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Chair
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24 November 2020

Dear Lesley,

Thank you for taking the time to speak with me on 18 November. Our call presented a valuable opportunity for me to understand the key issues facing the sector, and I hope in turn you were able to obtain some clarity and confidence from me about our position on these issues.

I had hoped to be in a position to send you this letter last week but you will appreciate that your questions covered an extensive range of areas so it took a bit longer to pull together. We agreed that I would take away the representations you shared with me and issue a formal response. They covered a range of policies and issues and many overlapped on specific points, so I have organised them into key themes rather than providing individual responses to each question.

I hope these affirm in writing the answers I gave on Wednesday, and provide a measure of reassurance for your members and the wider sector going forward. If you require further detail please do not hesitate to contact either my office or my officials with whom you are already helpfully engaged.

Thank you for continuing to engage on this issue – your involvement helps to ensure that our intentions are understood more broadly by practitioners, and that in turn we better understand the day-to-day impacts of these policies on practitioners.

CLOSE CONTACT POLICY

On the availability of figures and data around transmission rates in close contact settings; Public Health Scotland present [a weekly release on COVID-19 data](#) across Scotland, including cases in events and settings.

It is important to note that due to the way the data is collated, there may be some overlap between settings; while a case mentions that they have been at a particular venue or gathering event this does not necessarily imply that they acquired infection at that location.

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The analysis is designed for contact tracing purposes and not for identifying where transmission took place.

So, while these figures do not demonstrate that the infection was acquired in each of these settings, they do demonstrate the types of settings the individuals may have been in while potentially infectious themselves. With that in mind, I would draw your attention to the Events & Settings table where *Personal Care* – clients of nail salons, barbers, hairdresser etc – is broadly equivalent to close contact settings.

Events and Activities (week ending 15 November)	
Events	Cases
Shopping	2174
Personal Care	1038
Eating Out	942
Exercising	490
Visiting a health or social care setting	472

On the distinction between barbering/hairdressing and other close contact services, and the different levels in which each can operate; There is a risk in providing all services that are delivered within a 2 metre proximity and that risk is greater when those services are delivered face to face.

Health Protection Scotland's [guidance on non-health care settings states](#) that one of the routes by which COVID-19 can be spread is directly from close contact with an infected person (within 2 metres) where respiratory secretions can enter the eyes, mouth, nose or airways. Mobile beauty services, even those performed from the side or rear, are delivered in the areas where respiratory secretions occur, which means an increased risk for those delivering those services.

The other route by which COVID-19 can be delivered is indirectly - by touching a surface, object or the hand of an infected person that has been contaminated with respiratory secretions and then touching own mouth, nose or eyes. Mobile services by their very nature involve moving from house to house to deliver services which brings with it adds additional risks to practitioners and clients of transmission by touching potentially contaminated surfaces or objects in multiple locations. The accumulation of risk through both direct and indirect transmission is therefore greater for those delivering mobile beauty services.

FACE COVERINGS

On the rationale & scientific basis for legislating to make face coverings mandatory, and not permitting their removal for certain treatments; face coverings are a mitigating measure which predominantly protect those around the wearer if that person is asymptomatic or pre-symptomatic. Removing a face covering exposes those around the wearer to the risk of droplet and aerosol transmission, a risk which is enhanced in close contact settings due to the proximity between the practitioners and customer/client. Any removal of face-coverings, however brief, heightens that risk of transmission.

We have initiated a review of this policy in close contact settings to ensure it is suitable, proportionate and reflects the current public health advice. That review is underway and we will receive additional advice in due course. As I mentioned during our call I would expect

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given the current context, it is unlikely that the position will be significantly changed in the immediate future, but we will await further advice.

SUPPORT FOR BUSINESSES

You raise a number of points about the current availability and accessibility of financial support. The Strategic Framework Business Fund offers grants for businesses required to close by law, and grants for those businesses that remain open but are specifically required to modify their operations by law.

