

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS,
RESTRICTIONS) (ENGLAND) (NO.3)
REGULATIONS 2020

Monday 7 September 2020

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Friday 11 September 2020

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The Committee consisted of the following Members:

Chair: RUSHANARA ALI

- | | |
|--|---|
| † Afriyie, Adam (<i>Windsor</i>) (Con) | † Mayhew, Jerome (<i>Broadland</i>) (Con) |
| † Baker, Duncan (<i>North Norfolk</i>) (Con) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>) (Con) |
| † Cates, Miriam (<i>Penistone and Stocksbridge</i>) (Con) | † Sunderland, James (<i>Bracknell</i>) (Con) |
| † Churchill, Jo (<i>Parliamentary Under-Secretary of State for Health and Social Care</i>) | † Throup, Maggie (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Crosbie, Virginia (<i>Ynys Môn</i>) (Con) | † Western, Matt (<i>Warwick and Leamington</i>) (Lab) |
| † Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab) | † Whittome, Nadia (<i>Nottingham East</i>) (Lab) |
| Cryer, John (<i>Leyton and Wanstead</i>) (Lab) | |
| † Jupp, Simon (<i>East Devon</i>) (Con) | Joseph Watt, <i>Committee Clerk</i> |
| † McDonagh, Siobhain (<i>Mitcham and Morden</i>) (Lab) | |
| McDonnell, John (<i>Hayes and Harlington</i>) (Lab) | |
| † Madders, Justin (<i>Ellesmere Port and Neston</i>) (Lab) | † attended the Committee |

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

Matheson, Christian (*City of Chester*) (Lab)

Third Delegated Legislation Committee

Monday 7 September 2020

[RUSHANARA ALI *in the Chair*]

Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020

4.30 pm

The Parliamentary Under-Secretary of State for Health and Social Care (Jo Churchill): I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (S.I. 2020, No. 750).

It is a pleasure to serve under your chairmanship, Ms Ali, for what I believe is your first time in the Chair.

The regulations we are discussing came into force on 18 July. They were necessary to give effect to the announcement made on 3 July by my right hon. Friend the Prime Minister, setting out the Government's goal to enable as many people as possible to live their lives as normally and as safely as possible. To achieve that, the Prime Minister set out the need to move away from blanket national measures towards targeted local measures.

I am aware that there are concerns in Parliament about allowing for timely scrutiny of regulations that have been laid and made in response to the public health emergency caused by coronavirus—in particular about the timing of debates—as I am sure I will hear again from the hon. Member for Ellesmere Port and Neston. We have listened to those concerns and have endeavoured to hold this debate as early as possible after laying the regulations, taking the summer recess into account.

Three main activities are being undertaken to support the shift in focus to managing localised outbreaks through proportionate local responses. First, local authorities have now drafted local outbreak management plans, which set out how they will deal with outbreaks in their local areas. Secondly, we have published the contain framework, which sets out national expectations about how and when upper-tier local authorities should take community protection actions to manage the transmission of covid-19. Thirdly, open businesses and venues have been asked to assist the NHS test and trace service by keeping a temporary 21-day record of their customers and visitors, which will help to contain outbreaks.

Local authorities have specific legal powers under existing public health, environmental health and health and safety laws. Those powers apply under a patchwork of triggers or, in some cases, require an application to the magistrate, which obviously leads to some delay before they can be enforced. They are not sufficient to enable local authorities to implement fully the community protections set out in the contain framework, or to do so with the speed needed to manage an outbreak effectively.

Although we expect local authorities to work on the basis of consent within local communities, there may none the less be situations in which local restrictive measures need to be put in place to contain the virus. We want to ensure that a uniform and sufficient suite of

powers exists to enable local decision makers to take action locally and promptly, enabling the mitigation of local covid-19 outbreaks through a new and consistent set of regulations.

The Government's ambition is to empower upper-tier local authorities to be able to implement targeted restrictions so that the need for the Government to impose more serious restrictions is reduced. Before these local intervention regulations came into force, local authorities did not have the power to impose fully the community protection actions set out in the contain framework. As a result, we introduced the regulations to enable local decision makers to take prompt and appropriate action.

The powers in the regulations are exercisable by upper-tier local authorities in England. A local authority may give directions imposing prohibitions, requirements or restrictions: in regulation 4, relating to individual premises; in regulation 5, to events; and in regulation 6, to outdoor public places. Before giving a direction, the local authority must deem that there is a serious and imminent threat to public health, and that giving direction is necessary and proportionate to control the incidence or further spread of coronavirus. In determining that, the local authority must pay due regard to any advice from its director of public health. Local authorities are supported in their decision making by guidance published alongside the regulations.

As Secretary of State, my right hon. Friend has the power to direct a local authority to use its powers under the regulations where he considers that the same criteria are met. Before doing so, he is required to consult with the chief medical officer or one of the deputy chief medical officers of the Department of Health and Social Care. To date, we have not had cause to issue such a direction to a local authority, but we have seen authorities moving swiftly to use their powers to protect their local populations.

