



21 April 2021

Dear

### **Request for Information – ATISN 14996**

I wrote to you on 19 March regarding your request for information. Please accept my apologies for the delay in responding to your request.

### **Your Request**

1. Evidence to show why the Regulation to restrict sale of non-essential goods has been agreed at stores that are currently open and the devolved powers used to support the legality of this Regulation.
2. Evidence to show how this restriction if at all, specifically reduced the spread of the coronavirus for example reduction in numbers and percentages.
3. Evidence to show why this restriction is only in place in Wales and not the whole of the UK and why does the advice differ.
4. Evidence to show who decided, and what process was undertaken to decide, on what items are essential or not.
5. Which focus/external groups were permitted input into the above Regulation.
6. The number of unanswered e-mails (or are currently awaiting an answer) sent to the First Minister for Wales, Mark Drakeford MS and the Minister for Economy, Transport and North Wales, Ken Skates MS from members of the public in relation to the selling of non-essential goods during the coronavirus pandemic between the periods 7 February 2021 and 14 March 2021.
7. The numbers of answered e-mails sent by members of the public for the same time period.
8. The pre-covid average response rate for answering Ministerial correspondence and the average unanswered e-mail rate.

### **Our Response**

The Welsh Government holds some recorded information caught by your request.



## **Evidence to show why the Regulation to restrict sale of non-essential goods has been agreed at stores that are currently open and the devolved powers used to support the legality of this Regulation.**

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 require a review of the coronavirus restrictions which is undertaken every three weeks. These regulations legislate the Welsh Government response to the COVID 19 pandemic. The Regulations impose strict restrictions on gatherings, the movement of people, and the operation of businesses. Businesses that are permitted to operate must do so safely in a way that complies with the Coronavirus Regulations, in addition to other legal obligations imposed on employers (such as health and safety legislation).

The decision to limit the sale of non-essential goods to stores which were already open respected the requirement to re-open the retail sector in a cautious manner that enabled the impact of those gradual steps careful to be assessed. The key factor for phasing the reopening of the sector was the emergence of new strains of Coronavirus, in particular the Kent strain which is more easily transmissible.

At the heart of the decision making process is an overriding need to protect public health. The decision making process involves officials and experts from a number of fields supplying policy and medical evidence that is considered by Cabinet. Decisions are not taken lightly and all options are thoroughly scrutinised and interrogated. Only when Cabinet is satisfied will it announce relaxations to restrictions.

The current regulations provide for retail to reopen in the manner as described below. There are two tests (both have to be met not just one) to whether a premises from 22 March can sell the full range of non-essential goods – they have to have been open **selling essential** items on 11th March **and** sell a range of essential goods (which are listed) that are their **main** business (the guidance makes reference to the physical use of their premises rather than the monetary value of the sales).

The relevant provision is paragraph 57 of Schedule 4, which was amended by the Amendment No. 5 Regulations to make a temporary modification to the requirement for 'non-essential' retail to remain closed. It now provides the following may open:

### Schedule 5 - Temporary modification

...in relation to a supermarket or other shop that sells multiple types of goods—

- (i) which was open to the public on 11 March 2021, **and**
- (ii) which uses its premises, in the ordinary course of its business, **mainly** to sell—

(aa) goods listed in paragraph 55 of Schedule 4:

55 - Businesses offering the following goods for sale or hire in a shop—

- (c) products for the essential upkeep, maintenance or functioning of the home or a workplace;

So this has meant:

- From 22 March supermarkets have been able to sell their full range of products; and

- Mixed retailers that were open on 11 March have been able to open their doors to sell those products listed in para 55 of schedule 4.

Those retailers already open would have COVID risk assessments and mitigations in place. They have also been the focus of Environmental Health Officer activity over the previous months. They would be able to move quickly to sell more items with minimal additional risk including footfall, particularly as more and more items become essential to people. They would not need the same lead in time as some other retailers. Retailers who were unable to reopen have been able to access business support measures provided by the UK and Welsh Government.

**Evidence to show how this restriction if at all, specifically reduced the spread of the coronavirus for example reduction in numbers and percentages.**

Since 22 March, the public health situation in Wales has continued to improve. The number of cases of coronavirus in our communities is stable and pressure on the NHS has eased further. Coupled with this is the Welsh Government vaccine strategy that is further protecting our members of the public. The cautious approach to reopening retail alongside other gradual easing of restrictions has helped facilitate a move to the full reopening of the retail sector on 12 April, along with the reopening of other elements of our economy, including opening close contact services and Secondary School pupils returning to on-site learning.

**Evidence to show why this restriction is only in place in Wales and not the whole of the UK and why does the advice differ.**

Public health is a devolved policy and hence the Welsh Government is able to vary its response accordingly. Devolved powers means that the Welsh Government can develop policies which are more relevant to the people of Wales, respecting local characteristics and demographics. There are many similarities between the Welsh Government response to the pandemic and that of the UK Government.

**Evidence to show who decided, and what process was undertaken to decide, on what items are essential or not; and  
Which focus/external groups were permitted input into the above Regulation?**

The decision to allow certain retailers to open and those to close was a Cabinet one, informed by advice from Welsh Government officials and experts from a number of fields supplying policy and medical evidence.

The updated Coronavirus Control Plan takes account of vaccination and the dominant Kent variant, sets out how we will move through the alert levels and how we can help people and businesses plan for the future, as we continue our careful approach to unlocking the current restrictions. The plan is available here:

<https://gov.wales/sites/default/files/publications/2021-03/coronavirus-control-plan-revised-alert-levels-in-wales-march-2021.pdf>

The reopening sequencing clearly demonstrates the phased approach the Welsh Government is following for reopening the country.

The Welsh Government works in social partnership with its stakeholders. In steering our approach to mitigating the impact of the pandemic there have been regular meetings with the main business organisations in Wales, including the CBI, FSB, IoD, Chambers Wales etc, and further meetings with the main unions, including Wales TUC, USDAW, Unite, etc. A key stakeholder has been the Welsh Retail Consortium (WRC) with whom we have worked closely on the production of industry guidance, on mitigating the impact of covid on the retail sector in general, and more recently on the reopening of the sector. In order to reach further, we have also held meetings with major retailers which are non-WRC members. This partnership approach has enabled us to develop policies that embrace the perspective of our partners.

For question 6, the information you have requested is not yet available. The Welsh Government aims to reply to Ministerial correspondence within 17 working days. Correspondence cannot be considered as 'answered' or 'unanswered' until 17 working days have passed. Similarly for question 7, no accurate information can be provided for the same reason as the statistics are still being created.

For your final question, we can confirm that 100% of e-mails that required a reply were answered. Ministers receive significant amounts of correspondence that do not require an answer, for example duplicate or copy correspondence, correspondence for information only, correspondence that does not ask a question or seek an answer, or abusive correspondence, all of which would not be recorded. Further information about contacting Ministers is available on our website at <https://gov.wales/contacting-welsh-government-ministers>.

### **Next steps**

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at: Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or Email: [Freedom.ofinformation@gov.wales](mailto:Freedom.ofinformation@gov.wales). Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely