

## The corona crisis, the outdoors and the rights of Older People

### Description

*“And of course given how severely this virus is affecting older people and those with other health vulnerabilities, some form of shielding will almost certainly be required for the foreseeable future”*

(Nicola Sturgeon on lifting “lockdown” [\(see here\)](#)).

In the last few weeks, as a result of the Corona Crisis, Parkswatch's attention has shifted from the wide open spaces in our National Parks to access to farmland around settlements and greenspace in urban areas. The focus of this post is even narrower, the very right of Older People to go outdoors.

While there have been increasing numbers of people aged 80 plus taking part in Outdoor Activities [\(see here for 94 year old woman climbing a hill for the FIRST time\)](#), those that are able to do so are relatively few, and they are not my focus. Their rights are dependent on the draft decision making framework being by the Scottish Government acknowledging the need for Older People generally to go outdoors for their physical and mental health, respecting their right to do so and setting out a “safe” way for this to happen.

### The context

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THE Scottish Government's document Covid-19 - A Framework for Decision Making ("Sturgeon: Normal life not on the cards in near future", The Herald, April 24) is full of caring soundbites but lacking concrete proposals. The message could be summed up as "to suppress the virus we know we need to keep the rate at which it replicates under 1, but it's too early to know how to do this so the lockdown must continue". This fails to consider two vital facts.

The first is that the main reason why the lockdown has not brought replication rates down further is because the virus is spreading rapidly through care homes. These are predicted to account for 50 per cent of deaths in Scotland. Take care homes out of the equation, and rates of transmission in the community are very low.

The explanation is obvious, physical distancing and segregating people from indoor spaces where the virus can be transferred by hand do work. The implication is the Government needs to focus its main attention to halting the spread of the virus in care homes. That should include provision of proper Personal Protective Equipment, but also more comprehensive training and increasing the workforce so that staff working in care homes have time to observe infection control procedures. Alongside this care homes should be placed under the direct control of public health, who should be given the resources they need to implement a contact tracing, isolation and testing regime across the sector. The Framework document says the Government is working on contact tracing but

contains no concrete proposals for how it will do this. Care homes should be the place this starts, and immediately.

The second failure is to distinguish between activities where there is a low risk of the virus being transmitted from those where the risk is high. Had the Scottish Government done this, it could have been starting to lift certain restrictions now. The framework rightly states physical distancing will have a key role in keeping replication rates down in future, but fails to draw the conclusions for the present. There is no reason to continue to ban activities where people can keep two metres apart, whether these involve work or recreation. Mark Smith ("Garden centres and DIY shops should re-open now", The Herald, April 23) rightly explained how more shops could open safely, while most work that takes place outdoors, including the 173,000 jobs in the construction industry, could also do so. On the recreation side, there is no reason for continuing to restrict people from going out except for exercise or for the closure of facilities such as golf courses and country gardens, where physical distancing can be easily observed.

Relaxing the restrictions in these ways would give people hope, alleviate some economic hardship and allow the Scottish Government to focus its attention on how to manage the much riskier and thorny issues which relate to places where people congregate closely, where physical distancing is problematic and where there is a high risk of transferring the virus by hand

**Nick Kempe, Glasgow G41.**

I was pleased that the Herald published this letter on Saturday 25th April

It's almost impossible to consider rights to go outdoors without looking at the broader context. From the start, apart from those working directly caring for those with Covid-19, it's been clear that the main groups of people at risk of dying from Covid-19 are Older People and those with serious underlying health conditions. Moreover, where old age is combined with serious underlying health conditions people are particularly at risk. A large proportion of that population lives in Care Homes. It's hard to think of a higher risk environment for COVID-19 transmission (lots of people needing personal care crammed together looked after by too few staff). Unfortunately our governments completely failed to put in place on time measures that might have helped "shield" them (hence the letter above).

I will avoid the temptation of using parkswatch to say any more about an area where I used to work professionally. The point is that after abandoning the herd immunity policy, both the UK and Scottish Governments have been treating Older People as a homogeneous group distinct from the rest of the population. This has taken very little account of Older People living in very different circumstances and having very different needs.

Before the imposition of the lockdown, both the UK and Scottish Governments issued stronger advice to Older People than the rest of the population about staying at home ([see here](#)). At that stage, the Scottish Government distanced itself from the UK Government's suggestion that Older People might need to be forcibly isolated for four months ([see here](#)). The messages coming from two governments now, however, appear far more closely aligned with both Nicola Sturgeon and Matt Hancock last week talking about longer term measures being needed to "protect" Older People.

