

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS,  
RESTRICTIONS) (SELF-ISOLATION) (ENGLAND)  
REGULATIONS 2020

HEALTH PROTECTION (CORONAVIRUS,  
RESTRICTIONS) (NORTH OF ENGLAND, NORTH  
EAST AND NORTH WEST OF ENGLAND AND  
OBLIGATIONS OF UNDERTAKINGS (ENGLAND)  
ETC.) (AMENDMENT) REGULATIONS 2020

*Monday 19 October 2020*

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Friday 23 October 2020**

© Parliamentary Copyright House of Commons 2020

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

**The Committee consisted of the following Members:**

*Chair:* YVONNE FOVARGUE

† Afolami, Bim ( <i>Hitchin and Harpenden</i> ) (Con)	Morris, Grahame ( <i>Easington</i> ) (Lab)
† Ansell, Caroline ( <i>Eastbourne</i> ) (Con)	Nichols, Charlotte ( <i>Warrington North</i> ) (Lab)
† Carter, Andy ( <i>Warrington South</i> ) (Con)	† Richards, Nicola ( <i>West Bromwich East</i> ) (Con)
† Henry, Darren ( <i>Broxtowe</i> ) (Con)	† Throup, Maggie ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
Hopkins, Rachel ( <i>Luton South</i> ) (Lab)	† Trott, Laura ( <i>Sevenoaks</i> ) (Con)
Huq, Dr Rupa ( <i>Ealing Central and Acton</i> ) (Lab)	† Western, Matt ( <i>Warwick and Leamington</i> ) (Lab)
† Johnson, Gareth ( <i>Dartford</i> ) (Con)	† Whately, Helen ( <i>Minister for Care</i> )
† McKinnell, Catherine ( <i>Newcastle upon Tyne North</i> ) (Lab)	Liam Laurence Smyth, <i>Committee Clerk</i>
† Madders, Justin ( <i>Ellesmere Port and Neston</i> ) (Lab)	† <b>attended the Committee</b>
† Mann, Scott ( <i>North Cornwall</i> ) (Con)	

The following also attended, pursuant to Standing Order No. 118(2):

Harper, Mr Mark (*Forest of Dean*) (Con)

## Fourth Delegated Legislation Committee

Monday 19 October 2020

[YVONNE FOVARGUE *in the Chair*]

### Health Protection (Coronavirus Restrictions) (Self-Isolation) (England) Regulations 2020

4.30 pm

**The Chair:** Before we begin the debate, I would like to remind Members about social distancing; the spaces are clearly marked and unmarked spaces should not be occupied. If anyone in the Public Gallery wishes to speak, it would be really helpful if someone in the body of the Committee swapped places with them so that they can speak to a microphone. Also, *Hansard* colleagues would be grateful for any speaking notes to be sent to [Hansardnotes@parliament.uk](mailto:Hansardnotes@parliament.uk).

4.31 pm

**The Minister for Care (Helen Whately):** I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (Self-isolation) (England) Regulations 2020 (S.I. 2020, No. 1045).

**The Chair:** With this it will be convenient to discuss the Health Protection (Coronavirus, Restrictions) (North of England, North East and North West of England and Obligations of Undertakings (England) Etc.) (Amendment) Regulations 2020 (S.I. 2020, No. 1057).

**Helen Whately:** I will briefly explain each statutory instrument in turn.

The regulations on self-isolation, SI 2020, No. 1045, came into force on 28 September 2020. They make it a legal requirement to self-isolate if an individual tests positive for coronavirus, or is contacted by NHS Test and Trace and told to self-isolate. Financial penalties have been introduced for non-compliance with the regulations.

The regulations on the protected areas in the north of England, the north-east and north-west of England, as well as obligations of undertakings, SI 2020, No. 1057, came into force on 22 September 2020. They originally delivered a number of amendments to regulations that have since been replaced by the local covid-19 alert level regulations. Now, only amendments to the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 still continue to apply. Those amendments include inserting a definition of “indoors” to the obligations of undertakings regulations. They also amend the obligations of undertakings regulations to add a requirement on certain businesses to take all reasonable measures not to take bookings that would not be in line with certain gathering limits. The new requirements were originally related to relevant premises in areas covered by the north-east and north-west of England regulations. Those regulations have been revoked and the amendments made by SI 2020, No. 1057 now apply in relation to relevant premises in areas covered by Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.

It has been necessary to maintain the regulations to ensure that the requirements on businesses, as provided under the obligations of undertakings regulations, continue to support the covid-19 response. In particular, they align with and support the new local covid-19 alert level regulations.

Both sets of regulations have been introduced to mitigate the unprecedented impact of the covid-19 pandemic, and I urge the Committee to approve them so that we may continue to use those powers to save lives.

As the amended statutory instrument adds only a definition of “indoors” and a requirement on certain businesses to take all reasonable measures not to take bookings, I will now focus primarily on the regulations on self-isolation. The legal duty to self-isolate is one element of a three-part strategy to increase compliance with self-isolation after a person has been infected by, or exposed to, coronavirus. First, we aim to increase public understanding of the importance of self-isolation to stopping the spread of the virus, and of the circumstances in which individuals must self-isolate. We have put in place a comprehensive media campaign to increase public awareness of NHS Test and Trace, explaining what it is, why it is important and what the public need to do.

Secondly, we are supporting people to comply by providing assistance to those who may have practical difficulties in self-isolating. NHS Test and Trace officials check in with individuals who have tested positive and who are contacts of cases through follow-up phone calls and text messages to reinforce the importance of self-isolation. They also provide advice and ensure that people have access to support that they need. Where a support need is identified, local authorities play a role in encouraging, educating and supporting compliance. In addition, a test and trace support payment has been introduced to help ensure that people on low incomes self-isolate when they test positive or identify as a contact, and to encourage more people to get tested.

Thirdly, we want to reinforce the seriousness of non-compliance. The regulations therefore introduce new legal duties, along with fixed penalty notices, for those who do not follow the rules. Where there is clear evidence that someone is not following the rules, the police will determine what follow-up action to take and, when necessary, issue fixed penalty notices. Fines start at £1,000 and may increase up to £10,000 for repeat offences. For more serious breaches, fines start at £4,000, increasing up to £10,000. Serious breaches may include where an individual comes into close contact with others and is reckless as to the consequences for the health of other people.

**Mr Mark Harper** (Forest of Dean) (Con): I have listened carefully to what my hon. Friend has said about compliance. Does she have any evidence about how well people are actually complying with the self-isolation requirements? At a SAGE meeting in August, the SPI-B—scientific pandemic influenza group on behaviours—sub-committee was given an action to understand and improve adherence to self-isolation. It would be interesting to judge the regulations before us by understanding the extent to which people are or are not complying with the existing rules.

**Helen Whately:** I thank my right hon. Friend for his question, and I will indeed cite the evidence that we have on the level of compliance with self-isolation later.

The regulations also recognise the importance of employers respecting self-isolation requirements. No employer should prevent an employee from self-isolating or encourage or put pressure on them not to do so. Where an employer is found to be in breach of that obligation, they face a fine. That is in line with fines for other employer covid-19 breaches. Employees who need to self-isolate must also inform their employers of their legal requirement to do so, and a fixed fine of £50 is set for employees who do not inform their employer. There is a clear reciprocal duty between employees and employers about self-isolation, which supports both the opportunity and motivation to comply.