The temporary closure grant is available for business required to close by law offering:

- £2,000 for business with a rateable value of up to and including £51,000
- £3,000 for business with a rateable value of £51,001 or above

The business restrictions grant is available for businesses specifically required to modify their operations by protective measures, as specified by law, offering:

- £1,400 for business with a rateable value of up to and including £51,000
- £2,100 for business with a rateable value of £51,001 or above

Eligibility will depend on the level of restrictions which are in place at any point in time in the location of the business premises. These grants cover a four week period, payable in arrears. Financial support will continue to be made available as levels are reviewed. Businesses do not have to reapply if restrictions extend beyond four weeks and businesses which are subject to a shorter period of restrictions can also apply.

More information about Strategic Framework Business Fund is published on [the Scottish Government website](#), including the types businesses eligible at each level. Local authorities are delivering these grants on behalf of Scottish Government, and applications can be made via individual local authority websites.

I would like to address some of the specific points you raise. First, that some businesses do not pay rates directly & do so via a landlord, and are therefore ineligible for support. I can confirm that this is addressed in the eligibility criteria.

You also ask whether the legal requirement to wear face-coverings constitutes a *business restriction* for the purposes of this grant, and therefore makes close contact services (which cannot provide the suite of treatments they normally would as a result) eligible for funding.

In this case a business restriction refers to the imposition of specific conditions on a business in higher levels – such as limitations on alcohol, food service, or opening hours – rather than general limitations faced by a majority of businesses like the requirement to wear a face-covering. While I do acknowledge that this requirement creates unique challenges for your sector, the business restrictions fund is not currently designed to address that issue.

Your members will be aware that the UK Government's Self Employed Income Support (SEISS) grant has been extended for a further six months. It is available to self-employed individuals who were eligible for previous funding under the scheme, although they do not need to have claimed the previous grants. Applicants must declare that they are actively continuing to trade, but are facing reduced demand due to COVID-19 or were previously trading but are temporarily unable to do so due to Coronavirus.

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We acknowledge that many businesses may be facing difficulty as a result of COVID-19 or as a result of measures designed to inhibit its spread, but may not meet the criteria of the Strategic Framework Business Fund or other Scottish or UK Government support. Many may be self-employed but not eligible for SEISS; some will not work from a premises; but all are unequivocally facing difficulties as a result of the pandemic.

As such, we announced last week an additional £45 million in funding to local authorities to support businesses impacted by COVID-19. This includes £15 million for newly self-employed people who are not able to access other forms of financial support, and £30 million of discretionary funding to enable local authorities to provide additional support for businesses where they consider it to be necessary or justified.

Ultimately, our intention is to make this suite of support as comprehensive as possible, and ensure that nobody falls between the gaps or is left behind.

We are working with local authorities to develop these funds which are not yet open for applications, and further details on eligibility will be announced shortly. We are also working with businesses and representative organisations, like yours, to better understand the challenges facing certain businesses and to investigate how they might realistically be supported in future if they have not received assistance to date.

I appreciate that your members will be eager to learn more about incoming support and whether they will be able to access it as soon as possible, so I would encourage them to monitor the [Scottish Government website](#) for updates, news, and announcements.

OTHER SUPPORT

You raised specific issues about access to support associated with self-isolation, particularly around children or family members who have been told to self-isolate while other members of the household have not. We appreciate that being asked to self-isolate may cause financial difficulties and have introduced the Self Isolation Support Grant so that complying with advice to self-isolate does not become a choice between your health and your financial stability.

The £500 is available to workers on low income and in receipt of benefits who are asked to self-isolate following contact from Test and Protect. It is administered by Local Authorities and open for applications from 12 October for anyone required to self-isolate from 28 September 2020 onwards.

We are continuing to monitor this grant and will review its effectiveness in helping encourage people to self-isolate when required. Let me assure you that the situation you described about self-isolating families & eligibility for support will feed into and inform this work.

In the meantime, if members of a household are not eligible for a self-isolation support grant but are on low income and experiencing financial difficulty as a result of self-isolating, you may still be able to get a [Crisis Grant](#) through the Scottish Welfare Fund.

