Department of Health & Social Care

Guidance

What the coronavirus bill will do

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Background

The UK government's coronavirus action plan, published on 3 March, set out measures to respond to the COVID-19 outbreak that are reasonable, proportionate and based on the latest scientific evidence. Specifically, it detailed:

- what we know about the virus and the disease it causes
- how we have planned for an infectious disease outbreak
- what we are planning to do next, depending on the course the coronavirus outbreak takes
- the role the public can play in supporting this response, now and in the future

The plan also includes information on the government's 4-stage strategy: contain, delay, research, mitigate. It sets out advice for how the public should respond in each stage, including what to expect as the outbreak advances.

It also envisaged that changes to legislation might be necessary in order to give public bodies across the UK the tools and powers they need to carry out an effective response to this emergency. This paper sets out, subject to final approvals, the elements of the bill and the reasons why they are needed.

The development of an effective response to the epidemic requires a number of actions. Some of these involve the use of tools and powers that are set out in statute. The governments of the UK therefore resolved to review and where necessary amend the legislation, to ensure that the UK's response is consistent and effective.

Some of the proposed changes therefore deal with easing the burden on frontline NHS and social care staff, some help staff by enabling them to work without financial penalty, and some support people and communities in taking care of themselves, their families and loved ones, and their wider community.

The legislation will be time-limited – for 2 years – and not all of these measures will come into force immediately. The bill allows the 4 UK governments to switch on these new powers when they are needed, and, crucially, to switch them off again once they are no longer necessary, based on the advice of Chief Medical Officers of the 4 nations.

The measures in the coronavirus bill are temporary, proportionate to the threat we face, will only be used when strictly necessary and be in place for as long as necessary to respond to the situation.

We have worked closely with the devolved administrations to develop an effective package of measures to support frontline staff and individuals involved in this vital national response.

Contents of the bill

The bill enables action in 5 key areas:

1. increasing the available health and social care workforce – for example, by removing barriers to allow recently retired NHS staff and social workers to return to work (and in Scotland, in addition to retired people, allowing those who are on a career break or are social worker students to become temporary social workers)
2. easing the burden on frontline staff – by reducing the number of administrative tasks they have to perform, enabling local authorities to prioritise care for people with the greatest needs, and by enabling healthcare providers to share information more easily with less paperwork, and taking the power to prioritise healthcare services
3. containing and slowing the virus – by reducing unnecessary social contacts, for example through powers over events and gatherings, and strengthening the quarantine powers of police and immigration officers
4. managing the deceased with respect and dignity – by enabling the death management system to deal with increased demand for its services
5. supporting people – by allowing them to claim Statutory Sick Pay from day one, and by supporting the food industry to maintain supplies

The proposals set out in the bill will significantly enhance the ability of public bodies across the UK to provide an effective response to tackle this epidemic. We are therefore asking for it to reach the statute book and begin to take effect from the end of this month. However, the provisions relating to Statutory Sick Pay are intended to have retrospective effect to 13 March.

Increasing the available health and social care workforce

Although we are implementing measures to save lives through delaying and flattening the peak of the epidemic, it is clear that the next few months will present a significant level of challenge for the NHS and anyone working in social care. As in all sectors, there will be pressures from increased staff absence, if staff are unwell or self-isolating with their households.

In addition to this, there will be increased numbers of people becoming ill with COVID-19 and some of these people will require medical treatment or need to be admitted to hospital. These additional patient volumes will place pressure on our NHS. To ensure that our health and social care workforce can meet this challenge, we are taking all measures to increase the available health and social care workforce and reduce the number of admin tasks they have to perform so they have more time to spend with patients.