There is a mandatory requirement for local authorities to review the continuing need for any directions given under these regulations every seven days. The regulations require that if, following the review, the local authority considers that any of the legal criteria to give the direction are no longer met, that local authority must revoke the direction and either not replace it, or replace it with a direction that does meet the necessary conditions. A similar duty applies to the Secretary of State, who must direct the local authority to revoke the direction if he considers that the restriction or requirement is no longer necessary. If my right hon. Friend directs a local authority to impose a direction, it is still for the local authority to terminate.

A local authority must notify the Secretary of State as soon as reasonably practicable once it has given a direction under these regulations. To date, 61 such notifications have been received from 23 different local authorities. To manage cross-boundary impacts, the local authority must also provide neighbouring authorities with notice when these powers are exercised. Neighbouring authorities are required to consider whether they should also implement any measures under their own powers. If a local authority decides to give a direction, it must publish that direction in writing and provide it in writing to any person named in the direction. The local authority must also take reasonable steps to give advance notice to specified types of person when making each type of direction, and ensure that the direction is brought to their attention.

The regulations permit someone affected by the direction to appeal to a magistrates court or make representations to the Secretary of State. If the Secretary of State determines that the local authority should have exercised its powers in a different way, having regard to the required conditions, he will direct the local authority in question to amend. To date, one individual has made representations to the Secretary of State, who upheld the direction given by the local authority.

The enforcement regime is broadly based on the provisions set out in the national regulations. This includes the prohibition notices for businesses or fixed penalty notices issued by local authority or other officers if a direction is breached, or for obstruction of police or local authority officers. There is a ladder regime of increasing fines for each FPN, from £100 to £3,200. That ladder takes into account FPNs issued under other national and regional lockdown regulations.

Police will also have the power to direct an event that contravenes directions to stop, and to direct people to leave, or remove people from a relevant area if need be. With regard to public outdoor places, the police will have the power to take action when it is necessary to do so. This includes directing a person to leave a restricted area, or removing them if need be. Offences are created for breaching a direction, obstructing a police or local authority officer, and failing to comply with a reasonable instruction or prohibition notice given under the regulations. Offences are punishable on a summary conviction by a fine. These regulations have their own six-month sunset clause, separate from all other regulations, and so will expire at the end of 17 January 2021.

Where are we now? Coronavirus is the biggest challenge that the UK has faced in decades. The resilience and fortitude of the British people in complying with the national lockdown that was introduced in March has been a truly national effort, and something we can all be proud of. It is, of course, welcome that we have been able to start easing the national restrictions in line with the road map, reflecting the continued decline in daily death rates and the downgrading of the covid alert level from 4 to 3. But we always knew that in reality the path out of lockdown would not be entirely smooth. It was likely that infection would rise in particular areas and workplaces, which we have seen, and we would need to be able to respond quickly and flexibly to those outbreaks.

We are now working closely with local authorities and at a national level to ensure we have the data and analytical capability to spot potential outbreaks quickly. We have and will continue to develop a range of tools and powers that will allow us to respond effectively and proportionately. These regulations have demonstrated our willingness to empower local authorities and take action where needed.

I am really grateful to all parliamentarians for their continuing engagement in this challenging process and their valuable scrutiny of the regulations. I commend the regulations to the Committee.

4.40 pm

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Ms Ali. I hope that your debut here is as memorable for you as it is for everyone else, and for all the right reasons.

I thank the Minister for her introduction. There was some acknowledgment that we are not yet out of the woods. Yesterday's Government data showed the number of cases reported in the UK—2,988—was the highest on any single day since 22 May. That was a rise of 1,175 on the previous day. I understand that a similar figure of 2,948 cases has been reported on the Government website today. That trend is going in the wrong direction in terms of what we want to see.

I was surprised that we did not get a statement from the Secretary of State in the House on this today, although I understand he managed to put himself through the rough and tumble of an interview on "Newsbeat" earlier on. If the Minister can comment on the current position and, more importantly, on whether any additional measures are envisaged in relation to this recent rise, I would be grateful if she would set those out in her response. Indeed, if she anticipates a statement from the Secretary of State to the House, I would be grateful if she would indicate that that is the case.

As the Minister said, the regulations came into force on 18 July and give local authorities additional legal powers to those found under public health, environmental health, and health and safety legislation, which enable them to fully implement whatever measures are needed to prevent, protect against, delay or control the incidence or spread of coronavirus in their own areas. As the Minister outlined, this new set of regulations is intended to provide powers to allow local authority decision makers to take action to mitigate against local covid-19 outbreaks, a recognition, perhaps belatedly, that local public health teams know their areas best and are best equipped to deal with local outbreaks.

There are, of course, broad and sweeping powers in these regulations. Everyone understands the enormity of the challenge this country faces. That is why these regulations and powers continue to be necessary. Since the first coronavirus regulations were laid on 10 February, nearly seven months ago, more than 50 different pieces of legislation, including many restricting aspects of our daily lives, including how we live, gather, work and travel, have been introduced. The British people have made enormous personal sacrifices to adhere to them, sometimes at great cost to themselves, their families, their loved ones, their colleagues and their employees.

