

Ethical and value judgements involved in developing policy for lifting physical distancing measures

Introduction

Difficult decisions will soon need to be made about what constitutes an acceptable/manageable level of COVID-19 infection in the population. The ideal answer to this question is of course zero, which is the ultimate aim. That goal, however, is unlikely to be achieved before decisions need to be made about how and when restrictions on movement and on social gatherings should be eased. Current physical distancing measures are not sustainable because of their impact on other important aspects of social and economic life.

Decisions about how and when to loosen current restrictions will inevitably present an increased risk of infection in the population. Any decision about how to proceed will need to be based on an assessment of the impacts of the range of available options. The United Kingdom's emergence from lockdown needs to be flexible, responsive to evidence, risk-based and intelligent. Testing and contact tracing are likely to be important sources of relevant information for the foreseeable future to inform intelligent physical distancing. Such decisions are most appropriately made by democratically elected members of parliament informed by the best available scientific evidence and the consideration of available scenarios.

The clarification of available scenarios and careful assessment of associated risks and benefits is essential but will not by itself provide answers to the question of what to do. Ultimately, these decisions will involve the making of difficult judgements of value, and choices between competing priorities. In recognition of this fact, **this brief paper sets out some of the key value judgements that are likely to be involved.** It first sets out a number of competing considerations and then proposes a structured approach to the making and justifying of decisions in this space.

Competing considerations

Any decision about lifting current measures will require consideration of a number of competing priorities. These are likely to include the following:

- **Health:** – *minimising the numbers of hospitalisations and deaths; maximising health benefits; and improving access to non-COVID health services such as cancer, mental health, and reproductive medicine*
- **Well-being beyond health:** – *education, employment, and access to open spaces*
- **Economic:** – *increasing employment, maintaining the foundations for flourishing economy, and protecting key industries*
- **Equity:** - *addressing impact on socially disadvantaged groups such as the low paid, those in precarious employment, and others most affected by current measures such as BAME.*
- **Protecting valuable public institutions:** - *NHS, schools, financial institutions, universities, and the arts*
- **Social capital and fabric:** – *social structures, community, relationships, families, and cultural events*
- **Future generations:** – *learning for future health emergencies, research, and minimising future debt*
- **Personal freedom:** - *individual liberty, and the ability to pursue valued goals*

It is important to note that these priorities are overlapping and interdependent, and each contains within it competing commitments.

How to proceed

(a)The importance of reasonable, transparent, accountable process

The values people consider important will vary, as will the relative weight they place on them. There will inevitably be disagreement. Decisions about values will, nonetheless, have to be made. Against this

background, it is essential that the process by which such judgements are made is seen to be reasonable, accountable, and transparent. There needs to be openness with the public about the fact that there are difficult judgements to be made and that there are no solutions that do not involve choosing between important values. Particular emphasis needs to be placed on engagement and involvement of diverse publics to ensure a wide range of perspectives and value frameworks.

(b) Fundamental values

Cutting across the list of competing considerations above, the following fundamental values are likely to be significant when making decisions between them.

(i) Minimising harms

A key value is the minimisation of harm. Under currently foreseeable circumstances no risk-free options are available. In this context, minimising harm requires decision makers to assess which scenarios will save the most lives or hospitalisations. It also requires consideration of other forms of harm such as those associated with missing out on education, deaths by other causes, and so on. Can decisions be made which enable some degree of opening up whilst also keeping harms low? Key questions are likely to include: are there some work or educational environments where social distancing can be achieved relatively easily? Can effective methods of shielding be used to minimise impact on the most vulnerable, bearing mind that shielding itself can be harmful if it further entrenches isolation or disadvantage. At a societal level a key challenge is going to be about how to judge the relative importance of loss of life and loss of quality of life.

(ii) Maximising wellbeing

A second key value emphasises the maximising of wellbeing. In the context of COVID-19, this requires decision-makers to look for policy choices with knock-on benefits e.g. where the opening of schools to benefit children also enables key workers to get to work. Here too it is necessary to remember the importance of both health and non-health benefits - in this example, access to education and employment, and the effective staffing of important services such as hospitals. The maximisation of wellbeing raises a number of intergenerational considerations: opening up schools may mean that those who are more susceptible to COVID-19, many of whom are elderly, are at greater risk.

(iii) Prioritising the worst off

Another important value emphasises paying particular attention to the worst off. This value could be interpreted in a number of ways. These might include prioritising the vulnerable in terms of health (the elderly, those with underlying health conditions, frontline health workers, people whose social disadvantage renders them vulnerable to COVID-19). They might also include prioritisation of: the needs of those who work in sectors where jobs are most likely to be lost or in which incomes are low, or those of young people who stand to lose the most life years if they die, or lose important quality of life if they are denied access to education. Another, cross-cutting, version would prioritise the poor, who will most likely be hit hardest by this pandemic and by current measures.

(iv) Prioritising societal value

Are there people who are or could be making a particularly important social contribution? Should key workers be prioritised because they are contributing most to society at present? If so, how should decisions about what is a 'key worker' role be decided? Will this change over time as the pandemic recedes? Reciprocity may be important value here i.e. prioritising those who have been putting themselves at risk to save lives or care for others. Might the same criterion be applied to institutions or other activities by prioritising those that play a particularly important social role?

(v) Equality

Another important value is equality i.e. treating everyone equally such that everyone counts as one and no one as more than one. It can be helpful in situations where resource allocation decisions need to be made between people with very similar needs in situations of extreme scarcity. This would suggest adopting something like an approach based on chance e.g. a lottery or a rota. In some situations, this might be the right thing to do e.g. in choosing which days of the week two neighbouring schools are to be allowed to open or using odd/even number plates to decide who can travel into town on a particular day of the week.

(vi) *Personal freedom*

An emphasis on personal freedom would require decisions to focus on creating the conditions under which most people would be able to live their lives as they wished and according to their own values. Two important aspects of this that might potentially come into conflict in ending current measures are liberty and privacy. An example of this might be where effective, intelligent physical distancing requires the use of mobile phone data or other personal information (such as that involved in manual contact tracing). Against a background risk of a dangerous resurgence of COVID-19 this may present a tension between these two important values because: (i) the current lockdown places important constraints on liberty that would not be acceptable outside a public health emergency, and (ii) intelligent physical distancing offers the potential to liberate most people currently under lockdown through uses of data that would not be acceptable under normal circumstances.

Michael Parker, 29th April 2020