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To:

The Rt Hon Matt Hancock MP – Secretary of State for Health and Social Care
Robin Swann MLA – Minister of Health
Jeanne Freeman MSP – Cabinet Secretary for Health and Sport
Vaughan Gething MS – Minister for Health and Social Services

From:

Joint Biosecurity Centre,
Policy and Legislation Team,
PMO
Date: 22 March 2021

JBC GOVERNANCE DOCUMENTATION: PROPOSAL ON TRANSPARENCY, IMPLEMENTATION PLAN AND NEXT STEPS

Issue

To outline the joint JBC-DA approach and initial plans for transparency of documentation relating to joint JBC governance arrangements and the three JBC governance boards.

Recommendation

That you:

- **Note and agree** the proposed joint approach to be taken on the transparency of JBC governance and governance board documentation;
- **Agree** to the proactive publication of the Agency Agreement, Political Agreement and Terms of Reference (ToR) for the JBC's Ministerial, Steering and Technical Boards (appended); and
- **Note** the next steps to progress delivery.

Background

1. On 10 August 2020, an agreement on the 'Participation of the Devolved Administrations in the Joint Biosecurity Centre' (hereafter referred to as the Political Agreement) was agreed between the Secretary of State and respective Health Ministers in the Devolved Administrations.

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2. Following the completion of the Political Agreement, an Agency Agreement – underpinning the political commitment and providing the legal basis for JBC’s operation on a UK-wide basis – has been finalised and approved by Ministers.
3. The JBC and DAs have made considerable progress on the implementation of the Agency Agreement and the commitments contained within it, including standing up and servicing three governance boards in accordance with the Political and Agency Agreements: The thrice yearly Ministerial Board, quarterly Steering Board and quarterly Technical Board.
4. Now that the governance structure is established and operational, the Secretariat has turned its attention to the publication of Board materials, the urgency of which has been exacerbated by a recent Science and Technology Committee report, which recommended the DHSC publish ‘the terms of reference, meeting papers and meeting minutes of the steering and advisory boards supporting the JBC’.¹

Our approach to transparency

5. We recognise the need for transparency in government. Making details of our activities and governance available to the public enables accountability. This need is heightened by our central role in the response to the Covid-19 pandemic and the heightened public scrutiny which this attracts.
6. Our guiding principle for transparency is that the JBC will be open by default.
7. The Agency Agreement makes the following reference to documentation from the JBC governance boards:
5 e) “.....Agendas, papers and records of meetings will not normally be published, although the methodologies underpinning the Covid-19 Alert Level, the

¹ The Science and Technology Committee made recommendations relating to JBC and noted the following in January 2021: “It is regrettable that full transparency was not achieved in time for the JBC’s inauguration on 1 June. We welcome the disclosure of the expert advisory boards supporting the JBC. Nevertheless, the Department of Health and Social Care (DHSC) has yet to commit to publish the outputs, including meeting papers and minutes, of all the JBC’s established boards. It would appear that the Government has not learned fully from the public concern resulting from the initial delays in publishing SAGE information. *The Department of Health and Social Care should commit, within a month of this Report, to publish the relevant outputs—including terms of reference, meeting papers and meeting minutes—of the steering and advisory boards supporting the JBC. DHSC should also set out how regularly these boards will meet and when relevant papers can be expected to be in the public domain—preferably within a fortnight of each meeting.*”

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JBC's assessment of the public health risks of direct inbound travel to the UK, and future similar products will be."

8. We do not advocate the automatic and routine publication of all of this material as a norm. Instead, we seek to address the desire for transparency by establishing a sound and reasoned methodology on which to base transparency decisions on a case by case basis. However, in the interests of transparency and to ensure accountability, we would look to publish minutes of these meetings (or abridged summaries) wherever possible.
9. In light of the Science and Technology Committee's recommendations, we have considered the approach taken for DHSC Boards (notably the PHE publicly held Advisory Board and DHSC Departmental Board, which, whilst they do not perform a similar function to the JBC, produce a publicly available record) and the SAGE Committee, which affords a more direct comparator. We propose a similar approach to that set out in the "Enhanced SAGE Guidance – a strategic framework":

*Publishing minutes and SAGE advice*² This framework sets out that publication would not include information attracting an exemption under the Freedom of Information Act 2000 (FOIA). It also notes that timing of any release is important, as this can affect the application of government policy formulation exemptions under the FOIA.

