

Message

From: Goulding, David (HSS - DHP Public Health) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=09352F82B48C4A25A6B6CF936FA8673F-GOULDING, D]
Sent: 20/06/2019 10:28:35
To: PS Minister Health & Social Services [psmhss@gov.wales]
CC: PS Deputy Minister Health & Social Services [psdmhss@gov.wales]; PS FirstMinister [ps.firstminister@gov.wales]; PS Minister Education [psme@gov.wales]; PS Minister Economy & Transport [psmet@gov.wales]; PS Deputy Minister Housing & Local Gov [psdmhlg@gov.wales]; PS Permanent Secretary [ps.permanentsecretary@gov.wales]; PS SpecialAdvisers [pssa@gov.wales]; [NR] (OFMCO - Legal Services); [NR] @gov.wales; [NR] [NR] (OFM - Constitution and Justice); [NR] @gov.wales; [NR] (EPS - Ops Team) [NR] @gov.wales; Clark, Andrew (ESNR-SHELL -Further Education & Apprenticeships) [andrew.clark@gov.wales]; [NR] (EPS-SED); [NR] @gov.wales; [NR] (EPS - CYP&F) [NR] @gov.wales; [NR] (HSS - Social Services & Integration); [NR] @gov.wales; [NR] (HSS - Primary Care & Health Science) [NR] @gov.wales; Morris, Huw (ESNR-Skills Higher Education & Lifelong Learning) [huw.morris@gov.wales]; Warner, Christopher (OFM - Constitution and Justice) [christopher.warner001@gov.wales]; Surman, Neil (HSS - DHP Public Health) [neil.surman@gov.wales]; Atherton, Frank (HSS - Chief Medical Officer) [frank.atherton@gov.wales]; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) [andrew.goodall@gov.wales]; [NR] (HSS - DHP Public Health); [NR] @gov.wales; [NR] [NR] (ESNR-SHELL -HE Division); [NR] @gov.wales
Subject: OFFICIAL-SENSITIVE: PANDEMIC INFLUENZA PREPAREDNESS - PANDEMIC FLU BILL/UK REVIEW
Attachments: 20180622 Final Meeting Note - WG DHSC and CO Pandemic Influenza Prepared....pdf

Official Sensitive

Minister

A future pandemic remains at the top of the national risk assessment and we continue to maintain a range of health countermeasures to respond to a pandemic with a 50% clinical attack rate. There is a UK four nations approach to pandemic preparedness, which is set out in the UK Influenza Pandemic Preparedness Strategy that has been agreed by Ministers of all four nations.

There is an ongoing review of pandemic preparedness, which has paused due to the EU Exit, although, DHSC and Cabinet Office who jointly chair the Board, are due to meet soon to discuss the priorities over the next few months. One priority will be completion of work to put in place a draft UK pandemic flu Bill. UK Government work on the Bill is almost complete and there is an aim is to put something to Ministers before recess.

This note provides an update on the current position regarding progress with the Draft Pandemic Flu Bill, which is being developed with a clear presumption that we would rely on voluntary compliance with national advice so far as possible and practicable. Having a draft Bill in place is, however, a recognition that in a severe pandemic the circumstances will be far from ordinary and it will be necessary to appropriately streamline existing processes and seek additional time-limited powers to enable the continued functioning of essential services.

In considering the additional powers necessary, the approach taken has been that wherever possible to identify flexibilities and tools within the existing system and additional legislation is only being sought where no alternative non-legislative fix or flexibility has been identified. Where legislation is required, the least restrictive measures have been identified that are likely to achieve the objective will be applied first. The Bill is, therefore, a proportionate but realistic set of measures that aims to:

- mitigate the spread of infection;

- increase / maximise capacity in the system; and
- streamline processes.

