

## Participation of the Devolved Administrations in the Joint Biosecurity Centre

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10 August 2020

1. The Joint Biosecurity Centre (JBC) has been established to identify outbreaks of Covid-19 early, and to ensure local and national decision makers have access to the best possible information when responding to outbreaks within their jurisdictions. It will not take or direct operational decisions on outbreak response.
2. A JBC that can work for all four nations of the UK will be better able to deliver its objectives. It will have access to more data, be able to provide better products, and draw together learning and insight from all four nations. Achieving this will require all four nations to approach the JBC with a strong spirit of collaboration and partnership.
3. This paper sets out the principles that will underpin a UK-wide JBC. It covers accountability and governance arrangements, how data access and use will work, the UK Covid-19 Alert Level and other JBC analytical products, local decision-making arrangements, staffing arrangements, and legal requirements. These arrangements will be formalised in agency arrangements and further details amplified in memoranda of understanding. The principles set out in this paper will be kept under review as implementation of the JBC progresses.
4. Each administration will provide the other three with advance notice of public statements that refer to the involvement of the Devolved Administrations in the JBC for the purposes of ensuring consistency.

### Value Add

5. The UK-wide JBC will:
  - a. Draw on a richer body of data than any of the four nations would be able to establish independently;
  - b. Use this to provide relevant, timely situational awareness, assessment and insight products, including responding where necessary to bespoke commissions, to each of the DAs to ensure local and national decision makers have access to the best possible information when responding to outbreaks;
  - c. Offer a forum to ensure responses to outbreaks in areas close to national boundaries are managed in a collaborative, effective way at local and national levels;
  - d. Collect and distribute good practice guidance and learning from outbreaks across each of the four nations, so they can all benefit from the latest understanding of what works; and
  - e. Provide the four UK CMOs advice to assist in the determination of the UK Covid-19 Alert Level, taking into account regional variations in data.

6. The Northern Ireland Executive and the Scottish and Welsh Governments agree:
  - a. To grant the JBC access to and use of public health and other data held by each administration for the purposes of assisting with the early identification of outbreaks and the development of a range of analytical products to inform local and national decision makers on the overall level, concentrations and drivers of risk, subject to the data protection regulations in place in each jurisdiction;
  - b. To establish the legal basis for a single UK-wide Covid-19 Alert Level, including consideration of regional variations in data where appropriate;
  - c. To establish mechanisms to ensure the response to outbreaks close to national land boundaries are joined up and mutually reinforcing, for example by the nomination of single points of contact. These arrangements can evolve as we understand more about how the four administrative geographies can most effectively work together; and
  - d. To the making of agency arrangements to provide the relevant legal basis for each of the above.

## **Accountability**

7. The JBC is part of the Department for Health and Social Care (DHSC), and accountable to the UK Parliament through the Secretary of State for Health and Social Care (SoS). The JBC's organisational costs will be met by the UK Government estimate (subject to HMT approval of business case), and as such the accounting officer (Permanent Secretary DHSC) must be directly accountable to the UK Parliament for the spending.
8. Recognising the need to ensure Ministers from all four nations can contribute to JBC oversight, a **JBC Ministerial Board** will be established to ensure the JBC is delivering its objectives as effectively as possible for all four nations of the UK. Ministers will remain accountable to their own respective legislatures.
9. The JBC Ministerial Board will be comprised of the English, Northern Irish, Scottish and Welsh health Ministers. Responsibility for chairing the JBC Ministerial Board will rotate each meeting according to the following pattern: England, Northern Ireland, Scotland, Wales. Recognising Ministers are in frequent contact anyway, this Board will meet three times a year, with its first meeting to take place as soon as practicable, but before 1 December 2020. In period meetings can be arranged as necessary by agreement. The JBC Ministerial Board will provide a formal space for Ministerial discussion and act as an escalation point for any issues about the JBC's UK-wide role that cannot be addressed at lower levels (see para 11), and will operate on a principle of unanimity. The terms of reference for this Board will be 'to ensure the JBC is delivering its objectives as effectively as possible for all four nations of the UK'. The format for these meetings will be Ministers plus two officials, with the JBC DG also attending. The Secretariat will be

provided by the JBC, working closely with relevant officials from each of the Devolved Administrations.

10. Recognising that the immediate priority is to respond to the Covid-19 pandemic as effectively as possible, the JBC Ministerial Board will consider the functioning of the JBC and whether it should be put on a **statutory footing** as soon as practicable but no later than 31 March 2022<sup>1</sup>. Any consideration to put the JBC on statutory footing will trigger the requirement for a new joint Agreement, including but not limited to such arrangements that relate to secretariat, funding, support and composition, to be negotiated and agreed by all four nations of the UK.