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PROPERTY, RENT & TAX

You raised the issue of individuals who have signed personal guarantees on their lease and as a consequence, are facing difficulty exiting or renegotiating that arrangement to pursue other opportunities.

I regret that we have no locus to intervene in a commercial agreement between private parties, and at this stage the matter is a legal one rather than a policy one. Professional advice on this issue, including on the specifics of the situation your member described, could be sought through engaging their member's own solicitor. A list of solicitors can be found at <https://www.lawscot.org.uk/find-a-solicitor/>.

A Chartered Surveyor could assist in advising and possibly renegotiating the terms of the lease where appropriate. A list of surveyors is available on the Royal Institution of Chartered Surveyors website www.ricsfirms.com/. Although not necessarily the best option, your member could also consider sub-letting the property or assigning their interest following advice from their solicitor and/or surveyor which would mitigate any potential loss.

In broader terms, the Scottish Government has brought forward legislation in the form of the Coronavirus (Scotland) Act which has lengthened the period of protection from eviction of tenants for non-payment of rent from 14 days to 14 weeks. As a result of this landlords will not be able to seek repossession of a rented property for 14 weeks, so effectively the rent can be deferred for this period. This measure has recently been extended until at least 31 March 2021.

The Code of Practice for Commercial Property Relationships during the Covid-19 pandemic which can be found at <https://www.gov.uk/government/publications/code-of-practice-for-the-commercial-property-sector>. This is applicable in Scotland as well as the UK as a whole and has been widely welcomed by the property sector from both the landlord's and tenant's perspective. Following the guidance in the Code, many landlords and tenants have come to, or are coming to, mutually beneficial agreements to vary the terms of their leases through; rental holidays, deferments, reductions or restructuring.

You also raised the possibility of a VAT reduction for the beauty sector. I can confirm that VAT is reserved to the UK Parliament and the Scottish Government has no power to make changes in this area.

SKILLS

On the opportunities for retraining and skills; we have introduced a new [National Transition Training Fund](#), a proactive mechanism to support people facing redundancy and unemployment in sectors most exposed to a downturn following COVID-19. The Fund is open to anyone aged 25 or over who is unemployed, economically inactive or at risk of unemployment due to the impact of COVID-19.

On 5 November we launched the [Young Person's Guarantee](#) for those aged 16-24. This sets out our ambition that within two years, every person aged between 16 and 24 will have the opportunity, depending on their circumstances, to study; take up an apprenticeship, job or work experience; or participate in formal volunteering.

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The [Individual Training Accounts \(ITA\) Scheme](#) reopened to new applicants on 1 July 2020 to support those who have been affected by the wider impacts of COVID-19 on our economy. The scheme has for many years supported individuals who are unemployed or on low incomes, to train in a number of curriculum areas to improve prospects of gaining employment or progressing in employment. We remain committed to delivering flexible training opportunities that meet the needs of employers and individuals.

I acknowledge your point that some of your members may already have accessed this scheme to retrain, but can confirm that the funding of up to £200 is accessible once per year.

LEVEL 4 RESTRICTIONS

Time & Date

We currently expect the Level 4 restrictions, announced by the First Minister on Tuesday 17 November and which came into effect at 18:00 hours on Friday 20 November, to be lifted by 18:00 on Friday 11 December, however this is subject to formal confirmation.

Film & Television

You asked about the film and television activities in Level 4 areas, specifically in their connection with hair, beauty, and other close contact services attached to a production.

We have taken steps to ensure the continuation of film and TV production in a way that puts people's health and safety first while enabling activity to continue safely. The Cabinet Secretary for the Economy, Fair Work and Culture wrote to Screen Scotland, the dedicated public sector agency for the film and television industry in Scotland, on 29 October to confirm that there will be no restrictions preventing film and TV productions continuing to work through all levels of the Strategic Framework as long as the relevant Scottish Government and industry COVID-safe guidance is applied.

All film productions shooting in the UK during this time must adhere to the British Film Commission guidance - this guidance includes a section on Hair and Make-up (Section 22) and the Scottish Government has published supplementary information for Scotland to make clear any Scotland-specific requirements for film and TV production. You can [view the guidance online](#).