As we know, even after the figures have been adjusted down, we still have over 41,000 people who have sadly lost their life to this virus. Each life lost is a tragedy and our thoughts remain with their friends and families. It is a measure of the pervasiveness of this virus that despite all the restrictions introduced, legislation passed and efforts made by all around the country we still have such a significant death toll.

As the Minister correctly said, we know that this is far from over. The virus has not gone away. In fact, as I mentioned, the situation appears to be deteriorating. It is clear that despite covid-19 remaining an ongoing threat to public health, we will require regulations to protect our citizens now and for the foreseeable future. Given the future outlook and the desire of Government to avoid another national lockdown, the regulations will allow local restrictions to be introduced. It is right that we look at the suite of powers made available to local authorities, but the powers available are only part of the story; how those powers are exercised and how local councils, businesses and individuals are supported also matter.

[Justin Madders]

Therefore I will again raise our concern that, as in all previous debates on coronavirus regulations, we are debating regulations weeks after they have come into effect—more than six weeks later in this case, as these regulations came into force before the summer recess. As we have said many times, we of course accept that the initial regulations had to be introduced hurriedly, in response to the rising number of infections, but the House has been up and running for many months now, and with Members on both sides of this House and in the other place raising concerns about why time is not being provided to ensure that future changes are debated and therefore have democratic consent before they are introduced, we see no good reason why the Government continue to act in the way they do.

These regulations are too important to be dealt with as an afterthought. They demand full parliamentary scrutiny. The Minister gave assurances that the Government had listened to our concerns and indicated that time was being made to debate the regulations as soon as possible, but I still think that we are behind the curve and I ask her again to feed back to the people who make the decisions on when these matters are debated that we still do not believe that that is being done in a way that respects parliamentary scrutiny.

Equally, it remains unacceptable that we are debating further regulations without the full information regarding any assessment of their impact. Once again, all we have seen published alongside the regulations is an explanatory note telling us that no consultation has been carried out and no regulatory impact assessment undertaken. All new regulations should involve advance warning to allow planning; they should also involve consultation with regions, local authorities and elected Mayors. These regulations provide local public health bodies with significant powers. It seems obvious that they would have a view on those powers, their scope and the resources that they might need to implement them, so it is disappointing to hear that the first time the Local Government Association saw the regulations was when they were published.

The way in which regulations are brought in matters. The Government should not announce changes or restrictions suddenly, with very little notice. It is fine to give local authorities these powers, but what assessment has been made of the financial resources that they may need to actually exercise them? We know that most local authorities, having already suffered years of central Government funding cuts, are struggling with their finances, and that the additional costs associated with covid-19 have not been met in full by Government, so what is the plan to provide assistance to a local authority that may find it necessary to issue dozens of notices in a short space of time? Issuing notices in itself takes some resource, but properly monitoring and enforcing the notices must put an extra burden on local authorities, for which they have not yet received funding, so what resources will the Minister make available in those circumstances?

Matt Western (Warwick and Leamington) (Lab): My hon. Friend is making an important point. As I understand it, other countries such as Greece, which we were discussing in the Chamber a moment ago, have in place penalties that are much higher and much tougher. They seem to

me much more ambitious about containing this disease in their communities. Does my hon. Friend agree with me that perhaps this Government lack the ambition to really get to grips with this?

Justin Madders: It is not a question of ambition; it is a question of trusting local government and giving it the resources to do the job that it is clearly the most suited, out of everyone in the country, to do. We absolutely can learn from other countries. There are many examples around the world of how different approaches have produced different results.

It is also worth noting that the fines under this regulation for an initial offence are pretty small. Although there is a multiplier effect, a business might decide that it is worth pursuing its activities until the fines reach a level at which that is no longer economic. We will have to see how that works in practice. As we have seen with other coronavirus regulations, the Government have stepped in to increase the fines through statutory instruments, so perhaps that will happen again if we see a problem with this regulation as well.

As I understand it, there is no statutory review clause for the regulations, so they will not even be reviewed at regular intervals. How can that be right? These are new and far-reaching regulations with potentially massive resource implications for local authorities. Although we know that any directions made by local authorities under the powers in this instrument must themselves be reviewed every seven days—a sensible measure that we support—any local restrictions must also have a clear evidence base and rationale behind them, and should be regularly reviewed. That in itself is resource-intensive activity and is not the same as the Government undertaking a detailed and thorough review of whether the regulations themselves are proportionate and effective. Will the Minister commit to reviewing the regulations in due course? Will she commit to producing impact assessments and publishing them alongside such reviews? Most important, will she commit to bringing any future regulations to the House before they come into force?

I do not intend to go into the details of each regulation within the instrument, but as the regulations have been in place for approaching two months now, I want to discuss the issues that local authorities have experienced in implementing them and in the general approach to interactions with local authorities, as it is vital that the Government listen and take urgent steps to learn from their mistakes—and mistakes have been made. As we know, the Government were too slow to act in Leicester, and its local authorities have raised ongoing concerns about the way the Government have handled the situation there. It is widely believed that if Leicester had been able to access the testing data much sooner—I will come back to the wider issues with testing data later—it could have avoided a lockdown, but that did not happen.