Proposed transparency of JBC governance documentation

10. The documentation considered to be in scope is set out below:

- Agency Agreement;
- Political Agreement; and, for the Ministerial, Steering and Technical Boards;
- Terms of Reference;
- Minutes;
- Papers referred to in the minutes.

² The SAGE secretariat should ensure that minutes are recorded for both SAGE committee and sub-group meetings. Minutes should be prepared in accordance with standard practice for a scientific advisory committee. These should be cleared by SAGE members for technical accuracy. The SAGE secretariat should also act as the information manager for all SAGE products, storing and circulating them and publishing them as and when appropriate. It is likely that the policy development, national security and/or personal information FOI exemptions may apply, and this may mean that some information needs to be redacted or omitted before publication. The timing of publication will also need to be considered, with the most appropriate timing, often being after the emergency is over.

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11. Our approach is to recommend each document for publication unless an exemption applies under the FOIA or the Freedom of Information (Scotland) Act 2002. And, where a qualified exemption applies, the public interest does not favour disclosure. We will apply this test on a case by case basis.
12. The Agency Agreement, Political Agreement and Terms of Reference for each Board are individual, stand-alone documents and not part of a series. As such we have already applied the test and jointly recommend publication of each without redaction.
13. All publication will be accompanied by an agreed narrative to give context to the documents. We will clearly explain to the public how the documents are related and collectively provide a four-nation governance overview of JBC.
14. For the minutes of each Board and associated papers, we will establish a cyclical rhythm of review and recommendation for publishing. Our recommendation and supporting reasoning will be presented to the relevant Board for endorsement before publication occurs.
15. Publication will be on the JBC governance page on GOV.UK, with an option for each nation to signpost to the GOV.UK page from their own websites. The four nations will agree the accompanying wording.
16. We anticipate that, in general, the minutes of the Ministerial and Steering Boards will attract minimal redaction and be published in full. We also anticipate that the review of accompanying papers is unlikely to recommend the majority for publication.
17. We also anticipate that, in general, the minutes and associated papers of the Technical Board are unlikely to be recommended for publication due to the role of the Board and proximity to government policy formation. However, the JBC does seek to publish the agreed outputs that these meetings lead to – noticeably the UK alert level methodology and the risk assessment methodology for inbound international travel.

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18. Where this is the case, and to promote transparency, we propose to publish a high-level summary of Technical Board meetings instead of the minutes and papers. The Technical Board will approve publication and timing in each instance.

19. We include below a summary table of the documentation set out in para 12 that has already been produced, and the proposed plan for publication of material created to date. Also included attached at **Annexes A - E** are the final versions of the documentation that we would look to publish as soon as possible, based on the principles set out above.

Documents	Annex Reference	Publication intent
Political Agreement	Annex A.	Publish Agreement
Agency Agreement	Annex B	Publish Agreement
Ministerial Board ToR Steering Board ToR Technical Board ToR	Annex C (1) Annex C (2) Annex C (3)	Publish all ToRs
Ministerial Board minutes – inaugural meeting 30-11-2020	Annex D	Publish
Ministerial Board papers	N/A	Generally, withhold
Steering Board minutes – inaugural meeting 28-01-2021	Annex E	Publish
Steering Board papers	N/A	Generally, withhold
Technical Board minutes	N/A	Publish a summary only
Technical Board papers	N/A	Withhold

Are Ministers content with the approach we are recommending regarding publication?

Are Ministers content to sign off the attached documentation for publication?

Next Steps

20. If approval of our recommendations is granted, we will continue our collaboration to deliver joint publication of the documents recommended above, along with appropriate messaging to publicly set out our position on the transparency of future documentation.

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21. We will finalise and implement the processes necessary to support our approach to review Board minutes and papers for publication on a cyclical case by case basis.
22. Our process includes finalising Board minutes and the publication recommendation for minutes and papers and presenting these to the Boards for approval within one month of the Board meeting. This will allow opportunity for each nation to assess and provide recommendations ahead of a collective position being reached.
23. We will report on our progress at the next Ministerial Board.