## Governance

11. Acknowledging the JBC's relationship with the wider Test and Trace service in England, the SoS will delegate executive leadership of the JBC to a **JBC Steering Board**. The terms of reference for the JBC Steering Board will be to set the JBC's strategic direction and objectives, safeguard its analytical independence, review performance, and hold the JBC Director General to account. This Board will also be consulted on the appointments of future Directors General. The membership and composition of the JBC Steering Board will be agreed by the JBC Ministerial Board. Each Devolved Administration will be invited to nominate a DG or Permanent Secretary level official to join it as full members with full voting rights. This Board will meet quarterly, with the first meeting to take place as soon as practicable, but before 1 December 2020. The secretariat for this Board will be provided by the JBC, working closely with relevant officials from each Devolved Administration. Any future decision to place the JBC on a statutory footing will necessitate changes to these arrangements.
12. Should issues that require urgent resolution emerge between JBC Steering Board meetings, or should operational issues arise, each of the Devolved Administrations can escalate for resolution through the following process: lead official to lead official, DG Level, Ministerial Level. Our intention will always be to find resolutions that support the JBC's strategic objectives, to do so in a collaborative and productive manner, and at the lowest possible level of seniority. This process does not replace the current agreement by which each of the four nations can raise a disagreement as a formal dispute as per the process set out in the Memorandum of Understanding and Supplementary Agreements (on Devolution). The Memorandum of Understanding (MoU) is subject to review following the decision of the Joint Ministerial Committee Plenary on 14 March 2018. Any reference to the MoU throughout this document should therefore be read as a reference to the MoU as amended from time to time.

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<sup>1</sup> Consideration of this issue can of course happen earlier. This date ensures there would be sufficient time to respond to a second wave should one occur over the winter of 2020. Placing the JBC on a statutory footing would require it to halt operations for a period of time.

13. A **JBC Technical Board** will also be established, as a sub-committee of the JBC Steering Board to agree the methodology by which the UK Covid-19 Alert Level is determined<sup>2</sup> (see below). Recognising that the four CMOs are in very frequent contact anyway, including through the weekly CMOs meeting, the JBC Technical Board will usually meet every three months. In-period session can be arranged as necessary, at the request of any of the four CMOs. The membership of this Board will comprise the Chief Medical Officers from each of the four nations, plus other relevant experts, such as Chief Scientific Advisors, to be agreed by the four CMOs. The chair will rotate between the four CMOs from one meeting to the next, according to the following pattern: England, Northern Ireland, Scotland, Wales. The Board will operate on a principal of unanimity. The first meeting of the JBC Technical Board will take place as soon as practicable, but before 1 December 2020. The Secretariat for this Board will be provided by the JBC, working closely with relevant officials from each Devolved Administration.

### **Data Access and Use**

14. The Devolved Administrations and the JBC agree, in principle, to providing mutual access to data for which they are the relevant data owners for the purposes of assisting with early identification of outbreaks and the development of a range of analytical products to inform local and national decision makers on the overall level, concentrations and drivers of risk. This will include, but is not limited to, data held by public health institutions in each of the four nations. Other non-health related data can be shared as appropriate.

15. Data access can be achieved in a number of ways, and different approaches will be appropriate for different sets of data and in different circumstances. Access and use arrangements and appropriate legal gateways will therefore be agreed on a case by case basis according to the data set in question. Where necessary, these arrangements will be recorded as Memoranda of Understanding between the Devolved Administrations and the JBC. The JBC will not collect or use data owned by the Devolved Administrations without the prior consent of the relevant data owner.

16. The JBC will adopt an approach to privacy and transparency that is consistent with best practice across the UK Government. The developing approach will be shared with the Devolved Administrations for comment by 31 August 2020, before the approach is finalised.

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<sup>2</sup> For the purposes of this document, 'determining the Covid-19 Alert Level' refers to the process of inputting the relevant information into the methodology agreed by the four CMOs, and 'setting the Covid-19 Alert level' refers to the decision the four CMOs make together on the actual level of alert.

## **The UK Covid-19 Alert Level and other Analytical Products**

17. The UK Covid-19 Alert Level is determined under conditions of analytical independence. There is no role for Ministers of any administration in the determination the UK Covid-19 Alert Level.
18. The current methodology for the determination of the UK Covid-19 Alert Level will be shared with the Devolved Administrations, via their Chief Medical Officers, by 31 July 2020.
19. The UK Covid-19 Alert Level is set by the four nations' Chief Medical Officers informed by advice from the JBC, and requires unanimity. The JBC will communicate its advice to the CMOs via a weekly update, which will include a recommendation to change the level if required. The JBC will respect that Regional variations may still be appropriate in certain circumstances. Should changes be required outside the weekly cycle, the JBC will issue an in-period update including a recommendation that the level be changed.
20. In addition to notifying CMOs, the JBC DG will notify nominated DG level officials from each Devolved Administration in advance of changes to the level. Formal notification is likely to be the night before a change is announced publicly, although in practice the JBC will communicate developments in the information that underpins the data regularly.
21. There will be a single UK Covid-19 Alert Level for the UK. Where material differences in the level emerge between one or more of the four nations, the JBC DG will inform nominated officials from the DAs in advance to discuss handling. In such cases, public announcements will be made only after Ministerial agreement on what to say publicly is reached in all four nations.
22. In addition to the UK Covid-19 Alert Level, the JBC will also produce a range of other analytical products including but not limited to: strategic assessment products (for example on sectors or communities that may be at particular risk), and situational awareness reports (that provide insight into, and foresight of, changes in virus transmission within geographically defined catchments). All JBC products will be made available to all four nations at the same time, where appropriate permissions are in place. The JBC will not produce formal assessment products that are specific to Northern Ireland, Scotland or Wales only, without agreement from the relevant Devolved Administration. JBC products will not be made available publicly without the consent of the relevant nations.
23. The JBC will establish a commissioning process through which the Devolved Administrations can commission specific products from the JBC. Details of the commissioning process, including who can commission products and how, will be shared with the Devolved Administrations as soon as is practicable, but no later than 31 August