The situation in Leicester was flagged in Government on 8 June, but another 10 days passed before the Health Secretary announced that Leicester had a problem, and it was not until 30 June that Leicester went into lockdown for two weeks. Following that, although the lockdown was extended for another two weeks in mid-July, it was not until the end of July, following ongoing pressure from Members, that the Government announced additional funding for Leicester businesses. As we know, Leicester was the first place to go into a local lockdown, but a

month later, when areas in the north of England—in Greater Manchester, Lancashire and West Yorkshire—were placed into local lockdown on 30 July, it was clear at that point that lessons had not been learned. Again, the Government’s communication was chaotic and caused widespread confusion and anxiety.

The Government announced new restrictions on 30 July, the eve of Eid, less than three hours before the rules came into force. Understandably, Greater Manchester’s Mayor and deputy Mayor, along with council leaders, raised concerns about how the changes were announced by the Government. It is not acceptable to announce local restrictions late at night on Twitter, just hours before they are due to come into place. The public deserve clear and timely communication of changes and decisions that affect the everyday life of individuals, families and businesses. Importantly, there needs to be transparency about the reasons and thresholds for introducing and easing local restrictions. It is not fair to leave local areas in the dark. I hope we can avoid a repeat of that approach, although it is noted that the powers of the Secretary of State under regulation 3(5) do not require him to consult with a local authority before giving a direction. Perhaps the Minister will provide some assurances on that point.

There is an issue not only with powers being exercised centrally, but with information. Local directors of public health and local authority leaders have been asking for access to detailed data since the launch of test and trace at the end of May. Starting from July, councils were given access to weekly postcode data for their area, but it only showed positive test results and did not contain granular data on where people live or work, and was often out of date by the time it arrived. Data on local outbreaks needs not only to be shared in a timely way, but to be comprehensive and include information such as addresses, workplaces and ethnicity, which still is not routinely being shared. I hope the Minister will outline in her response what is being done to ensure that those vital details are being shared with local authorities to help them to tackle infection rates. The powers in the regulations will not be effective unless local authorities have the information in the first place to act on them.

Additionally, local authorities are concerned that the centralised Government test and trace operation has failed to reach many of the most vulnerable residents, leading to a number of councils setting up their own localised test and trace systems. That is the biggest vote of no confidence in the privatised national system of test and trace that the Government set up. Perhaps the Government heard those criticisms, because on 14 August they announced they would assign dedicated teams of contact tracers to more than 10 local authorities, after trials in Leicester, Luton, and Blackburn with Darwen. Will the Minister update us on when they expect those teams to be up and running?

It is vital that the scope of restrictions under these regulations and other laws is easily understood by local people. That is key to maintaining the public buy-in and trust that is needed for restrictions to be effective. They must also make sense. As a group of Manchester MPs highlighted in a letter to the Health Secretary on 18 August, the scope of local restrictions must make sense for local communities: where people go to work or school, socialise and shop are all important considerations, as people tend not to organise their lives around geographical administrative boundaries.

Communication also matters. Clear public health messaging is more vital than ever at this time. That is particularly so when different areas are subject to different measures. Tougher measures have been introduced in Bolton this weekend, as the infection rate has risen to 99 cases per 100,000 per week—the highest in England. The restrictions include not mixing with other households in any setting, indoors or outdoors. Those are different from some of the other restrictions in Greater Manchester.

Clear messaging matters. For example, just last week the borough found itself in what the Mayor of Greater Manchester described as a “completely unsustainable position” in which the Government planned to release restrictions despite a rising number of cases. That was, of course, before an 11th-hour U-turn. I empathise with the Mayor. Restrictions are hard enough to explain to the public without their being introduced in such a completely illogical way.

That is why it is vital that each local area must have a clear plan in place detailing steps to take in the event of an increase in cases. Those restrictions must be easily understood by local people. Telling people that they can go to the pub but not visit their family is a message that is hard to explain in public health terms and risks damaging public trust. That is why it is vital to ensure that restrictions are effective. I understand that people in Leicester, for example, are still being told they are not allowed to meet other people in their own back gardens, yet they can meet people in a pub. I should like the Minister to set out—in writing if she cannot respond now—the public health reason for that distinction.

Where councils are on the Government’s watchlist and there is a clear and imminent public health ground to take action, I think it is fair to say they feel they can take enforcement action under the regulations. However, where there is not an increase in covid cases, councils are less certain whether they can take action. It would assist them if there were a clearer steer from Government on the circumstances in which is acceptable to use the regulations. There is no accompanying guidance to the regulations to advise councils on the factors that they should consider when contemplating action. That is also an important issue for any business that might be affected by a council decision. After all, what use is the ability to challenge a decision in the magistrates court if there is no detail on the basis on which that can be done?

If a local authority were concerned that, unless a premises took account of the need to socially distance customers, the situation would lead to an increase in the spread of covid-19, would that be enough for it to take enforcement action under the regulations? Is that the baseline for action? What factors may a magistrates court take into account when considering an appeal against such a decision? I would not expect local businesses to have access to the epidemiological data that might lead to such a decision, but is the impact on a business’s viability a relevant factor? What would the timescale be for a magistrates court to hear such an appeal? It is no good having a hearing on the issue months after the event. The business might have gone bust in the meantime.