We recognise that there may be exceptional circumstances in which an individual may need to break their self-isolation; for instance, if they are unsafe or if emergency assistance is needed. In those cases, the legal duty would not apply and individuals would not face a penalty. The regulations specify the circumstances in which breaking self-isolation would be permitted.

**Catherine McKinnell** (Newcastle upon Tyne North) (Lab): I am aware of situations where employees are very afraid of losing their job if they have to self-isolate. They are not necessarily able to access any sick pay or Government support. What messaging are the Government putting out to employers to make sure that they understand their obligations towards their employees? What can an employee do where they fear that they will lose their job if they do the right thing and self-isolate?

**Helen Whately:** The hon. Lady makes an important point about the role of employers as well as that of employees. Communications have been going out to make sure that people are aware of the importance of self-isolating. I may be able to offer something more specific about the communications to employers when I respond to the debate. There is financial support now in place because we found out from research that the financial impact of self-isolation was one reason that some people failed to do so.

**Matt Western** (Warwick and Leamington) (Lab): I raised in Department for Work and Pensions Question Time just now my concern, which I am sure is shared by many Members, about schools that are forced to close at incredibly short notice. One large school in my constituency announced at 3 o'clock yesterday afternoon that it would be closed from 8.30 this morning. That means that many parents will have to stay at home and stay away from work. That impacts particularly heavily on mothers, sadly. They will not be entitled, currently, to the self-isolation payment. Is that something that the Minister is looking at or will support?

**Helen Whately:** I know that that point has been raised throughout the pandemic, and there will be reasons why parents, for example, will have extra childcare responsibilities. We had that challenge during the full lockdown, when schools were closed other than for the children of key workers, and we know that employers did everything they could to be understanding and support their employees. I will take away the hon. Gentleman's question about whether anything further can be done.

To set out the rationale behind the regulations we are discussing, the headline point is their importance in our overall strategy to combat covid-19. Clearly, the number

of people testing positive has risen sharply and, indeed, is still increasing. That is not only among younger people; worryingly, we are seeing increasing rates among the over-60s, particularly in parts of the country that have higher rates overall. Hand in hand with the increasing number of cases, we are seeing a higher percentage of people testing positive and increasing rates of hospital admission, again particularly in areas where the case rates are highest.

Against that backdrop of increasing rates, we heard that, unfortunately, compliance with the restrictions has not been what it should be. To answer the question from my right hon. Friend the Member for Forest of Dean, general population surveys conducted between March and August showed that self-reported self-isolation compliance was relatively low. For instance, only around 20% of the population reported that they fully complied with self-isolation if they had symptoms or were identified as a contact. That is evidence of the challenge with self-isolation compliance at that time.

**Catherine McKinnell:** The Minister will recognise that there is a difficult balance to strike between encouraging compliance and discouraging engagement with the system—not being tested and not reporting symptoms in order to avoid the consequences of not being able to self-isolate. Have the Government analysed the potentially worrying consequence that increasing the penalties may disincentivise doing the right thing from a health perspective?

**Helen Whately:** The hon. Lady makes a really important point. We would not want to disincentivise anyone from coming forward to get tested or sharing their contacts, because that is such an important part of controlling this virus. On the other hand, if the data shows that compliance is low, which it does, then what actions can we take? First, we ensure that people really know what action they should be taking—that they should get tested, share their contacts and ensure that their contacts know that they should be isolating. Secondly, we provide people with more support to enable them to isolate. Thirdly, we make self-isolation a legal requirement, which communicates both the seriousness of isolating and the fact that if someone does not self-isolate when they test positive or are a contact, they could be putting other people's lives at risk. Ultimately, if something is serious, there is a penalty associated with it. Those three things need to go together, particularly the understanding of the importance of taking the responsible course of action and self-isolating if necessary.

By making self-isolation a legal duty enforced through penalties for non-compliance, our aim is to ensure that people who have tested positive for covid-19 and those who have been directly exposed to the virus recognise the importance of self-isolating in order to reduce transmission and actually do isolate. SAGE has advised that ensuring infected individuals and their close contacts isolate is one of our most powerful tools for controlling the spread of the virus, so now is the time to introduce this measure and to combat the rising incidence.

The regulations were introduced using emergency powers so that we could respond quickly to the increasing threat to public health posed by covid-19. The urgency in this case arises from the increasing rate of diagnosed positive cases at the time of making the measures. The self-isolation SI came into force on 28 September 2020.

[Helen Whately]

It will be reviewed before the end of the six-month period and will expire 12 months after coming fully into force. The Secretary of State for Health and Social Care keeps their necessity under consideration between the formal review points, too.

The regulations demonstrate our willingness to take action where we need to. That said, we are committed to ensure that the measures are only in place for as long as necessary. I therefore commend the regulations to the Committee.

4.47 pm

**Justin Madders** (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Ms Fovargue.

I thank the Minister for her opening remarks. As she noted, today we are debating two SIs. The first numerically, No. 1045, came into force on 28 September, and strengthens the duties on those who are required to self-isolate and increases penalties for non-compliance. The second SI, No. 1057, makes changes to the restrictions on the protected areas throughout the north of England.

In common with the Minister, for the purposes of today's debate I will largely focus on self-isolation issues. But, first, I must refer again to the timing of the introduction of multiple SIs, particularly No. 1057. The Minister will be aware that my colleagues and I have consistently raised concerns about the way in which regulations are introduced. It is the view of the Opposition and of Members on both sides of the House that the regulations are too important not to be debated before they become law, and that full parliamentary scrutiny should be required. It will not have escaped anyone's notice that we saw some progress on that last week when the new regulations on medium, high and very high tiers of restriction were debated in the Chamber before they came into force. After arguing in this room and others along the Corridor week after week for such debate, it would be churlish not to acknowledge the improvement in such scrutiny.

The SIs before us today are back to the old ways and bad habits, I am afraid. Last week, when we debated multiple SIs that related to face covering regulations, I noted that the Secondary Legislation Scrutiny Committee had pointed out that it is not helpful to have the law scattered across so many different SIs. That is exactly the case with regulation No. 1057. Although it has now been superseded, it actually amended four different SIs. That practice adds to the confusion about what is or is not lawful under health protection regulations at any given time. When we are asking people to comply with measures that are needed to protect public health, it is really important that we make that process as helpful as possible.

Because, once again, we are debating regulations several weeks down the line, much of the legislation is already out of date. The accompanying explanatory memorandum is also out of date, having been written before the new three-tier approach was introduced. I found it of little value to my understanding of what is still relevant for the purposes of today's debate. I think the Minister has put me out of my misery by confirming what part of the regulations are still live. Regulation 3, however, which relates to restrictions on indoor gatherings and exceptions to that, has been superseded by the

tiered approach that was introduced last week. I believe that regulation 4 on obligations of venues when taking bookings is still a live requirement.