2020. A mechanism will also be established to ensure the Devolved Administrations can contribute to the analytical forward work programme. This will include a process through which Devolved Administrations can be fully engaged in the development and publication of analytical products that cover geographically defined catchments, sectors or groups of significant relevance to that administration.

24. The JBC will welcome, on an ongoing basis, constructive feedback on its products and product suite in order to inform continuous improvement.

### **Local Decision Making**

25. The JBC's role is to ensure decision makers at all levels (institutional, local, national and cross-UK) have access to the best information (situational awareness, analysis and assessment) and guidance (best practice and escalation processes) to inform their choices.

26. Each of the four nations is in a unique situation (e.g. Northern Ireland has a land border with the Republic of Ireland). Solutions being developed and implemented in one nation will not necessarily be appropriate in the others.

27. It is likely that outbreaks will cross national boundaries (at least within Great Britain). In such instances, the relevant authorities and decision makers in each nation will need to work together.

28. A daily four nation situational awareness meeting will be established to share information and experiences about local outbreaks in each nation and support coordinated responses to outbreaks along national borders.

29. The Devolved Administrations and the JBC will nominate single points of contact to act as a direct, clear channel of communication to help the coordination of effective local responses across administrative geographies.

30. The JBC first and foremost recognises and respects the autonomy of decision making afforded to each DA under the respective Devolution Settlements. At any point, the JBC stands ready to discuss the development of the arrangements in para 28 should Northern Irish, Scottish or Welsh Ministers be minded to do so. Each Devolved Administration's autonomy in decision making will be respected, each Devolved Administration will have the freedom to move forward at its own pace, and the JBC will work with each administration individually to co-design an approach that adds the most value to that nation's existing systems, processes and structures.

31. The JBC's Framework and Action Cards for England have already been shared with the Devolved Administrations. The JBC stands ready to work with each administration on the

design and development of similar products appropriate for that nation's specific context, should that nation's Ministers be minded to do so.

## **Staffing**

32. Close cooperation will be required to ensure data access and analysis can be conducted consistently across the four nations where necessary, and to ensure responses to outbreaks in areas close to national boundaries are as joined up as possible.
33. By 31 August 2020, the Devolved Administrations and the JBC will each nominate single points of contact to facilitate close liaison on data sharing and analysis. The purposes of these roles will be to provide expert insight into the data available in each nation, agree access and use arrangements where necessary, and ensure *in situ* analysis is conducted on a consistent basis where possible and necessary.
34. By 31 August 2020, the Scottish and Welsh Governments and the JBC will each nominate single points of contact to ensure responses to outbreaks near or across national boundaries are as joined up as possible. The purpose of these roles will be to ensure information flows as effectively as possible between the Scottish and UK governments, and between the Welsh and UK Governments, and between local decision makers; to ensure decision makers at local and national levels are joining up with each other across national boundaries; and to national responses, where they are necessary, are coordinated.
35. Where the JBC and one of the three Devolved Administrations agree there is a need to strengthen these linkages, either now or in future when the resourcing picture permits, bilateral agreements that underpin the exchange of embedded staff in both directions to perform the functions in paragraphs 33 and 34 can be made. Embeds can be virtual as well as physical. Embedded staff will not be formally loaned or seconded so their pay and terms and conditions will remain the responsibility of, and they will remain accountable to, their respective administration (and in respect of NI, they will remain with their current employer).
36. Staff at all SCS and delegated grades currently employed by the Devolved Administrations remain eligible to apply for roles with the JBC, which will be advertised through the usual channels. Staff joining through this route would do so under the normal rules that govern movements of staff between UK Government departments and the Devolved Administrations, including the Northern Ireland Civil Service. Staff recruited in this way would be accountable to the SoS DHSC for the duration of their employment in the JBC.

## Legal Basis

37. Many executive and legislative functions in relation to health are devolved in Northern Ireland, Scotland and Wales. In order to ensure the Devolution settlements are fully respected, the Northern Ireland Executive, Scottish Government and Welsh Government will therefore each enter into Agency Arrangements with the UK Government in order to give legal effect to this agreement, including:

- a. The access and use of public health and other data collects and owned by the Devolved Administrations for the purposes of providing information to local and national decision makers to support responses to outbreaks; and
- b. The determination of a single UK Covid-19 Alert Level by the four CMOs, informed by advice from the JBC

38. All agency arrangements will be in force by 4 September 2020, subject to Ministerial agreement.