The one positive from debating the regulations so long after they were introduced is the fact that we have the opportunity to look in a little more detail at how they have worked in practice. I am grateful that the Minister has said that already 61 directions have been

[Justin Madders]

issued under the regulations. Can she confirm, for each of those directions, whether the Secretary of State was notified as soon as possible, and within 24 hours of the issuing of the direction, as per the guidance? I understand that one direction was appealed to the Secretary of State, and representations were made. What was the timescale for that? It would be useful for individuals who might be affected to know the timescales for decisions. How many fines have been issued under the regulations to date, for breaches of the directions issued by local authorities?

As we heard from the Minister, the regulations give the Secretary of State the power to require a local authority to make or revoke a direction, after consulting the chief medical officer or a deputy chief medical officer. I heard from the Minister that the Secretary of State has so far not given any such direction, and I hope that we can move forward, in the sense that local authorities use the power when the Secretary of State considers it appropriate. I should be grateful for more detail regarding the dialogue and processes that should happen before the Secretary of State issues such a direction. Will the Minister also explain how this set of regulations interacts with Government guidance and other legislative regimes? We are hearing from councils that they are struggling to understand that, and it would be helpful for them to have a clear set of guidelines about when the directions apply and how they interact with other restrictions.

What is the role of Members of Parliament in terms of these regulations, particularly in respect of introducing and easing restrictions? There is nothing in the regulations that requires a Member of Parliament to be consulted, but we have heard many outbursts in the media from hon. Members about their concerns about restrictions in their local areas. Will the Minister confirm that there will be an opportunity for all hon. Members, including Opposition Members, to make representations directly to the Department should consideration be given to issuing directions in their area?

A story appeared in *The Observer* yesterday about a report apparently prepared by Public Health England that stated that the national lockdown in parts of the north of England had little effect on the level of infections. The story says that when comparing other English regions, the study says:

“Each region has experienced its own epidemic journey with the north peaking later and the North West, Yorkshire and Humber and East Midlands failing to return to a near zero Covid status even during lockdown, unlike the other regions which have been able to return to a near pre-Covid state.”

It also questions why anyone should expect fresh local lockdowns to work in these areas now, and asks:

“If we accept the premise that in some areas the infection is now endemic - how does this change our strategy? If these areas were not able to attain near zero-Covid status during full lockdown, how realistic is it that we can expect current restriction escalations to work?”

Given the content of today’s regulations, I can only assume that the view expressed in that report is not shared by the Department. Can the Minister shed any light on the report and what assessment the Department has made of the effectiveness to date of the powers given to local authorities under these regulations? It is important that we clear that up.

Let us talk about what is not in these regulations, as well as what is in them. Perhaps the most glaring omission is financial support for those affected. The Government cannot continue to turn a blind eye to the devastating economic impact of these restrictions. They must acknowledge the economic consequences of putting certain areas or businesses back into lockdown. There are still no clear plans in place to provide targeted economic support to areas of the country that are forced to increase restrictions or become subject to local lockdowns. A tailored approach to support businesses and employment in affected areas is needed, and that must take local circumstances into account and include adequate support for those who need to self-isolate. Effective local lockdowns depend on people self-isolating when they are supposed to. We have been warning for months that the Government need to ensure that people who need to self-isolate can afford to do the right thing, but once again the Government have been too slow to recognise the problem.

The Government recently announced plans to address the issue, but that will unfortunately apply only to a limited number of areas with high rates of covid-19, meaning that only one in eight workers will be covered by the scheme. That does not make sense when the instruction to self-isolate applies to everyone in the country. If the Government accept that additional support is needed for people to self-isolate in some areas, then they should accept that it is needed everywhere. Everyone should get the support they need to self-isolate, and there is no logical reason why such a distinction is being made.

In any event, £13 a day does not go anywhere near far enough to support the lowest earners who need to self-isolate. Even the Health Secretary must agree with that, given that he has previously said that statutory sick pay in the UK is not enough to live on. Can the Minister explain how the Government have arrived at a solution that offers only some people a level of support that the Secretary of State has already acknowledged is not enough? It is not acceptable that so far into the pandemic the Government do not have a strategy on that. The Government were eventually forced to provide support in Leicester, but they have been unclear about whether they would do the same in other areas. Individuals and businesses deserve clarity and support.

And what about schools? We know that missing school is bad for child development and widens existing inequalities. Indeed, the Education Policy Institute report published at the end of last month found that the attainment gap between disadvantaged pupils and their peers has actually stopped closing for the first time in a decade. With many schools returning last week, and more set to return this week, we have been clear that keeping schools open should be prioritised in the event of local restrictions being introduced to ensure that children’s education is not disrupted again. Will the Minister provide clarity on what steps the Government will take to prioritise schools in the event of local restrictions being introduced? What plans are there to ensure the continuation of education should exceptional circumstances mean that some children cannot attend school in person?