**Catherine McKinnell:** On the point about clarity, everybody appreciates that this is an unprecedented situation that is difficult to manage, but the Government have to do better at communicating the decisions and changes that affect people's everyday lives, because that is the only way that people will know how to best combat this virus. For example, three different sets of regulations for the north-east have been announced to us in three weeks. I have such admiration for the people of the north-east; they are erring on the side of caution and doing what they think is best. However, it is difficult to understand exactly what the requirements are, because we have the national rule of six, then we had local restrictions and now we have the tiers. I do not want to add to the confusion, but the Government really need to do better if they are to get the best results from any measures put in place.

**Justin Madders:** I thank my hon. Friend for her intervention, which was made in the right spirit for this critical time. It is difficult to understand exactly what is and is not in force at any one time. Our businesses, in the main, want to comply with the law. In fact, they would be foolish not to, given the level of penalty applied for breaking some of these regulations. I talked to some local publicans over the weekend, and they are petrified of asking the wrong question or doing the wrong thing in terms of who they can and cannot let into their pubs and so on. We all have a responsibility to try to explain the rules as best we can, but at the moment we are not assisted by the often confusing manner in which they are set out.

I make one final point on SI No. 1057. Paragraph 6.6 of the explanatory memorandum says of regulation 2:

"There is no practical effect from these changes".

Clearly this was written before it was superseded, but our debating a regulation that apparently has no actual effect makes me wonder whether this is the best use of our time, and whether there needs to be more attempts to try to regularise regulations before they come before us.

I do not make these points to try to catch the Government out, because as I said, we are in broad agreement with the measures being taken. However, I make the point again that, because there is such a bewildering array of regulations, we are not clear what is and is not legal, so how can we expect our constituents to be? This is particularly important given the severe financial penalties and the health issues that the regulations are trying to prevent?

**Catherine McKinnell:** Something occurred to me as my hon. Friend was speaking: it is the way that we are legislating and regulating these activities that results in such confusion. If we follow the normal procedure of announcing an intention and Parliament debating it, we will get that automatic feedback on how the regulations will work in practice, problems will be ironed out and it will be legislated for, and the country will have been briefed directly through Parliament, rather than through the papers. I think that would run much better. If the Government go back to the normal way of doing parliamentary democracy, it might help our response to the pandemic.

**Justin Madders:** My hon. Friend is absolutely right. On many occasions, regulations have been laid—I think of the face-covering ones, for example—and points we have made about inconsistencies in the regulations have then appeared in subsequent regulations, showing the importance of parliamentary scrutiny. Of course I accept that, in a pandemic, things cannot always be done as quickly as possible, but certainly for self-isolation, which been a requirement from the very early days of the pandemic, there is absolutely no need for those regulations to have been introduced at such short notice.

**Matt Western:** To pick up on the point made by my hon. Friend the Member for Newcastle upon Tyne North, this issue is about confusion versus simplicity. Does my hon. Friend favour, as I do, the simplicity and clarity that the Welsh Government are giving, in contrast to the UK Government?

**Justin Madders:** My hon. Friend tempts me to go outside the scope of the regulations. His point about simplicity and clarity of message is vital. In the early days, when there was a clear, national lockdown, it was much easier to convey messages, but issues have become more complicated, and there are a whole range of areas where confusion and uncertainty arises, certainly about the self-isolation regulations. I will be taking the Committee through a number of examples of that.

The self-isolation regulations were laid before Parliament at 5 pm on a Sunday evening and came into force the following day. As we have already said, they contained significant requirements and penalties for individuals and employers alike. I do not think seven hours' notice on a Sunday evening is the reasonable period of warning that we would want to see as the norm if we want people to understand and comply with the laws. It is not as if self-isolation is a recent development. The requirements have been in place for many months now, and with a little more thought and planning, we could have debated those regulations before they came into force. Nothing I have heard from the Minister today persuades me that there was an urgent need for the regulations to be enacted before debate in Committee.

As we heard from the Minister, the regulations strengthen the duties on those who are required to self-isolate, and increase the penalties for non-compliance. Regulation 2 states that adults who have been notified other than through the NHS app that they have tested positive for coronavirus, or have been in close contact with someone who has tested positive, must self-isolate in their home or another suitable place. Those who test positive are required to self-isolate for 10 days and those who live in the same household, or who have been in contact with someone who has tested positive, must self-isolate for 14 days. The regulation also makes it clear that they are responsible for ensuring that any child under the age of 18 in their household self-isolates.

Regulation 2 sets out the details of the people who are authorised to issue notifications regarding the duty to self-isolate, and states that notifications that are withdrawn are treated as never having been issued. It is not clear from the regulations what the process is following withdrawal, or in what circumstances such a withdrawal might take place. Could the Minister set out in more detail how a withdrawal or a proper notification might come about, and what the practical and legal consequences of such notification might be?

Regulation 3 sets out periods for self-isolation, which differ depending on whether a person has tested positive for coronavirus, lives in the same household as a person who has tested positive, or is a close contact of a person outside their household who has tested positive. As we have already said, clear communication is a key weapon in this fight. I will not recount the many confused and mixed messages we have had, but I will raise with the Minister a real and current concern I have with contradictory messages around self-isolation periods.

Regulation 3(3) states that the period of self-isolation begins on the day symptoms show and lasts for 10 days, but a number of my constituents, having had symptoms, have subsequently obtained a test, and have then been told by the Test and Trace system that their period of self-isolation of 10 days begins from the date on which they were contacted by Test and Trace. The official advice is clear, but this notification is causing confusion. Can the Minister take that away and investigate whether anything needs to change in the system and the messages it is putting out?

Can the Minister clarify the circumstances in which regulation 3(3)(a)(i) applies? Regulation 3(4) states:

“(4) The period ends with the final day of a period where regulation 2(1)(a)(ii) or (b)(ii) applies, of 14 days beginning—

(a) where P is living in the same household as the person (“C”) who tested positive for coronavirus—

(i) in a case where C, or R where C is a child, report to a person specified in regulation 2(4) of the date on which symptoms first developed, with whichever is the later of—

(aa) the date five days before the test pursuant to which notification referred to in regulation 2(1) was given”.

I quote that provision word for word because it highlights an issue to do with communicating what we are trying to do. I thought I was clear on when periods of self-isolation started, but the insertion of “five days before the test”

in sub-paragraph (a)(i) makes me want to lie down with a hot towel over my forehead. I am trying to work out exactly what that means. People want to do the right thing, but this kind of language does not make it easy for them. When penalties are applied for not doing it, it is doubly important. We need to make it very clear exactly what the situation is in that part of the regulations.

Regulation 5 deals with the definition of “close contact”, which includes not only face-to-face contact within 1 metre, but

“spending more than 15 minutes within 2 metres of an individual”.

It is not expressly clear whether that applies regardless of whether face coverings are worn, but I would assume it does. I would be grateful if the Minister could confirm that when responding. It also includes

“travelling in a car or other small vehicle with an individual”,

which I presume is meant to exclude most forms of public transport such as buses, but may we have confirmation from the Minister of whether “small vehicle” is meant to cover all personal forms of travel or personal vehicles?

The bit in this regulation that I have more difficulty understanding is the exact remit of the phrase “close proximity” in regulation 5(c) regarding travel on an aeroplane. Is the Minister able to put “close proximity” into a measurable distance for the purposes of communicating this to our constituents?