A first draft of the Bill was completed in *December 2018* and mental health policy colleagues were content that it covered their requirement. There are, however, other devolved areas that we have been asked to draft the additional clauses needed if we want them included in the draft Bill. These areas cover indemnity of health workers, and powers in relation to early years and schools. Policy colleagues for these devolved responsibilities are involved in progressing suitable clauses and the current position is as follows:

Indemnification:

The first draft of the Bill did not make provision for Wales in relation to the indemnification of health workers during a pandemic situation. Following discussion with Parliamentary Council this has now been changed and the current draft of the Bill now covers Wales. The way in which the clause is drafted is to confer a power to indemnify on the Welsh Ministers in relation to Wales. This means that the Welsh Ministers will have the power to indemnify a person providing healthcare in a pandemic situation or to make arrangements for a person authorised by the Welsh Ministers to provide indemnity to a person providing healthcare in a pandemic situation.

Schools:

Whilst limit powers exist to close schools in Wales, during a pandemic Welsh Ministers may need powers to close schools at a national, regional or local authority level if appropriate steps have not been taken promptly. Currently, no powers exist to close other educational settings and Welsh Ministers may wish to have powers to close these settings if in the interest of public health and safety.

Officials are working with external counsel on draft policy instructions for regulations relating to enabling powers to close schools and other educational establishments during a pandemic influenza outbreak. This will give Welsh Ministers an overarching power to close schools with immediate effect should local authorities or educational establishments fail to respond promptly enough to close their affected establishments to prevent further spread of the disease

Policy colleagues in Schools have been involved in considering their requirements and policy instructions have been sent to external counsel for legal advice. Subject to their Minister's agreement, it is understood that drafting instructions will be sent to the Office of Legislative Council.

Early Years

I understand that Early Years Childcare in Wales is regulated under the Children and Families (Wales) Measure 2010 (as amended in 2016) and that specified providers, delivering childcare and play to children up to the age of 12 are required to register with the relevant inspectorate, which in this case is the Care Inspectorate for Wales (CIW). There seems, however, to be no provision to cover providers not falling within the purview of the legislation, or specifically excepted.

With this in mind Early Years officials are of the view that, in the event of an outbreak of pandemic flu, either in Wales or elsewhere in the UK, it would be prudent to have powers which:

- Required the closure of registered childcare and play settings;
- Provided the flexibility to close such settings in specific geographical areas;
- Provided the flexibility to close specific childcare and play settings or such settings based in specific locations; and

- Provided the flexibility to close such settings based on the age or other characteristics of the children attending them which may render them more vulnerable to pandemic flu.

The Draft Bill proposed by the UK Government could include relevant provisions, with powers vested in the Welsh Ministers, if Ministers were so inclined and Early Years officials are considering their draft instructions in relation to the Bill.

Bill Timescale

The timescale for completing the second draft of the Bill on the UK Government side is the end of June 2019. There is still no identified time from completing the outstanding devolved asks for Early Years and Schools by policy colleagues who are reliant on advice being received by External Counsel.

Legislative Consent Motion

The areas of devolved competencies covered in the draft Bill require Welsh Ministers passing of a Legislative Consent Motion (LCM) (if needed) to meet a very truncated UK parliamentary timetable for passing the Bill in a pandemic situation, probably necessitating the suspension of Standing Orders. It is anticipated that a formal MA-L seeking Ministerial agreement to the tabling of a Legislative Consent Memorandum and to a Legislative Consent Motion will be submitted at the time of a pandemic.

Finally, the intention is to provide an MA to cover the draft Pandemic Flu Bill to yourself and other Ministers

David Goulding

Cynghorydd Cynllunio rhag Argyfyngau Iechyd/ Health Emergency Planning Adviser

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From: Goulding, David (HSS - DHP Public Health)

Sent: 09 July 2018 12:14

To: PS Cabinet Secretary for Health and Social Services <PS.CabSecHealthandSS@gov.wales>

Cc: PS First Minister <PS.FirstMinister@gov.wales>; PS Cabinet Secretary for Local Government and Public Services <PS.CabSecLGandPS@gov.wales>; PS Cabinet Secretary for Economy and Transport <PS.CabSecEandT@gov.wales>; PS Cabinet Secretary for Energy, Planning and Rural Affairs <PS.CabSecEPandRA@gov.wales>; Goodall, Andrew (HSS - DG -