## **Current Law and Guidance in Scotland**

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 subject Older People to the same restrictions on leaving their homes as everyone else. While the over 70s are eligible for some special help ([see here](#)), there is nothing to prevent a 90 year old, for example, from going to the shops if they so wish, even though they might be eligible for a home delivery. This also means that while Older People, like the rest of it, can go out for physical exercise they are equally affected by the attempt to ban activities like sitting in the sun.

The current Scottish Government website does not include any separate guidance for the over-70s. NHS Inform ([see here](#)), however, includes the over 70s as the first of a long list of higher risk groups:

## Higher risk of severe illness

People who are at increased risk of severe illness from coronavirus should strictly follow physical distancing measures.

This group includes people who are:

- aged 70 or older (regardless of medical conditions)
- under 70 and [instructed to get a flu jab as an adult each year on medical grounds](#)
- pregnant

It also includes people with:

- chronic (long-term) respiratory diseases, such as asthma, chronic obstructive pulmonary disease (COPD), emphysema or bronchitis
- chronic heart disease, such as heart failure
- chronic kidney disease
- chronic liver disease, such as hepatitis
- chronic neurological conditions, such as Parkinson's disease, motor neurone disease, multiple sclerosis (MS), a learning disability or cerebral palsy
- diabetes
- problems with their spleen – for example, sickle cell disease or if you have had your spleen removed
- a weakened immune system as the result of conditions such as HIV and AIDS, or medicines such as steroid tablets or chemotherapy
- a BMI of 40 or above who are seriously overweight

There is, I found to my surprise, no real difference in the advice pertaining to these higher risk groups, apart from the word “STRICTLY” being inserted before “observe Physical Distancing”. The ONLY substantive difference between the advice for the over-70s and that for the under-70s without underlying health problems is that the over-70s can allow friends and family into their homes for “essential care”:

▼ 70 years old and over

Action	Recommendation
Social mixing in the community	Not allowed
Having friends and family to the house	Not allowed unless for essential care
Use remote access to NHS essential services	Strongly advised
Vary daily commute, use less public transport	Only essential travel allowed
Home working	Required unless essential to attend workplace. Physical distancing measures to be followed

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▼ Under 70 years old, without any underlying health condition

Action	Recommendation
Social mixing in the community	Not allowed
Having friends and family to the house	Not allowed
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Home working	Required unless essential to attend workplace. Physical distancing measures to be followed

“Essential care” is of course very restrictive and not the same as having a member of your family in for “support”.

Where the advice is different is for people judged to be at extremely high risk where there is reference to shielding measures:

## Extremely high risk of severe illness

Some groups of people are considered to be at extremely high risk of severe illness with coronavirus and should rigorously follow [shielding measures](#). Their household and other contacts should strictly follow [social distancing measures](#) to protect them.

This group includes people who:

- have had solid organ transplants
- have cancer and are receiving active chemotherapy

List of 9 other conditions follows

Readers may note that Nicola Sturgeon last week (top quote) referred to shielding as maybe being necessary for foreseeable future for ALL older people and people with health vulnerabilities, not just those at extremely high risk.

Ironically, the guidance on Shielding ([see here](#)) is the ONLY advice from the Scottish Government that I have discovered so far that acknowledges people's right to make choices might be important:

*“Shielding is for your personal protection. It's your choice to decide whether to follow these measures.*

## The needs of Older People to go outdoors

While the current law and guidance in Scotland thus doesn't restrict Older People as much as is commonly believed, it also pays no attention to their needs. My peer group are at an age where the surviving members from the previous generation are relatively old, mostly 85 plus. I have heard a great deal in the last few weeks about how they have been responding to the risk of Covid-19 and the lockdown. Here are some of their stories (from Scotland and the wider UK):

- A woman in her eighties who lives alone who has taken up cycling again after a gap of more than 20 years- she feels this is the safest way to get out her house and take exercise
- A 90 year old woman who lives alone and goes for a walk to a local greenspace each day. She has been challenged by police officers for sitting on a park bench and told if she can't take take exercise without sitting down she shouldn't be out.
- Two women who live alone, neighbours, who go for a walk with each other each day and who have separately taken their cars to walk together in the countryside. One neighbour used to spend most of her time indoors but now she cannot see people there, she goes out for a walk. I am told her mood has improved considerably.
- A man over 90 who lives alone in sheltered housing and has been driving out of the town where he lives to walk up a small hill each day
- A couple in their eighties who go walking out of their village each day. For the first couple of weeks of the lockdown they took a picnic with them but stopped doing this because they were

worried about being confronted.