To come back to test and trace, without a vaccine, getting an effective test, track and isolate system is the only way to safely reopen society. It is vital to minimise the need to introduce wide-ranging local restrictions

wherever possible and to effectively manage local outbreaks where they occur. Right now, however, the Government's approach is failing and people have lost confidence in the system. With cases on the increase and the Government pushing for everyone to return to work, it is more important than ever that test and trace is working to its full potential, yet we hear of new issues with it almost every day.

The Government seem to have completely taken their eye off the ball when it comes to ensuring that tests are readily available and quickly administered. The latest figures are not encouraging. The percentage of people reached by the system decreased again last week, with the proportion of close contacts of people who tested positive for covid-19 being reached through the test and trace programme at its lowest level since the system was launched—down from 77.1% in the previous week to just 69.4%. The number of cases handled online or by call centres is even lower, at just 59.8%—a staggering 37% lower than the 97.3% of contacts reached by local health protection teams.

It is also taking longer for people to get their results. Although an improvement on the previous week, only 49.3% of tests taken at regional test sites, and 59.9% taken at mobile testing units, received their test results within 24 hours. The number of satellite tests and home tests receiving a result within 48 hours fell to just 8.1% and 17.6% respectively. Home testing kits and satellite test centres both saw an increase in the median time taken from taking a test to receiving the results, with satellite test centres increasing from 65 hours to 76 hours, and home testing kits increasing from 76 hours to 86 hours.

There are also still issues with capacity. More than 100,000 tests lie unused every day, yet at the end of last month, England and Scotland ran out of home testing kits. Last week we heard that, once again, there are clearly problems with the testing infrastructure as people across the country are being sent hundreds of miles away for testing appointments. In spite of all that, the Government seem determined to reward the private sector companies, which are still not reaching more than half the contacts of those who test positive, by renewing their contracts.

These are unprecedented times and it was always going to be challenging, but surely we can do better than that. The Government's own scientific experts have been clear. We need tests to be done quickly. We were promised a 24-hour turnaround for test results by the end of June, but it is now September and the numbers are still nowhere near that.

Adam Afriyie (Windsor) (Con): Would the hon. Gentleman draw my attention to which particular regulation in the instrument he is referring to? I am not quite sure how that fits with the regulations we are discussing.

Justin Madders: Of course the regulations do not deal with test and trace, but it is clear that, unless we have an effective test and trace system, local lockdowns will not be successful and we will not beat the virus.

We know that the NHS and social care face significant pressure in winter months, which is likely to be further exacerbated by covid-19 this year. We do not want to head into a winter disaster with a second wave of covid-19 over us. We are far from where we need to be. We need to deliver routine testing in care homes and for NHS staff, and to prioritise airports and other frontline

workers. We need contact tracing and testing to work properly and to be led by local teams that understand their local areas.

Although we support the introduction of local restrictions where they are needed to curb the spread of covid-19, and as a consequence we will not seek to divide the Committee, those restrictions must be complemented by adequate resources for the local authorities tasked with implementing and monitoring those restrictions, and proper financial support for those individuals and businesses affected by the restrictions. The Government were too slow into lockdown, too slow to protect our care homes and too slow to provide our key workers with protective equipment. We cannot afford for them to be too slow in getting these local lockdown restrictions right. I repeat the plea that resources must follow these responsibilities or we risk them being ineffective and creating economic damage across the board.

5.9 pm

Adam Afriyie: I rise to speak briefly. I welcome you to the Chair, Ms Ali. I will make one observation and ask one question of the Minister. The observation is that, as the local MP for Windsor, I have been incredibly impressed by how quickly local authorities have responded. My hon. Friend the Member for Bracknell and I have been on the telephone with Bracknell Forest Council on a biweekly basis. I have been on the telephone with the former Prime Minister, my right hon. Friend the Member for Maidenhead (Mrs May), and the Royal Borough of Windsor and Maidenhead. I also observe that Slough, which is not a Conservative-held council, was incredibly quick to respond. What strikes me most is the grip they have on what is going on in local areas. I therefore welcome the putting right of the missing regulatory framework to enable local authorities to continue to function in that way.

First, to give a brief example of how that works, for the numbers of pupils in local schools, the local authorities—the royal borough in particular—helped out by being able to produce all those statistics quickly for the reports to central Government. Secondly, with a small outbreak in the Bracknell Forest area, the local authority and the local resilience forum knew in detail within 48 hours exactly who, where, when and how these things were contracted.

If anything, I have heard from local authorities that a bit of a frustration has been that they have been unable to act more quickly and, in a way, unable to be instructed to act more quickly. They were holding that data locally and responding locally. I have to say that they have been doing a really good job.

My question for the Minister is to get some clarity. I think she was referring to upper-tier local authorities. I am not an expert on local authorities, so will she clarify whether that means that all individual local authorities may be able to act within this remit, or is there a definition of upper-tier local authorities that excludes some authorities?

Another frustration of the local authorities that I work with is that, although they may have been able to ask to close an entire area, street, particular business complex or retail park, they have been unable to take action in individual premises or more specific areas. I wonder whether the regulations cover such areas, so that local authorities may drill down in more detail and

[Adam Afriyie]

be more responsive than they have been able to be up until now. With that, I conclude my remarks and very much welcome the regulations.