Close Contact & Essential Retail

You raised the issue of essential and non-essential workers. It is worth noting that the guidance and legislation does not talk in terms of *workers*, but about the business in which they work – i.e. an essential business.

You will also note that in pages 61 & 62 of Scotland's [Strategic Framework](#), "shopping/retail" – which refers to essential business - and "close contact services" are separate entries, and that close contact services generally are required to close in Level 4.

I can confirm that close contact services [as listed in the guidance](#), including but not limited to massage therapists, aromatherapists and sports massage therapists (except massage therapy for professional sportspeople) are among those services which must close at Level

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4. This is partly because of the enhanced risk of transmission accompanying services which require close proximity or physical contact between practitioners and clients/customers.

Travel

We have published [guidance on travel](#) which I would encourage you to refer to, but in general terms; travel into or out of a Level 3 or 4 local authority is not permitted without a reasonable excuse.

One such reasonable excuse is to travel for work, however this must be compatible with other restrictions – i.e. even if a person is in general permitted to travel to another levelled area for work, the work itself must be permitted in that level.

For example, if a practitioner resides in a Level 4 area (where close contact services are not permitted) but works in a salon in a Level 3 area (where close contact services are permitted) they are allowed to travel to their work. The reverse would not be permitted.

Education & training

You asked whether training/education for close contact services could proceed in Level 4 areas. These training scenarios can be delivered in a variety of venues in a variety of different ways – as such we cannot provide you with a definitive answer, as the appropriate action in each case will depend on a number of interrelated factors. While we can advise you of the different guidance applicable in different circumstances, it is up to the provider to determine which of them apply.

The general principle, though, is that close contact services are not permitted in Level 4. If the close contact training includes practical application of those services – for example apprentice hairdressing, trainee application of beauty treatments etc... then it should not be carried out. Theoretical or other forms of instruction can in general continue provided the premises they are carried out from are allowed to remain open in Level 4.

Premises which provide a close contact service are required to close in Level 4 areas. If the training occurs in a further or higher education institution, providers should refer to the [college and university sectoral guidance](#), which sets out the requirements and considerations for delivery of education and training in formal and non-formal training environments; if it is intended to take place in another business premises, providers should refer to the list of [businesses which can remain open in Level 4](#) (under the sub-heading *The Shopping Experience*) to understand whether that premises is permitted to remain open for any purpose during Level 4. If delivery is planned in a hotel or other privately hired space the relevant sector guidance set out in the [Coronavirus \(COVID-19\): Tourism and Hospitality Sector Guidance](#) should be considered.

Risk assessments should be carried out in advance of any delivery, in respect of both the venue and delivery or training itself, with all action taken to ensure safe delivery of the training. In addition [The Health and Safety Executive's short guide](#) on working safely during the coronavirus outbreak should be factored into any decision on delivery.

Regulated Clinics

You asked about the situation with Healthcare Improvement Scotland/Independent Healthcare Services in Level 4 areas. On 10 November the Scottish Government's National

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Clinical Director and Chief Dental Officer wrote to the independent clinics regulated by Healthcare Improvement Scotland, providing guidance on Scotland's Covid-19 Strategic Framework. The letter is available on HIS's [Information for Providers](#) page.

The letter sets out, amongst other things, that in Level 4 the focus of care provided by independent clinics should be restricted to essential or urgent treatment of clinically diagnosed conditions where no treatment would have a significant adverse impact on the wellbeing of the patient; and that no aesthetic procedures or elective treatments should be undertaken in Level 4 areas.

I hope the information in this letter is of use to you and your members. I recognise the importance of clarity in helping practitioners to operate safely, and for them to confidently open and close and we move forward under the Strategic Framework.

Please be reassured that I acknowledge this sector is central to the livelihoods and wellbeing of many people, and that these issues are having a direct impact. We will continue to make representations to the UK Government about the impact of COVID-19, the gaps in the current measures, and the need to ensure continued, targeted support for those in need going forward.



JAMIE HEPBURN

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