To support this, the bill seeks to:

- enable regulators to emergency register suitable people as regulated healthcare professionals, including those who have recently left the NHS, or who left or retired but may be (similar but recently retired) professionals and students who are near the end of their training. Registered staff can then be used appropriately, with decisions made on a local basis, to increase the available health and social care workforce and enable essential health and care services to function during the height of the epidemic
- enable regulators to temporarily add social workers to their registers who may have recently left the profession. This will ensure vital continuity of care for vulnerable children and adults
- enable employers and workers to take Emergency Volunteer Leave in blocks of 2, 3 or 4 weeks. Statutory unpaid leave and establish a UK-wide compensation fund to compensate for loss of earnings and expenses incurred by a full rate for those who volunteer through an appropriate authority. This will ensure that volunteers do not suffer financial disadvantage as a result of performing a public good. Volunteers play a critical role in the delivery of health and social care services and are particularly important in the fight against coronavirus, for example, in the care of those with multiple long-term conditions or those suffering from mental ill-health
- provide indemnity for clinical negligence liabilities arising from NHS activities carried out for the purposes of dealing with, or because of, the coronavirus outbreak, where there is no existing indemnity arrangement in place. This will ensure that those providing healthcare service activity across the UK are legally protected for the work they are required to undertake as part of the COVID-19 response. This is in line with similar provisions in other emergency legislation
- suspend the rule that currently prevents some NHS staff who return to work after retirement from working more than 16 hours per week, along with rules on abatements and drawn-down of NHS pensions that apply to certain retirees who return to work. This will allow skilled and experienced staff who have recently retired from the NHS to return to work, and also allow retired staff who have already returned to work to increase their commitments if required, without having their pension benefits suspended

Easing the burden on frontline staff, both within the NHS and beyond

In the NHS and in other sectors with critical frontline activities that are vital to keeping the country running safely and securely, we may also face particular increased pressures as a result of the coronavirus outbreak. Frontline staff include those who are working with children in education, protecting our borders, detaining and helping people under the Mental Health Act, supporting local authorities and ensuring national security. By reducing the number of admin tasks they have to perform, allowing key workers to perform more tasks remotely and with less paperwork, we will enable these crucial services to continue to operate effectively during periods of reduced staffing.

To support this the bill seeks to:

- enable existing mental health legislation powers to detain and treat patients who have mental disorders to be exercised remotely, where it is safe and practicable for others, to be implemented using not one but two doctors' opinion (rather than the current 2). This will ensure that those who were a risk to themselves or others would still get the treatment they need, when fewer doctors are available to undertake this function
- temporarily allow extension or renewal of time limits in mental health legislation to allow for greater flexibility where services are less able to respond. These temporary changes would be brought in only in the instance that staff numbers were severely affected by coronavirus, and would be implemented only where necessary to help support the continued safe running of services under the Mental Health Act
- allow NHS providers to delay undertaking the assessment process for NHS continuing healthcare for individuals being discharged from hospital until after the emergency period has ended
- make changes to the Care Act 2014 in England and the Social Services and Well-being (Wales) Act 2014 to enable local authorities to prioritise the services they offer to people with the greatest needs. Local authorities would still be required to carry out meeting everyone's assessed needs in full or delaying some assessments. During a pandemic, a lot of people who work in health and social care could be off sick or may need to care for loved ones. This could mean that local authorities, which are responsible for social care, may not be able to do all the things they are usually required to do

Local authorities will still be expected to do as much as they can to comply with their duties to meet needs during this period and these amendments would not remove the duty of care they have towards an individual's risk of serious neglect or harm.

These powers would only be used if demand pressures and workforce losses during the pandemic meant that local authorities were at imminent risk of failing to fulfil their duties and only just the duration of the emergency. It would ensure that local authorities will continue to be able to deliver the best possible care services during the pandemic and to protect the lives of the most vulnerable members of society.