[Justin Madders]

Regulations 7 to 9 require a worker or agency worker to notify their employer of the requirement to self-isolate as soon as is reasonably possible. In addition, it prohibits employers or agencies from allowing them to work in any place except the place where they are self-isolating, and introduces fines for employers who knowingly breach the regulations. As my hon. Friend the Member for Newcastle upon Tyne North said, there are understandable concerns from individuals who are required to comply with the self-isolation regulations, because what is missing is any kind of extra protection for the employee or worker who might be on the receiving end of detrimental treatment from their employer for self-isolating.

Throughout our legislative landscape, there are protections for individuals in the workplace. There are protections for those raising concerns about breaches of the working time regulations or about health and safety in the workplace, and protections in whistleblowing legislation for those suffering detrimental treatment. However, we do not have any equivalent protection for the employee or worker who is required to self-isolate for any of the reasons set out in these regulations. I do not know whether that is a deliberate or an accidental omission, but it is concerning to me all the same, and it places the individual who is required to self-isolate in a very vulnerable position.

We need to make it as easy as possible for people to self-isolate, and not leave them exposed to detrimental treatment, such as refusal to pay sick pay, if they are entitled to it, or possibly even dismissal. There is nothing in these regulations to stop workers receiving punishment for self-isolating from a particularly unhelpful employer. I have heard concerns from constituents that their period of self-isolation would trigger a sickness absence review, or be used as part of an absence review process that is already under way.

It is quite possible that people will have to self-isolate on multiple occasions, because, say, other members of their household get symptoms or test positive, so I am sure we can all understand the genuine anxieties people have about telling their employer that they have to self-isolate for a second or third time. Why is there nothing in these regulations to give people workplace protections for doing the right thing?

The Government website advice page entitled, “Self-isolating after returning to the UK: your employment rights”—I accept that that is a slightly different situation from the period of self-isolation envisaged within these regulations, but it was the only advice page on the site that I could find on the issue of employment rights and self-isolation—talks about people working from home if they can. That is absolutely the right and obvious thing to do, but I am sure the Minister will appreciate that that option is not available to everyone.

The website goes on to suggest that as an alternative, annual leave could be taken. That raises the very interesting question of whether that advice would apply in this situation. I very much question whether we could call a period during which someone is legally required to remain at home annual leave. I would be grateful if the Minister could state for the record what advice has been given to employers on how they should classify a forced period of self-isolation.

I would like to make it clear that I am not at all comfortable with the idea of employers being able arbitrarily to designate a period of self-isolation as annual leave. There is a tension here with what the working time regulations allow; they state that in the absence of any other agreement, an employer can designate particular periods as annual leave. My question to the Minister is whether there is anything to stop an employer declaring to an employee that, as they will not be available because of self-isolation, they will be classed as being on annual leave.

That also raises the question of whether employers could put pressure on employees to take this period as annual leave, perhaps suggesting to them that if they do not, it will be classed as an unauthorised absence and will go on their employment record. It would be helpful if the Government stated clearly through guidance or regulations that a period of self-isolation should be classed as other leave, and cannot be classed as unauthorised leave, sickness absence, or annual leave that can be counted as part of any annual entitlement, and that it cannot be used in a disciplinary or capability process. If we are to improve compliance, it is important that we have that clearly set out.

**Catherine McKinnell:** There is another aspect. The economy faces a challenging period ahead, and businesses need to make savings. There will be employers who will not necessarily cite self-isolation as the reason why they are dismissing or penalising an employee. Although we cannot legislate for everything that an employer might decide to do, the Government could do a lot more to send the clear message that such behaviour is not acceptable and will be frowned on. It is socially unacceptable for any employer or business to treat any employee detrimentally for doing the right thing in relation to coronavirus. The Government could do much more to set a very clear tone on that front.

**Justin Madders:** My hon. Friend is absolutely right. When I practised employment law, I saw an amazing number of coincidences: when employees raised complaints about or concerns with their employers, other issues would suddenly be raised from out of nowhere, in a pushback against the employee; we are used to that. There is a role for the Government here. There is something we can do to give employees more confidence that they will not face adverse consequences for doing the right thing; that is what we are trying to achieve.

The intention of the regulations, as we know, is to increase compliance. The Minister referred to a study that the Department has undertaken. I presume it is the same one that I have read about in the media, which I believe has been analysed by members of the Scientific Advisory Group for Emergencies. Why did it take so long for that to come out, given that the study began in February? I will go into more detail on the findings of the study. It is reported that people were asked why they did not self-isolate for 14 days. Some of the reasons given included caring for a vulnerable person at 9.9%; going to work at 8.9%; and thinking that they had already had coronavirus and were immune at 10.4%. I hope that with greater public information and engagement, we will see a reduction in those giving the latter reason. The second reason will hopefully be dealt with by the self-isolation payment, but there is nothing I can see in the exceptions in regulation 2(3)(b) that covers the first of those situations.

I note that under the regulations someone can take their parrot to the vet when they are self-isolating, but they cannot provide care for their elderly grandparent. I am not for one minute suggesting that those who are self-isolating should do that. We do not want to risk those who are already vulnerable coming into contact with someone who has to self-isolate, but it is estimated that around one in eight adults, or 6.5 million people, is a carer. Some of those people will be asked to self-isolate, and will be unable to provide care as they would normally. Hopefully they will be able to find others in the family, or friends, to step in, but of course many family members are in the same household, and they might be required to self-isolate as well. There will be some tension when people who are asked to self-isolate have caring responsibilities that cannot be fulfilled. Is a Government strategy being adopted to try to take the pressure away from people in such situations, so that we can make sure that someone can step in and provide the necessary care when a carer is asked to self-isolate?

Perhaps the most concerning finding of the survey was that only 18% of people with symptoms self-isolated. That went down to just 11% among those who were told to self-isolate by Test and Trace. I know those figures have not been peer-reviewed, but this is the best information that we have. Can the Minister confirm whether that is the basis on which the regulations were formed?

As we know, there are questions about entitlement to self-isolation payments being tied to the receipt of universal credit, working tax credit, income-based employment and support allowance, income-based jobseeker's allowance, income support, housing benefit and/or pension credit. Although around 4 million people are potentially covered by that, it is not everyone, and there may be those who are not in receipt of any of those benefits who do not receive any contractual sick pay, and so would be left trying to claim statutory sick pay or employment and support allowance. That is frankly not good enough.

We know SSP is far below the rates set for the self-isolation payment, and the Secretary of State himself famously said that he could not live on that amount. I ask the Minister whether there will be any consideration of whether to relax the restrictions on eligibility for this payment. We are asking those who are not eligible at the moment to take a reduction of 70% or 80% to their pay every fortnight. We are already seeing constituents who are not eligible for any support in significant financial hardship.

As my hon. Friend the Member for Warwick and Leamington mentioned, there is an issue about school children as well. This issue most notably occurs when parents are having to self-isolate to look after children who have developed symptoms or have been sent home on the instructions of the school. I ask the Minister whether there are any plans to look at the dilemma of parents of children who have been sent home from school and are not eligible for any payment.

