacted - s38(1)(b)]

Sent: 23 June 2020 16:33

To: First Minister; Minister for Business, Fair Work and Skills

Cc: Cabinet Secretary for Economy, Fair Work and Culture; Pathirana S (Stephen) (Dr); Munro D (Dominic) [SG officials names - redacted - s38(1)(b)]

Subject: Note of Meeting with Minister for Business, Fair Work and Skills and Scottish Retail Consortium - Face Coverings

First Minister, Minister,

Please see a note of the call between Mr Hepburn and [Redacted] of the Scottish Retail Consortium at 16:00 today to discuss the possibility of mandatory face coverings. Key points are:

- Mr Hepburn set out the position of Scottish Government and the need to ensure we are balancing the concerns of unions and industry that there may be conflicts with customers with the health need to encourage the wearing of face coverings.
- SRC will work with the Scottish Government to encourage their members to have better signage and communications to strengthen the need to wear face coverings.
- [Redacted]

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- [Redacted]
- [Redacted]
- They have developed a five point considerate shopping campaign and will amend to strengthen messaging on face coverings if asked.
- [Redacted]
- SRC would like advance notice of any statement that the First Minister may make on this issue to prepare responses and media lines.

I hope this has captured the points adequately.

Regards

[SG officials names - redacted - s38(1)(b)] | **Head of Capital Investment Policy | Investment Team | Directorate for International Trade & Investment | Scottish Government**

Document 8 – Advice to Ministers, Mandatory face coverings in Retail – 1 July 2020

From: [SG officials names - redacted - s38(1)(b)] **On Behalf Of** First Minister

Sent: 02 July 2020 08:52

To: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills [SG officials names - redacted - s38(1)(b)]

Cc: Cabinet Secretary for Economy, Fair Work and Culture; Cabinet Secretary for Health and Sport; Cabinet Secretary for Justice; Minister for Business, Fair Work and Skills; Cabinet Secretary for Transport, Infrastructure and Connectivity; Quinlan K (Kevin); Pathirana S (Stephen) (Dr); McAllan M (Mary); Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); >; Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWES Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Leitch J (Jason); Transport Scotland Legal Advisers; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley); First Minister Covid Briefing Unit; Burgess WG (George); Ogle G (Geoff); Davidson JB (John) [SG officials names - redacted - s38(1)(b)]

Subject: RE: IMMEDIATE - Advice to Ministers - Mandatory Face Covering - Retail - 6 PM 1 JULY 2020 [SG junior officials names - redacted - s38(1)(b)]

Morning [SG officials names - redacted - s38(1)(b)]

Apologies for the delay.

The First Minister is content. This is to be from 10 July 2020, Phase 3.

Kind regards

[SG officials names - redacted - s38(1)(b)]

Deputy Private Secretary

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Private Office to the First Minister
[Redacted]

From: [SG officials names - redacted - s38(1)(b)]

Sent: 01 July 2020 16:00

To: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills [SG officials names - redacted - s38(1)(b)]

Cc: Cabinet Secretary for Economy, Fair Work and Culture; Cabinet Secretary for Health and Sport; Cabinet Secretary for Justice; Minister for Business, Fair Work and Skills; Cabinet Secretary for Transport, Infrastructure and Connectivity; Quinlan K (Kevin); Pathirana S (Stephen) (Dr); McAllan M (Mary); Chief Medical Officer; Deputy First Minister and Cabinet Secretary for Education and Skills; Chief Scientific Adviser for Scotland; Permanent Secretary; DG Economy; Munro D (Dominic); SG CoronaVirus; Economy Covid-19 Hub; covid-19 Policy; Communications Covid-19; Communications Economy; Gray G (Gavin); >; Reid A (Adam); Economy COVID-19 Hub Communications; SGLD Covid-19 enquiries; DL SpAds Finance and Economy; SGLD Public Health Branch; DFWS Keyworkers; Kleinberg D (Daniel); Cabinet Secretariat inbox; Reeve W (Bill); Transport Scotland Directors; Chief Executive Transport Scotland; Leitch J (Jason); Transport Scotland Legal Advisers; Legal Secretariat to the Lord Advocate; Solicitor to the Scottish Government; Drought A (Andrew); Sheppard L (Lesley); First Minister Covid Briefing Unit; Burgess WG (George); Ogle G (Geoff); Davidson JB (John) [SG officials names - redacted - s38(1)(b)]

Subject: IMMEDIATE - Advice to Ministers - Mandatory Face Covering - Retail - 6 PM 1 JULY 2020

Importance: High

First Minister, Deputy First Minister,

Advice on Mandatory Face Coverings in Retail

Background

Officials have been asked to prepare for the introduction of mandatory face coverings in retail settings. As drafted staff would be required to wear face coverings if it is not possible to physically distance or use alternative measures such as Perspex screens.

Recommendation

The introduction of mandatory face coverings is legally feasible. However, **we would strongly advise** that the timing of doing so is aligned with other significant moves through the route map to make the change consistent across sectors; and crucially, communicable and enforceable.