- And the youngest example, a woman living in a flat without a garden whose family had planned a party for her 80th birthday. It had to be cancelled but a group of friends, all in their 80s, gathered in the street outside to toast her health. I am told each brought a glass and a tea towel, which they each used to pour out a toast – briefly breaking the 2m rule.

A number of these Older People who have gardens have been quietly meeting friends or family there and I also know of some who go out for a walk more than once a day. The first is against the law, the second contrary to both the UK and Scottish government's guidance which states people should only go out once a day for physical exercise.

Now, this is not a representative sample of Older People. They have lived significantly longer than average and none has any significant cognitive impairment such as dementia. Their views and actions may also have been influenced from having experienced the war as children. They are perhaps less feart as a consequence. I think too the attitude of several to risk is influenced by knowing that, however long they have to live, spending the rest of their lives isolated is a difficult thing to contemplate (and even more difficult now our governments are talking about restrictions lasting for months and more). Better to try and make what you can of life.

None of these Older People are I believe being rash – I doubt they would have got to their age had they been – and in all cases they have made significant changes to their lives, restricting the amount of contact they have with other people. Most of them, however, are breaching the generic government guidance that applies to the population as a whole and some of them the law.

I believe there are very good reasons for their decisions and actions which both the Scottish and UK governments need to acknowledge. Of central importance are:

- Physical health . For most very old people taking exercise once a day is NOT the way physical health and fitness is maintained. Most take exercise in doses, a walk to the shops, a walk to see a neighbour or, if they are taking a longer walk, they take a break. Confining them to their homes makes this very difficult. Stop the walking and very old people lose muscle very quickly and with that the risk of falls etc increases dramatically. It's particularly important that Older People who don't have gardens should not feel discouraged from going out to walk more than once a day.
- Mental well-being. Few of the over-80s live their lives through social media and seeing other people and/or contact with nature is thus essential. In the examples above, people have both been driving into the countryside and also arranging to see people in person in their own gardens. They are, however, the outgoing and sociable. The converse to this is that levels of depression among older people living alone is very high – much of this stems from loneliness. The last thing Older People need is MORE social isolation.

The central message here is I believe the same for the very old as for the rest of the population. It's PHYSICAL distancing that matters (and thank goodness the Scottish Government has started using this term). As long as they can maintain their physical distance and maintain good hygiene, it's no more irrational or dangerous for the very old to go out than for other age groups.



## What needs to happen

The specific needs of Older People, however, could usefully be used to inform changes in the Restriction Regulations going forward and future guidance:

- First, we all need to get out for our mental well-being but Older People are particularly vulnerable if isolated at home. It may not be safe to run indoor clubs and activities but the one thing government could do is to encourage Older People to meet in the outdoors, whether this is their gardens, for those that have them, or in other open spaces.
- Second, Older People are particularly affected by the government guidance which says we can only take exercise once a day. People need to be allowed out little and often
- Third, the guidance in Scotland (but not England) advising people not to drive to is having a severe impact on a small group of Older People who drive to go for a walk and have nowhere to go locally. Being able to drive to a space where you feel safe – say because there are lots of benches available for you to take a rest in a park – is really important. Linked to that, however, is also the need to think about WHAT management measures might make it safer for Older People to go out. Yesterday there was newspaper coverage of a business spraying park benches – all our public authorities should be considering actions like that.

Unfortunately, while the Scottish Government is rightly trying to suppress the corona virus, in its draft framework for decision making ([see here](#)) it has not taken account of the adverse consequences of the Stay at Home message or of the right of people to make choices about their own lives :

*“Every individual member of Scottish society matters and our entire strategy is focused on preventing every avoidable death. There is no such thing as a level of “acceptable loss”. That is an approach which reflects our commitment to safeguarding human rights and upholding human dignity”.*

*“Our objective is to contain and suppress the virus in order to minimise the harm it can do.”*

Safeguarding of human rights seems to be being considered solely in terms of protecting people from the health risks posed by the corona virus. There are no balancing objectives or attempts to consider the adverse consequences of some of the measures put in place. The most obvious for Older People (for the young its unemployment and poverty) is that because of the Stay at Home message many older people have not been seeking medical treatment they need for other health conditions and some are now dying because of that.

If the Scottish Government started consulting people I believe it would hear plenty of stories like the ones I have recounted here. It might then better appreciate the need to respect the rights of older people to go outdoors and to take decisions about how to do so in a way that is best for them. Instead, in the muddle and the panic the government risks stripping Older People of both their rights and their dignity. As proof of that I cite the case of the police accosting the 90 year old for daring to go for a walk and sit on a park bench.

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## Date Created

April 28, 2020

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