Regulation 10 deals with enforcement and gives powers to an authorised person, such as a police officer, or a person designated by the Secretary of State to act in support of enforcement. It would enable such a person to direct people to return to the place where they should be self-isolating, and in cases where an authorised person believes that a child is repeatedly failing to comply, they may also direct the person responsible for that child to ensure compliance as far as is possible. It also sets out

that reasonable force may be used to enforce the regulation's requirements if that is necessary, and an authorised person is allowed to exercise power under this regulation only if they have reasonable grounds for believing that it is necessary and proportionate to do so.

Regulation 11 deals with offences under these regulations that are punishable on conviction by fines. Fixed penalty notices are available as an alternative. I will not go through the full list of offences that are created or the level of fines, as other hon. Members wish to speak. Suffice it to say that there is a considerable number in there.

The explanatory memorandum states that these regulations have

“a key role to play in slowing or preventing a rise in the rate of reproduction (R) of Covid-19 and reducing the total number of infected people”.

That is the overarching intention behind most of the regulations that we have been debating in recent weeks. The Secondary Legislation Scrutiny Committee has expressed its surprise that the explanatory memorandum failed to mention that it had been reported that these stronger measures are required as a result of the study that we have discussed, which mentioned low levels of compliance.

The Committee also noted its surprise that the explanatory memorandum did not mention the figure on compliance, or give the Government's estimate of the numbers breaching quarantine, in support of policy changes. As the independent Scientific Pandemic Insights Group on Behaviours reported on 16 September, the rate of self-isolation is very low—less than 20%, based on self-reporting. It is particularly low among the youngest and poorest. It was an oversight for the Government not to mention that in the explanatory memorandum, and not to explain that that was part of the motivation for this regulation, if indeed that is the case.

The Secondary Legislation Scrutiny Committee raised a concern about the potential for discrimination. As we have heard, regulation 2 requires someone to self-isolate where their sample tests positive for coronavirus, or where they have been in close contact with such a person. The exception is when they are notified by the NHS covid-19 smartphone app. That app cost £4 million, was rolled out many months late, and does not operate on phones that are more than five years old—and does not actually require people legally to self-isolate; I am sure that will come as a surprise to the millions of people who have downloaded it. That is about as far away from world-beating as possible.

The Department has confirmed the app has explicitly been designed to protect the anonymity of users, and the legal duty and fines do not apply to people notified through it. Instead, it will just advise the individual to self-isolate. The Department says:

“there is no discriminatory effect: the legal duty to self-isolate applies equally to anyone identified as a contact through standard contact tracing processes, whether or not they also happen to be an app user.”

This does raise questions about inequalities among certain groups, such as the elderly or those on low incomes who may not have the necessary technology to use the app. Although 14 million people have downloaded it, far more have not.

[Justin Madders]

We know that the app is only accessible to those people whose phones have modern software, thereby excluding people who have older phones or no phone at all. Those people are typically poorer and older members of society. These groups are therefore more likely to be required to self-isolate through track and trace than through the app and are subsequently more likely to be in receipt of fines than those with the latest smartphones. The Committee pointed out that this raises concerns regarding the potential for avoidance.

The Government cannot track those who have been informed by the NHS app, creating a potential loophole for those informed by the app to avoid being fined for failing to self-isolate. If the Government do not know people are being contacted through the app, how can they be contacted? Again, there is a flaw in these regulations that there has been no impact assessment or consultation prior to their publication.

Returning to enforcement, the fines are substantial—an enormous sum of money to most people—but they are, of course, dependent on contact tracing working effectively. The most recent statistics show that only two thirds of people who tested positive were even transferred to the contact tracing system, and of those only 68.6% of close contacts were reached. That is a very low figure, almost as poor as when we first started, and it is lower for cases handled either online or by call centres. The overall proportion of people reached has decreased for each of the last three weeks and is similar now to when we first started. If we cannot actually get hold of people, how can we ask them to self-isolate? SAGE has warned that unless the system grows at the same rate as the epidemic and support is given to people to enable them to adhere to self-isolation, the impact of testing, tracing and isolating is likely to decline in future rather than improve, which is very worrying.

It is expected that around 4 million people will qualify for the payment, but as I say, significant numbers will not qualify. On 28 September, I tabled a written question some time ago asking how many applications and approvals have been granted for the self-isolation payment in the first week of its operation. That was a named day question due for response 11 days ago, but I have not had a response yet. Is the Minister able to update us on the uptake of self-isolation payments?

It is not just about the compliance, of course, it is about enforcement. We know that the police have expressed concerns about their ability to enforce all the regulations that have been introduced. I understand that over the weekend a memorandum of understanding was signed with police forces to enable them to access Test and Trace data. I would be grateful if the Minister clarified two points in that respect. Is it the case that until this date the police forces were not able to access the data? Will she comment on the point made by many in the medical profession, that the involvement of police may dissuade people from getting a test in the first place? The Minister said in her opening remarks that it is important not to discourage people from taking part in the system. Could measures be put in place to mitigate those concerns? Police forces have made it clear in relation to the recent introduction of fines for other offences that officers do not have the resources or capacity to

enforce these fines. If the Minister is able to give us a realistic assessment of the resourcing for enforcement of these regulations, I would be most grateful.

I return briefly to authorised persons under regulation 12(12)(c), which gives the Secretary of State broad powers to designate officers for the purposes of these regulations. As I have already mentioned, these officers have the ability to use reasonable force to ensure compliance with the regulations. It is, I think, quite a worrying development that we have unspecified officers able to use reasonable force. Could the Minister set out who, if anyone, has been given that designation by the Secretary of State to carry out these functions, and, if so, what skills, experience, and training do they have in the use of reasonable force?

I would also like some clarity regarding the liability of parents where children fail to comply with the self-isolation regulations. It is set out that the authorised person may direct the person responsible for the child to ensure compliance as far as that is possible, but there is some indication that parents will be found liable, in terms of fixed penalty notices, for the actions of their children. How realistic is it to expect a parent to make a burly 16-year-old stay in the house for two weeks?

With regard to the fines issued so far, new data last week showed that this is a bit of a postcode lottery, with police forces issuing wildly different levels of fines. Some have issued more than 1,000, and others fewer than 100—this is across the spectrum of regulations to deal with coronavirus. Will the Minister comment on what appears to be a postcode lottery when it comes to enforcement of regulations and say whether any steps will be taken to ensure that there is no disparity in their application? I have asked on a number of previous occasions what additional resources will be given to the police to ensure compliance with regulations. Is the disparity partly to do with resources or other priorities, and what can the Government do to address that concern?

**Matt Western:** My hon. Friend is making some incredibly important points, but does he share my concern about hearing just a week or two ago that in Dagenham or Redbridge—I am not sure which area it was, but it was somewhere like that—the local authority was trying to enforce regulations, but was overturned by the Government?

**Justin Madders:** Yes, I did read that with concern. I am not sure whether it has been addressed with the new tier 3, 2 and 1 regulations that were introduced last week. Clearly, we cannot have a situation in which, on the one hand, the Government's message is that the rules have to be applied equally, but on the other hand, authorities that want to take swift enforcement action are prevented from doing so. We have to apply the law consistently and firmly in a situation such as this.