Summary

The decision on whether and when to bring in mandatory face coverings needs to consider a number of intersecting interests:

- **Legal feasibility:** Following the submission of 18 June 2020, SGLD officials have been preparing legislation so that is possible to move to mandatory face coverings on Friday 3 July.
- **Health advice:** health policy position is that they should be brought in for staff and customers, based on the health rationale.
- **Stakeholder reaction:** **all stakeholders** have expressed strong concerns. This includes the willingness of customers to comply, the real risk of putting staff at risk of aggression if they are in a position of

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needing to enforce the measure, the comfort of wearing face coverings for a full 8 hour shift, specific exemptions required for food prep, and the time required to prepare staff and sites.

- **Enforceability:** Beyond the immediate challenges of enforcing new requirements in phase 2, Police Scotland anticipate further cumulative challenges if similar requirements follow in phase 3 in a wider range of settings including indoor public spaces, licensed premises and the hospitality sector, where the need for face coverings and the consumption of food and drink may present new complexities
- **Consistency with other changes and sectors:** the staggered start dates for opening parts of the economy and services again means we are at risk of creating inconsistencies between sectors, e.g. allowing outdoor hospitality at reduced distance and with limited use of face coverings while consuming food and drink, but not hair dressers or public transport. This unevenness could be exacerbated by some of the exemptions under consideration.
- **Messaging and communication:** With the increasing complexity of the gradual opening, there is a greater chance of compliance if we are able to align mandatory face coverings with the wider route map and the review on physical distancing next week. There is a real risk of confusing the public and business if issues such as enforcement remain unresolved; and there is no clear messaging on the reasons for bringing in this measure at this point in time.

Whilst it is possible to bring in the regulatory change as soon as 3 July, there are very significant down sides in doing so. If we get the communication wrong, or inconsistent, or are even perceived to be doing so, we will undermine the moral authority on which compliance rests, as we have seen in other parts of the UK already. This will also be the case if we bring in the changes and are then unable to enforce them either through business compliance or police.

We would therefore strongly advice that a change to mandatory face coverings, should you wish to bring it into force, is aligned with a wider change in the regulations and a transition in the route map. This would allow clear messaging around greater caution being required precisely because more activity is resuming; and allow police and business to prepare for implementation. These changes are planned for next week.

Ministers are asked if they wish to proceed with making face coverings mandatory, and if so which possible regulatory change date they would wish this to go forward at.

If the First Minister does wish to proceed with the move to have this measure enacted on Friday or Monday, officials require Ministerial approval to proceed by 6 pm today.

Full stakeholder commentary

Further Commentary from Police Scotland:

- [Redacted]
- Beyond the immediate challenges of enforcing new requirements in phase 2, Police Scotland anticipate further challenges if similar requirements follow in phase 3 in a wider range of settings including indoor public spaces, licensed premises and the hospitality sector, where the need for face coverings and the consumption of food and drink may present new complexities. – Potentially F&F
- [Redacted]

Further commentary from Retail Subgroup

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- **Scottish Grocers Federation** – members are concerned in general about moves to make FC mandatory, key concerns include:
 - It would be physically uncomfortable for staff to wear FC for the full duration of a shift (8 hours typically).
 - How to identify customers in relation to age verified products.
- **USDAW** – Key Concerns include
 - Who would be policing the mandatory use of FC in retail
 - Echoes SGF point about age verified products – this would be a “flash point” in which a retail worker would be vulnerable to abuse as they “police” the guidance on FC and ask customers to remove their FC to be identified.
- **GMB** – Staff members believe that FC should be mandatory, management are very reluctant to implement FC. Key concerns include:
 - Policing customers on FC and more generally the measures in the guidance, is creates “flash points” in which retail workers become vulnerable to abuse.
 - GMB poll indicates that staff members are overwhelmingly feeling that abuse as a result of these “flash points” has exponentially increased as they have had to police the guidance.
 - Echoes SGF comments on physical discomfort of retail workers.
- **Health and Safety Executive**– Key concerns:
 - Still no solid evidence to suggest that FC are an effective measure – emphasises the need to follow hygiene measures.
- **Small Business Federation** – Key concerns:
 - Concerned about clarify of advice and the business impacts of having to plan for new and mandatory regulations.
 - Staff having to police advice.
 - Businesses are worried that passing trade will be impacted – from potential customers not having a mask.
 - Businesses will get caught between public pressure and official guidance. Advice on this matter should be clear in relation to its applicability – surely it would apply to hospitality and other similar situations.
- **Scottish Retail Consortium** – current polls show 60% of respondents are wearing masks or intend to
 - key concerns:
 - Does not believe that entering a shop poses the same risk as sitting on public transport. – **F&F**
 - A number of logistical issues in implementing mandatory FC: staff training, cost of supplying masks etc. does the health requirement really merit the additional adjustment and cost to businesses.
 - Staff having to police advice.
 - Clarity in terms of who must wear a FC – would it have to be staff or could it just be customers.

Many thanks

[SG officials names - redacted - s38(1)(b)] | **Head of Capital Investment Policy | Investment Team | Directorate for International Trade & Investment | Scottish Government**
[Redacted]

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