5.12 pm

Jo Churchill: I thank in particular the hon. Member for Ellesmere Port and Neston and my hon. Friend the Member for Windsor, who have shown, in very different ways, exactly why the regulations are needed and how well they are working. Where people are talking together and using the information that is getting to the frontline, they are now able to respond and to act quickly.

In the initial stages, we were keen to have a national approach to protect the NHS, in order that we could then start to move the policy forward. That is what we have done by enabling the local authorities, Mayors and so on to talk together so that they—as both hon. Members alluded to—may deal with their local communities. They know their local communities best, and that has come across clearly.

I am sure that the hon. Member for Ellesmere Port and Neston will forgive me, but I will trot through as many of his points as I can remember that have a vague relevance to the regulations that we are discussing today. He will forgive me, perhaps, for not going off at a complete tangent and following him down the various paths on which he wished to take us. However, I thank him for his contribution.

The regulations are necessary, and they are important for three reasons. First, and most importantly, they empower local authorities to protect people in their area from this terrible virus. Giving directions is a difficult decision for local authorities to take, but they are in the best place to know the right interventions to impose in order to stop the virus spreading locally unchecked. They are often using the regulations as a warning shot and, in answer to my hon. Friend the Member for Windsor, they give the local authorities the power to be a little more attuned. We have seen that very much in Leicester: two particular roads appeared to be flouting the rules, and those two roads were targeted in a specific way, enabling the locality to respond to the challenge much more effectively.

Secondly, giving those powers to local authorities is important because they protect those of us who do not live in those areas. As a result of local interventions, outbreaks can be prevented or contained locally, stopping infection from spreading elsewhere, which is significant.

Thirdly, enabling local authorities to introduce these restrictions shows our absolute determination to respond to outbreaks of the virus in a focused way. As I have said, we will learn from the use of these powers as local authorities give directions for preventing transmission and respond to localised outbreaks.

These regulations are made under the Public Health (Control of Disease) Act 1984, which sets out a framework for health protection that requires much of the detailed provision to be delivered through these regulations. The regulations enable local authorities to impose targeted local measures to prevent and control outbreaks in their area. However, occasionally there has still been the need for the Government to impose more serious restrictions, as we have seen in Leicester and parts of the north of England, in what are often referred to as local lockdowns.

If the possibility of imposing more serious interventions is being considered, local leaders, chief executives and the directors of public health are consulted by the NHS test and trace team, Public Health England and the joint biosecurity centre, to inform that decision making and to be consulted on it.

Today's debate has provided an opportunity for hon. Members to debate the range of activities that the Government have undertaken in response to coronavirus. Moving to the specific points raised by the hon. Member for Ellesmere Port and Neston, we always said that there would be local outbreaks that would require local action, so I do not think that what we are doing in these regulations should come as any surprise. Will it cause confusion? Local authorities can already close premises for various reasons, such as environmental health reasons, so I do not think that it is unusual in our current environment for people to expect changes to come quite fluidly.

It is really important that we are able to act quickly and stop local outbreaks, and this is the right approach. To enable local authorities to have the power to do so, we have made another £300 million available to them to develop their plans. As we have heard, those plans are working, and as the hon. Gentleman himself said, they are very important in making sure that any action is attuned to the local area. That money is on top of the £3.7 billion provided to local authorities to support the response to the pandemic.

The hon. Gentleman asked whether the Secretary of State heard about things in good order; he hears as soon as is reasonably practicable about where these directions have been laid. As yet, however, we do not have any data on the fines or the fixed penalty notices; we will have it quite soon, when these regulations have been laid. That question made me smile wryly, because the summer recess was between the dates. Therefore, although six weeks have passed, there have been only a handful of parliamentary sitting days, so I think we have got on to things as speedily as possible.

An impact assessment is not required for regulations that last for less than a year, and these regulations are due to expire in less than a year, so there is no such requirement. In the other place, Baroness Thornton asked a similar question about how data was being used. Data is key to the scientific community, so that scientists can be availed of it to fight covid-19. At the start of this pandemic, only six short months ago, we had very little data. Now, as we have heard, we have the ability to drill down even to a postcode level, to know where somebody who may have had a positive test is. That data is now at our fingertips.

As of today, we have the capacity to do 357,873 tests. Although I would freely say that, yes, some of those tests are challenging, 84.3% of people taking tests have their results the next day, and over 42.2% of people taking home tests get their results within 48 hours. Some 16 million tests have been done in this country, and that has been built from a standing start. I pay tribute to Public Health England and others; it has been a broad coalition of the NHS, public health and private industry that has allowed us to do this amazing job.

Justin Madders: On the question of tests, the Minister gave the figure of some 375,000 capacity—

Jo Churchill: The figure is 357,000.

Justin Madders: The Minister will be aware that the number of tests processed each day is somewhere between 150,000 and 200,000. In the context of hearing about people's problems with accessing tests, where does she think the issue is in getting that capacity to the right places?