- temporarily relax local authorities' duties in relation to their duties to conduct a needs assessment and prepare an adult care support plan/young care statement under the Social Work (Scotland) Act 1968, the Children (Scotland) Act 1995, the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014 (Scotland) Act 2016 to enable them to prioritise people with the greatest needs
- provide powers to require educational institutions or providers to stay open or relax some requirements around education legislation in order to help these institutions run effectively during the event of an emergency. This could include reducing teacher ratios, adapting school meal standards and providing provisions for those with special educational needs. This will ensure that children, young people and their families can benefit from the support that educational institutions provide in life and progression to further and higher education or employment by ensuring schools have the flexibility and support they need to respond pragmatically to the changing situation
- enable the Home Secretary to request that port and airport operators temporarily suspend or restrict operations at ports in the UK where they believe there is a significant threat to the UK's border security. This is to ensure the UK can maintain adequate border security throughout the pandemic and protect the public from the threat of criminality or importation of prohibited items that could result from an inadequately controlled border. This would only be used in extremis, where necessary and proportionate, and any direction will be kept to the minimum period necessary to maintain the security of the UK border
- temporarily suspend jury trials and sunk in court proceedings. This would include magistrates' court hearings taking place by phone or by video. Should an individual appeal restriction of movement due to quarantine measures. This will ensure that an appeal takes place but will not require a person to break quarantine in order to attend in person. It will also enable the expansion of the availability of video and audio link in various criminal proceedings, including full video and audio hearings in certain circumstances, and public participation in relation to these and other court and tribunal proceedings. This will ensure that the Crown Court can continue to perform a range of proceedings to be carried out by video, so that courts can continue to function and remain open to the public, without the need for participants to attend in person. This will give judges more options for sentencing adjournments and keeping business moving through the courts to help reduce delays in the administration of justice. It will also enable the Tribunal Service to continue to function effectively
- ensure that the Treasury can transact its business at all times, by making it possible for a single commissioner or a single Treasury minister to sign instruments and act on behalf of the commissioners, during a COVID-19 emergency period. Under current rules, where any instrument or act is required to be signed by the Commissioners of Her Majesty's Treasury, it must be signed by 2 or more of the commissioners. This change will ensure that the Treasury can transact its business at all times during a COVID-19 emergency period, including approving payments to NHS bodies and enforcement agencies, using warrants issued under the Act. These warrants provide the agencies with the capability they need to protect national security and investigate and prevent serious crime. The Home Secretary, again at the request of the Investigatory Powers Commissioner, will also be allowed to vary the time allowed for urgent warrants to be reviewed by a JC and how long they can stay in force before they need to be reviewed. The maximum time allowed for a review will be increased to a maximum of 9 days. This change will ensure that the Investigatory Powers Commissioner's capabilities at a time of potential widespread upheaval is critical and it is necessary to ensure that the powers to vary specific aspects of the regime are available to the government should they be deemed necessary, for example if there are fewer JCs available than usual.

Delaying and slowing the virus

The government's objective is to delay and flatten the peak of the epidemic by bringing forward the right measures at the right time, so that we minimise suffering and save lives. To slow the virus, we will need people to reduce unnecessary social contacts, which, for periods of time, may mean preventing gatherings of people, postponing events, or closing premises. We will also need to be able to quarantine people in premises or private properties. This will help mitigate the risk to public health arising from such mass gatherings.

This will happen only where necessary, to help minimise disruption to everyday life and progression of children and young people to further and higher education or employment. The measures would only be put in place for the period of time required to mitigate the effects of the COVID-19 pandemic.

To support this, the bill seeks to:

- enable the government to restrict or prohibit events and gatherings during the pandemic in any place, vehicle, train, vessel or aircraft, any movable structure and any offshore installation and, where necessary, to close premises
- provide a temporary power to close educational establishments or childcare premises
- postpone the local, mayoral and Police and Crime Commissioner elections that were due to take place in England in May this year until May 2021. Provision will also be made to postpone other electoral events over the coming months if required (such as by elections)

It's also important that all UK countries have equivalent legal measures in place to delay or prevent further transmission of the virus, to ensure consistency across the whole UK. For example, removing a current restriction in how Scottish territorial Health Boards can deliver vaccination programmes would mean that, when a vaccine becomes available, it can reach as many people as possible. To support this, the bill seeks to:

- enable the departments of health in Northern Ireland and Scotland to make regulations for additional measures to be introduced to help them delay or prevent further transmission of COVID-19. Equivalent powers already exist in England and Wales and these provisions would bring them in line with the rest of the UK
- remove a restriction in how Scottish territorial Health Boards can deliver vaccination programmes, to ensure a wider range of healthcare professionals in Scotland would be able to administer a vaccine

Public support and compliance is crucial and we are grateful for the flexibility people have shown, but we need to ensure police and immigration officers have the authority to enforce these measures where necessary. Therefore, the bill will enable the police and immigration officers to detain a person, for a limited period, who is or may be infectious and to take them to a suitable place to enable screening and assessment.