I am nearing the end of my comments and I am aware that other hon. Members wish to speak, but I want to ask about other measures that the Department might introduce to ensure compliance with the rules, particularly given the suggestion that Test and Trace call handlers may now be contacting more regularly people who are self-isolating. Given the shoddy record so far from the likes of Sitel and Serco, I wonder whether it is the right move to divert staff to that, taking them away from their core responsibility of contact tracing. What steps is the Department taking to ensure that Test

and Trace call handlers doing these additional contacts with people who are self-isolating will be able to carry on and have the same capacity to address those needing to be contacted in the system in the first place? Will those additional responsibilities now being put on these private providers result in additional payments being made to them outside their original contract? I do not know whether the Minister will be able to give us an answer on that today, but it is very important that we have some transparency in this area.

We will not be opposing the regulations today. We have long argued for greater support for those who need to self-isolate, but questions remain, particularly about eligibility and enforceability, not to mention many other areas that we have covered during the debate today. I appreciate that I have asked lots of questions. If the Minister cannot deal with them all in her response today, I will be more than happy if she is able to put her answers in writing in due course.

5.24 pm

**Mr Harper:** It is a pleasure to serve under your chairmanship, Ms Fovargue, and to follow the hon. Member for Ellesmere Port and Neston. I am conscious that we have only 36 minutes left, and I want to give the Minister time to answer the hon. Gentleman's questions and also those that I have, so I will ensure that I finish speaking in good time.

First, I have some questions about the regulations. The Minister will know, because I made it clear on the Floor of the House when we were debating other regulations, that I also have some questions about the underpinning policy strategy, which I hope she can deal with.

Yesterday, Lady Harding, who runs NHS Test and Trace, made it clear that the test and trace system is not a silver bullet. I agree. It is not the only part of the Government's strategy, but in the Government's plan to rebuild which they set out in May, that system is a central part of the strategy in phase 2. Yes, it is true that good hygiene practices—hand washing, face coverings, cleaning and social distancing—are all very important, but reducing infected people's social contact absolutely depends on the test and trace system. SAGE has made it very clear that an effective test and trace system can have a significant effect on R—the reproduction rate of the virus—and that that should remain a priority. It has also told us what the goal should be for a test and trace system: that at least 80% of contacts of a positive case have to isolate. That rate is set as the floor not as the ceiling. That is the point of the regulations: to make sure that those contacts isolate.

It gives me no pleasure, but I am afraid that I agree with the hon. Gentleman that the performance of the system is not up to the mark. The latest data show that we contacted only 76.8% of those who tested positive and only 62.6% of contacts. The media keep on reporting the 60% and comparing that with the 80%, but that is not correct. We must remember that we reached only 76.8% of the number of people who tested positive. If we multiply those numbers together, the result actually tells us that in the past week the system only reached 48% of the contacts of those who tested positive. Given that the target is 80%, that is a significant deficit.

My question to the Minister is very simple. What is the plan to get from 48% to 80% quickly? My own view, for what it is worth, is that we should lean more towards

using our fantastic public health teams locally. Unlike the Opposition, ideologically I have no problem with using the private sector. We have people who are skilled in conducting sensitive conversations about diseases and people's contacts. They could get that information. They have a tool that one cannot use from a call centre: if they cannot reach someone on the phone, they can go round and see them. The parts of the country that have used that model have had good results. From talking to my own public health team, I understand that we only have a limited window if we are to give them more resources.

In the tier 3 areas we have broadly accepted that that is a sensible plan, and I believe that we have given sums of money to local authorities in those areas so that they can employ the local teams as the first point of contact tracing. Why limit that to tier 3 areas? Why not follow that practice everywhere and give the resources to the directors of public health? I think that they would do a fantastic job and get the numbers up. That is one of the key tools to keep the virus under control in parts of the country like mine where, fortunately, the infection rate remains very low. I note the presence of one or two other members of the Committee who are also in that fortunate position. In areas where we have had to increase the level of controls, particularly at tier 3, it is vital, once we have driven the virus down, to maintain an effective test and trace system to keep the numbers low, potentially for many months to come. That is incredibly important.

**Matt Western:** Just to echo the right hon. Gentleman's point, the example of Sheffield leads the way in that, does it not?

**Mr Harper:** I am not familiar with that local authority, but from my experience in my own area, I think the local authority in Gloucestershire would do a very good job, and I think that we would get better results.

The hon. Member for Ellesmere Port and Neston referred to data sharing with the police. Some of the headlines at the weekend were perhaps unhelpful, because they had the wrong impact. I do not know whether this was the Government's thinking, but although one can argue that cranking up the toughness of the regime may have an impact on some people, to suggest that people may get into trouble with police may drive them away from testing and sharing their contact information. When one actually reads the information on the NHS website about how the data will be shared, it seems incredibly reasonable. In the first instance, it is shared with the local authority, and only if the local authority cannot make progress is it shared with the police. If the police are investigating a specific case, they can request it, so the impression of blanket sharing of information with the police was not helpful. I do not know whether that was the Government's intention, but it was not entirely helpful.

My only question for the Minister is: has the memorandum of understanding between the Department and the National Police Chiefs Council been published? I have investigated but been unable to find it anywhere. It would be better if there was more transparency and we were clear about what information may be shared. We saw one of the potential risks at the weekend when the busy NHS covid-19 app Twitter account had to leap into action to reassure everybody that information from

[Mr Harper]

their mobile phones could not make its way to the police. The concern was that that would reduce the uptake and use of the app.

I perhaps hold a different view from the hon. Gentleman, because I was pleased that the Government changed tack and moved away from the central database option for the app and went with Google and Apple API, whereby the information is stored on a phone. A central database might have seemed attractive, but it would have reduced uptake and many people would not have wanted the app. Having more people use the app and being aware if they need to isolate, which is in their interest and that of the community, is better than having a central database and no one using the app because they do not want personal information being stored by the Government.

**Justin Madders:** We agree with that move, but we were trying to address the concerns expressed by the Secondary Legislation Scrutiny Committee about inadvertent discrimination as a result of use of the app.

**Mr Harper:** Point taken.

It is welcome that the regulations create an offence of falsely giving contact information, meaning that someone needlessly has to isolate at some considerable cost to themselves. Self-isolation is the equivalent of house arrest, which under the criminal justice system requires a high bar of evidence.

Under the regulations, if Test and Trace tells someone to self-isolate they must do so, but what procedures are available to challenge that? Some people will not have travelled on public transport or have met the criterion of having been closer to someone than 2 metres for 15 minutes. If they receive a message that they must self-isolate but know they have not been in contact with anyone, is there a mechanism whereby they can challenge that? I suspect the answer is that there is not because of the need of the person who has tested positive to be anonymous, but if that has been considered by Ministers I would like them to say so and accept that it is unfortunate but that there is nothing that can be done about it.

I am concerned about it because for those in this room self-isolation is not a massive burden: we are still paid and can do quite a lot of our job at home. But for some people self-isolation is a real problem, and if it is not necessary in order to keep the community safe I do not want people to have to do it and I do not want anything to damage their confidence in the regulations.