Jo Churchill: I will briefly explain, in 30 seconds. We have always said that we would go to where the problem arose, so it is right and proper that where we have an issue of rising prevalence, we will take our mobile testing centres there. We have 73 regional centres, 21 satellite centres, 236 mobile centres and 72 walk-through centres. Ensuring that we can be fluid in our approach and that we get to those places where we see a rise in numbers is, in my opinion, the right approach. Do we have more to do? Yes, we do, but I think we can proudly say that we are hitting numbers that are now ahead of many other countries in Europe and across the world, and showing that we are building a world-class system that can help to protect people.

The argument is that we need more testing, we need to be able to trace and we need to build that capacity. That is why we have recruited another 18,000 into Public Health England, to back up that effort to test and trace. Supporting the local authorities, we have contact tracing, the daily situational report, the daily exceedance report and the daily surveillance reports, so that we can help people to get the granular information that helps them to target their local area.

As I said, an impact assessment is not required for regulations that last for less than a year, and these regulations will expire in six months. However, the Government are considering the economic impact of the regulations on businesses and individuals—that was another question the hon. Member for Ellesmere Port and Neston asked—and the personal impact on those with protected characteristics; on people's mental health and wellbeing; on religious groups and many others. This is a highly complex situation that we are dealing with.

The dashboards for local authorities are updated daily with all the data received to midnight the previous day. We are ensuring that all local and public health bodies have the data they need for any plans they might be making for preparedness for potential outbreaks, and we produce detailed data in dashboards for local authorities to give them clarity regarding their local area.

We have started sharing that postcode-level testing and case data with local authorities, and it is available to them at any time. It is important that we send the positive message that, while this is work in progress, we are doing more and more each week to help them to get more information, because that is vital for unlocking the economy and opening our lives up as far as we can in this covid-tinged world that we are all having to get used to.

The Department for Education has published full guidance on the protective measures for schools, colleges and childcare settings, which should help to minimise risk. The guidance includes the PHE-endorsed system of controls that helps settings to implement those measures in order to prevent and control any infection. Those are outlined more explicitly in DFE guidance.

We have agreed to provide a monthly report to Parliament detailing the measures imposed by local authorities and Ministers under these powers, and will shortly be making

a written ministerial statement setting out the record of the notifications received, which will be deposited in the House Library. The Secretary of State comes to the Dispatch Box to answer questions more than, I think, any other Secretary of State, and I am sure that when he next does so, the hon. Member for Ellesmere Port and Neston will have ample opportunity to ask his questions.

However, as of 2 September, the Secretary of State had been notified of the 61 directions that had been given by the 23 local authorities to which I alluded earlier. Examples of those directions given by local authorities include closing a funfair due to be held in an area where there was a high incidence of the virus; closing a large entertainment venue for failing to ensure social distancing measures were in place, or complied with by visitors; imposing restrictions on the organiser of a large social event to ensure guests complied with social distancing guidance; controlling people gathering in a street outside restaurants—trying to ensure people stay physically distanced while waiting to go inside areas is, of course, very important too—and prohibiting a planned food festival where in excess of 8,000 visitors were expected.

The extent of the powers means that local authorities can give directions, but they are not always necessary. For example, local authorities do not need any further powers to close nightclubs, as they can already be closed under the England-wide regulations. For raves, a local authority has the power to give a direction to impose prohibitions, requirements or restrictions to stop an event, in addition to pre-existing rave legislation. Indoor raves of more than 30 people are already illegal. There are further restrictions on holding gatherings of more than 30 people in public outdoor spaces, and stricter gathering restrictions in certain protected areas under regional lockdowns.

Only the Secretary of State can close a school using the powers in the Coronavirus Act 2020, but he can delegate that power to a local authority if necessary. For essential infrastructure, the regulations prohibit local authorities from giving a direction in respect of businesses that are considered essential. Guidance has been published in relation to what is essential infrastructure; that guidance is readily available, but includes registered childcare providers, airports, doctors' surgeries, train stations, and nuclear facilities. In addition to the powers given to local authorities under the regulations, Public Health England, the joint biosecurity centre and NHS test and trace are consistently and continuously monitoring the levels of infection and other data on the prevalence of the virus across the country.

We continue to work closely with councils, local MPs and scientific experts to support local responses. Indeed, there are several people in this room to whom I have spoken about particular issues in their locality, to ensure we feed that information in so that we can make the best decisions. However, we have always been clear that we will need, and will take, swift and decisive action where necessary to contain local outbreaks by imposing more serious restrictions, often referred to as a local lockdown—for example, stopping people from different households meeting up with each other, or closing specific business sectors. Those nationally imposed measures at local level are in addition to the powers given to local authorities by the regulations that we are debating today.

[Jo Churchill]

I thank right hon. and hon. Members for the points that have been raised and the contributions that have been made. I will conclude by recording on behalf of the Government my thanks to the people of England for their ongoing observance of covid-19 guidance and legislation, helping to reduce the burden on our vital services and save lives through this crisis. As the hon. Member for Ellesmere Port and Neston has said, every life lost is a tragedy, so we still need to bear down and

work hard to make sure that we do absolutely everything we can to ensure that is kept to a minimum. I commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (S.I. 2020, No. 750).

5.29 pm

Committee rose.