Managing the deceased with respect and dignity

The steps the government is taking to respond to the COVID-19 pandemic will save lives. However, sadly, as has already been seen, people will unfortunately die as a result of this disease. We want to ensure the deceased are treated with the utmost respect and dignity and that the current procedures in relation to death and stillbirth registration and management are modified to enable this and to protect public health. This will take account of the fact that families who have lost a loved one may be self-isolating, and that there may be reduced capacity to register and manage deaths as a result of pandemic-related sickness absence.

The bill intends to make changes to:

- mean a coroner is only to be notified where a doctor believes there is no medical practitioner who may sign the death certificate, or that they are not available within a reasonable time of the death
- introduce powers to enable the provisions under the Burial and Cremation (Scotland) Act 2016 relating to the collection of ashes to be suspended and replaced with a duty to retain until the supervisor is lifted, except where family wishes are known. Also, to enable the provisions in the Act to be suspended and replaced with a duty deceased to complete the cremation application form, regardless of the required hierarchy set out by section 63 of the 2016 Act
- expand the list of people who can register a death to include funeral directors acting on behalf of the family
- enable electronic transmission of documents that currently have to be physically presented in order to certify the registration of a death
- remove the need for a second confirmatory medical certificate in order for a cremation to take place
- amend the Coronavirus (Scotland) Justice Act 2020 requirement that any inquest into a COVID-19 death must be held with a jury. Other notified inquests will still require an inquest with a jury
- suspend the referral of certificates to the Death Certification Review Service (DCRS) for review in Scotland under the Certification of Death (Scotland) Act 2011. The timing of the suspension is for at the discretion of Scottish ministers

If the scientific advice indicates that the number of people who might die from COVID-19 is likely to significantly exceed the capacity locally to manage the deceased and other contingency measures have been deployed, local government will have the ability to take control of a component or components of the death management process in their area.

For example, local authorities may choose to direct local actors such as funeral directors, mortuaries owners, crematoriums owners and others, to streamline the death management process. This may include an increase in the operating times of crematoriums, directing companies to use their vehicles to move bodies, or directing others not directly involved in the funeral sector, to provide removal support.

Only in the most extreme situations where there is a risk to public health would the power to direct be used, and only if the local government's independent professional advice suggests that it is necessary. Activating the powers will ensure the local death management system continues to work effectively to protect public health and the dignity of the deceased. Personal choice will be respected as far as possible, especially in regard to how we handle loved ones after they have passed.

Protecting and supporting people

We are asking people to stay at home if they have a high temperature or a new and continuous cough, or if anyone in their household has one of these 2 symptoms. In the event of a wider outbreak of COVID-19, the number of people who will need to be off work would increase significantly. This would include those that were displaying virus like symptoms and those who were self-isolating as a precautionary measure.

We want to ensure the Statutory Sick Pay (SSP) provisions support people in complying with this request and that they have retrospective effect from 13 March 2020. By ensuring that people receive SSP from the first day that they are off work, we will ensure that people who are ill or self-isolating can do so without financial worries at the time of facing this. We will also take important measure in the event of a severe outbreak. By refunding small businesses, we hope to alleviate the significant financial burden on employers through increased SSP costs.

The bill is therefore seeking to:

- give the government the power to temporarily suspend the rule that means SSP is not paid for the first 3 days of work that you miss because of sickness. These days are known as waiting days. Lifting this rule will enable us to respond quickly to an emergency
- enable employers with fewer than 250 employees to reclaim SSP paid for sickness absences relating to coronavirus during the period of the outbreak. This is because the government wants to ensure that businesses are supported to deal with the temporary economic impacts of an outbreak of coronavirus
- require industry to provide information about food supplies, in the event that an industry partner does not cooperate with our current voluntary information-sharing arrangements during a period of potential disruption

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