Regulation 2(3)(a)(i) states that somebody must self-isolate in their home or in the home of a friend or family member. When we were debating where university students had to self-isolate, I asked whether, if a university student or anyone else who potentially has more than one home tests positive, they have to self-isolate in their university accommodation. Clearly, they must not do what a Member of this House did and get on public transport to go to another place and put other people at risk. However, if they were able to travel from one location to another in a private car, for example, where they were not going to come into contact with anyone else, and the person they were staying with was perfectly happy for them to do so, is there anything in these regulations that prohibits them from doing that?

The reason I ask is that the Department for Education is putting quite a lot of effort into thinking about what changes might have to take place in the period running up to Christmas to enable students to go home. When I read these regulations, I could not quite see on the face of it any reason why even a student who had tested positive, if they could travel safely, with the agreement of their family and where there was nobody at particular risk, could not just go home anyway and have their period of self-isolation at home, while obviously taking appropriate precautions. I would be grateful if the Minister could clarify that.

The final point I will raise—I think I am perhaps a bit firmer on this than the Labour party—is that I have a particular reason to be unhappy with the enforcement powers in the regulations, particularly giving the power to use “reasonable force” to officers of the state. Let me tell the Committee briefly why I am very concerned about this, to the extent that I have already made it clear on the Floor of the House that I am not satisfied by the Minister’s answers I will seek to vote against these regulations even though I am completely in favour of people’s having to self-isolate.

I became a Minister in the Home Office shortly after some individuals who are being deported had sadly lost their lives as a result of poor restraint procedures on aircraft. We carried out a significant independent inquiry into that and into how to use force, if required, on somebody in a way that kept them safe. I have no problem with powers being given to police constables; they already have the power to use reasonable force and their use of reasonable force is governed not only by a number of pieces of primary legislation, but by common law. A new police officer has a five-day training course specifically on using reasonable force and has to attend a two-day refresher course every year. There is a national decision-making framework that officers are familiar with, which they use to make those decisions, and in all their safety training that they are assessed to ensure they understand how to use reasonable force and what their legal requirements are. They also have to state the length of time since their personal training and refresher course when they use force, and any use of force by a police officer is reviewed by an independent panel.

That part of it I am fine with, but I have a real problem with the other three groups of people being given that power. People may not be aware that police community support officers do not have the power to use reasonable force except to detain someone until a police officer arrives. They do not have the power to use force any more than a member of the public does, and they do not go through all those training procedures that I have just talked about. I have no idea what sorts of people the,

“person designated by the Secretary of State”,

will be, but I want to know who we are thinking of and what training they have undertaken to ensure that this is safe.

The final group is officers designated by the local authority. I do not want local authority employees having the power to use reasonable force. I do not think the Ministry of Housing, Communities and Local Government does either, because if we look at the regulations that the House approved last week on tiers, there are powers to use reasonable force in those, and although they still include the powers to use reasonable

force for police community support officers, the powers available to local government employees have been constrained to a specific part of the regulations. They have been narrowed—I am still not happy with them, but they have been narrowed.

The reason why that is important is that we are talking here about using force on people with coronavirus. In itself, that is a risk. Giving the power to use reasonable force to agents of the state is a big deal. We do not generally give state employees the power to use reasonable force to detain and move people. That is a limited power. Because of all the regulatory requirements, where we give that power to police officers, there is a huge number of controls around it, quite properly. Unless the Minister can give me a very good reason why the powers are here, and say what the thinking is behind them and what steps the Government have taken to make sure they will be exercised in a safe manner, I cannot support these regulations.

Not everyone will feel the same way as me, but I have been a Minister with this responsibility, and have seen what happens when powers like these are used inappropriately: they lead to deaths. I do not think they should be here. Frankly, we should take these regulations away and strip those powers out. They should be given only to police officers—people trained to use them, and who know how to use them when all the appropriate safeguards in place. This is incredibly serious. I conclude there, to give the Minister time to answer our questions in the remaining 20 minutes.

**Catherine McKinnell** *rose*—

**The Chair:** Before I call Catherine McKinnell, I remind people that the Minister has been given a number of questions to answer.

5.41 pm

**Catherine McKinnell:** Yes, the Minister has a huge number of questions to answer, and I would like to hear the responses, because I share many of the concerns raised. The Minister will have discerned the flavour of my concerns about this legislation. We are not opposing it, but it is right that it be properly scrutinised. It is right also to acknowledge the other side of these restrictions, measures and enforcement powers that are being put in place, namely the ability of people to comply with what is being asked of them in this pandemic.

I agree with the points made by the right hon. Member for Forest of Dean (Mr Harper) about local directors of public health, and I want to put on record my gratitude and admiration for the local director of public health in Newcastle, and also for the city council. They have not only worked tirelessly to deal with the virus, but done everything they can to mitigate its impact on people in Newcastle and across the north-east.

Newcastle's response to the university outbreak was a clear example of how the knowledge, intelligence and capacity of local public health departments can really make a difference. If there had been a data lag, and if data had been sent to students' home addresses, rather than being recorded locally, we would be in a different position, but we have connections and networks, and the knowledge, insight and ability to reach into local communities and understand what is really underneath the data. Newcastle and the north-east have been making

headlines for the worrying rising infection figures, but some measures appear to be working. It is early days, and this will come down to the ability of local people to comply with measures. We are all doing everything we can to reiterate the messages on how that can be achieved. There does appear to be a positive response to the measures put in place.

It is worth noting that there is generally a two to three week-lag in the response to restrictions; it does not happen overnight. We are seeing now the response to the restrictions that the local authorities asked for. The lesson to be learned is that there should be a collaborative approach in which local authorities work closely with communities. If we get to the point of imposing measures and use many of the powers in the regulations, we are losing the battle against the virus—and the argument. We are certainly losing local communities and their ability to respond. There are huge concerns that the restrictions being put in place across large swathes of the country are not backed up with the economic support necessary to ensure that people can comply with them. That is not a party political argument; the reality is that people will not comply if they are unable to do so.

Many parts of the country are facing a double whammy of local lockdowns and the withdrawal of financial support. The people who were more economically vulnerable going into this crisis are the ones most affected by it, by the restrictions that are coming into place, and by the withdrawal of the full furlough scheme, which is closing at the end of this month. When it comes to the impact of the withdrawal of that economic support, we ain't seen nothing yet.

I cannot fail to take this opportunity to plead with the Government to heed what is being said about economic support for the areas in the north most affected by the virus. Giving that economic support is not only the right thing to do, morally, for those communities; it is the right thing to do to defeat the virus.

5.46 pm

**Helen Whately:** I thank colleagues for their contributions to the debate, and I will do my best to respond to as many as I can. I might not manage to get to them all, because I do not have much time.

I want to pick up on the comments made by the hon. Member for Ellesmere Port and Neston. I thank him for his overall tone, the approach that he takes to these debates, and the rigour with which he has gone through the regulations and asked totally reasonable questions. I will do my absolute best to respond to them. Like others, he had called for earlier scrutiny of regulations such as the ones we are debating, and I thank him for acknowledging that progress was made last week when we debated changes to regulations. Scrutiny is a valuable part of our democratic process.

The hon. Member for Newcastle upon Tyne North asked whether we could follow the normal processes for introducing and debating legislation, but she will know that we have the extraordinary challenge of the pandemic, which moves at a fast pace. With doubling times and exponential increases in case rates, there is a real trade-off between taking steps that will save lives and spending time debating them. We are constantly trying to get the balance right, so that we can move quickly and allow scrutiny, which, as I say, plays a valuable part in our legislative process.

[Helen Whately]

The hon. Members for Ellesmere Port and Neston, and for Newcastle upon Tyne North, talked about some of the confusion about regulations, which I totally appreciate. We have been through a national lockdown in which the same rules applied to everybody. That was very simple, but it also had an enormous impact on the lives and livelihoods of the whole population. In response to that, the Government committed to trying to be more focused in our interventions, and to ensuring that interventions reflected what was going on locally where Test and Trace has given us information about how the virus is being transmitted. That led to local restrictions, and we worked closely with local authorities on what they felt would make the most difference in their area. That has led to different areas having different regulations. That can lead to confusion, in local authority border areas, about why the restrictions are different for people who live down the road.

We therefore introduced the tiering system—the local alert levels—to achieve more consistency while still allowing for local variation. That recognises that different areas have different infection rates, but it has led to people having to keep up with changes to rules. We are trying to strike the right balance between providing a local response to the virus and making the system as simple as possible. That is absolutely what the Government are trying to do, but it is clearly a difficult situation that we all find ourselves grappling with.

The hon. Member for Ellesmere Port and Neston expressed some confusion about the duration of self-isolation, and he asked about notifications. In general, self-isolation is for 14 days from the onset of symptoms. Clearly, that differs in some circumstances, depending, for instance, on whether we are talking about a member of a household or multiple members of a household, but I will look into the possibility that different things are being communicated by Test and Trace, as it needs to be clear to everybody.

If I understood the question correctly, where a notification issued by a contact tracer is withdrawn because new evidence reveals that the person told to self-isolate was not actually a contact, these regulations would mean that the duty to self-isolate no longer applied. The hon. Member asked about close proximity. In general, that is being within 2 metres of somebody for more than 15 minutes, but further details can be found on gov.uk.

The hon. Member for Newcastle upon Tyne North asked about communications to employers. The Department for Business, Energy and Industrial Strategy has contacted major business representatives, such as the Confederation of British Industry and the Federation of Small Businesses, and there is also the ACAS helpline, so there are sources of information for business. I agree with what was said on the efforts that the hospitality sector has made to keep up to date with regulations, and its huge efforts to make premises covid-secure. We should absolutely appreciate what it is doing to keep us all safe.

On the important points made about the responsibilities of employers, it is unacceptable for any employer to discriminate against an employee because they are rightly self-isolating, either because they have tested positive or because they are a contact. The hon. Lady is absolutely right that that should be and is a clear message. It would

be completely wrong for an employer to penalise somebody for doing the right thing. We all need to be responsible employers and citizens, supporting each other to do the right thing.

On the questions about annual leave, this is a choice for employees. If an employee faced being on statutory sick pay to self-isolate, but wanted to have full pay, they could choose to take annual leave instead, but that cannot be imposed on them by an employer. I am particularly alive to the financial challenges that this issue—and the pandemic in general—is imposing on people and, as hon. Members will know, the Treasury has made many announcements of support for people, but we are in difficult times.

Of relevance to this debate is the important introduction of that £500 support payment for those on lower incomes who are self-isolating; we know that is important in enabling self-isolation. This brings me directly to the question about research. The one reason why that payment was introduced was because research told us that one of the explanations people gave for not self-isolating was that they could not afford to.

The hon. Member for Ellesmere Port and Neston asked me about the source of the research; the figure I gave earlier of only around 20% of the population reporting compliance was based on the summary of results from around 21 nationally representative surveys. There is ongoing research on compliance, as that will be important in informing the ongoing response.

The hon. Member also spoke about the app; my right hon. Friend the Member for Forest of Dean (Mr Harper) made some of the arguments about its importance, why it is anonymous, and why, as a result, notifications received through the app are treated differently from notifications through the manual contact-tracing system. The hon. Member for Ellesmere Port and Neston also asked about the uptake of self-isolation payments; I can tell him that as of 13 October, 60 payments had been processed.

My right hon. Friend the Member for Forest of Dean talked about Test and Trace and its performance; it is absolutely an important part of our system. If I recall correctly, around 600,000 people have been contacted and asked to isolate as a result of the Test and Trace system, so it is having a material impact. Of course, we would like it to contact absolutely everybody.

**Mr Harper:** Will my hon. Friend give way?

**Helen Whately:** I can, but I have only five minutes left.

**Mr Harper:** I will be brief—and it is mostly my questions that the Minister has not got to yet, so I am only affecting myself. She says Test and Trace is having a material effect, but that is not the view of SAGE, which was clear in its minutes of 21 September that it is not having a material effect. It said that if something does not happen, things are likely to get worse. That is SAGE's view, not mine.

**Helen Whately:** We have been doing Test and Trace for some months now, and over a period of time, large numbers of people have been contacted through the system about the need to self-isolate.

I turn to the point made by my right hon. Friend and the hon. Member for Newcastle upon Tyne North about the role of local public health teams. Local public health teams are an incredibly important part of our response to the pandemic, both through their support of Test and Trace and—I see this in my work as care Minister—all the work they are doing with the social care sector in care homes. My right hon. Friend the Member for Forest of Dean is right that local authorities' ability to knock on people's doors, if we cannot get through to them by phone, is an important part of the response. I note his call for more resources to support that for areas, such as his, in tier 1.

My right hon. Friend asked me whether the MOU had been published. It has not been yet, but it will be. He also asked whether self-isolation can be challenged. An appeals process is being worked on to enable that. He also asked a number of questions about policing and reasonable force, on which I will have to get back to him, because I would not want to give anything other than the correct information. He also asked about the location in which students should self-isolate. In the regulations, as I am sure he is aware, there is a set of exemptions or reasonable excuses for why someone might not be able to self-isolate fully. Those excuses include, as I think was mentioned, taking an animal to the vet, seeking medical assistance, and avoiding risk of harm.

The purpose of the regulations is to make fully clear the importance of self-isolation, to educate people on their obligations, and to support people who are self-isolating; they then provide for enforcement, including

finances, for those who knowingly and deliberately choose not to follow the rules. In addition, statutory instrument No. 1057 ensures that the requirements on businesses in the Health Protection (Coronavirus, Restrictions) (North of England, North East and North West of England and Obligations of Undertakings (England) etc.) (Amendment) Regulations 2020 continue to support our covid response, and are in alignment with the new local alert level regulations. We will review the regulations regularly, and continue to assess them in the light of the latest science and other data.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (Self-isolation) (England) Regulations 2020 (S.I. 2020, No. 1045).

**HEALTH PROTECTION (CORONAVIRUS,  
RESTRICTIONS) (NORTH OF ENGLAND,  
NORTH EAST AND NORTH WEST OF  
ENGLAND AND OBLIGATIONS OF  
UNDERTAKINGS (ENGLAND) ETC.)  
(AMENDMENT) REGULATIONS 2020**

*Resolved,*

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (North of England, North East and North West of England and Obligations of Undertakings (England) Etc.) (Amendment) Regulations 2020 (S.I. 2020, No. 1057).—  
(*Helen Whately.*)

5.59 pm

*Committee rose.*