- There was consensus on the strategic products to be refreshed, particularly the 2011 UK Pandemic Flu Strategy (previously signed off by 4 countries Health Ministers) and the Cabinet Office 2013 LRF Pandemic Flu Guidance. There was a request from Cabinet Office for WG to support any refresh of the latter 2013 Guidance suggesting a co-production approach be considered working with Welsh Government official. We welcomed that approach and offered our support to the work;
- Progress with having a Draft Parliamentary Bill in place for passing at the time of a pandemic was discussed. It was noted that the timescales associated with the Bill's passage at the time of a pandemic is likely to require speeding up of legislative processes, including passing of any Legislative Consent Motions;
- The importance of a broader UK pandemic communications strategy was identified as work to be taken forward to underpin the UK Health Communications strategy that is currently being finalised. Cabinet Office will be sharing a project initiation document to kick off this broader communications work. We recognised the need to support this wider communications project;
- Finally the implications of a pandemic on UK and devolved governments, emergency and essential services was considered to be of concern and the need to raise the profile of the risks and encourage resilience planning was considered to be a priority area to address.

This is a complex area where the policy issues are fairly common and the risks universal. At this stage, in order to assure ourselves that Wales' views are fully engaged, it would be sensible to have a quick review of the UK work plan on pandemic flu so as to identify what needs to be done and who will be leading each piece of work in London. That will enable us to identify any areas where we could be making direct contributions and then consider who would be best placed to do that. Some will be for the health department and some will be for the emergencies team – for others we should be drawing on individuals' expertise and capacity from the NHS and local government itself. This could be developed into an offer to CCS and MHDCLG and Health as necessary

David

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From: PS Cabinet Secretary for Health and Social Services

Sent: 02 July 2018 12:12

To: Goulding, David (HSS - DHP Public Health) <David.Goulding@gov.wales>; PS Cabinet Secretary for Health and Social Services <PS.CabSecHealthandSS@gov.wales>

[See recipients listed above]

Subject: RE: PANDEMIC INFLUENZA UK REVIEW

Thanks David,

The Cabinet Secretary has noted and commented:

“Is there an update following the joint chairs visit?”

Grateful if you could respond to the Cabinet Secretary’s query please?

Regards,

NR

From: Goulding, David (HSS - DHP Public Health)

Sent: 11 June 2018 11:00

[See recipients listed above]

Subject: RE: PANDEMIC INFLUENZA UK REVIEW

SENSITIVE – For Information

UK Pandemic Influenza Review

Further to my previous update, I attach below, for your information, a copy of the letter sent to Members of the National Security Council by the Secretary of State for Health and Minister for the Cabinet Office updating Council members on progress with the UK review of pandemic preparedness.

The letter sets out progress in pandemic preparedness over the last 12 months and key actions to take forward work over the next 12 months. Welsh Government officials are appropriately engaged in the various work streams that underpin the Review. The joint chairs of the Review Board are also visiting each Devolved Administration to discuss progress and we will be hosting their visit at the end of this week.

In relation to the Pandemic Flu Bill, we have made progress in identifying the devolved asks and have raised with the UK some issues and registered our interest in reserved areas. I anticipate that, in due course, there will be a need to submit an MA seeking Ministerial agreement to devolved asks that require a Legislative Consent Motion and how that may best be sought at the time of a pandemic.

There is a range of other activities that also need to be progressed, as part of the Review, including further considering the implications on health and social care of a worst reasonable foreseeably pandemic and providing any additional national guidance and support to the operational planning. I also expect that an outcome of the Review will be a revision of the 2011 UK Pandemic Strategy that was previously agreed by Ministers from all four nations.

<< File: CDL-1614.pdf >>

David

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From: Goulding, David (HSS - DHP Public Health)

Sent: 06 April 2018 10:22

[See recipients listed above]

[See recipients listed above]

Subject: RE: PANDEMIC INFLUENZA UK REVIEW

OFFICIAL SENSITIVE

Cabinet Secretary For Information

I wanted to further update you on the Pandemic Influenza UK Review and in particular specific work to establish a Pandemic Flu Bill that would be readily available to pass into legislation in the event of a pandemic. The need for a Bill was a recommendation following the UK Pandemic Flu Exercise Cygnus.

Since summer 2017, there has been active engagement across the four nations to prepare a single UK wide draft Bill building on the four nation approach set out in the UK Influenza Pandemic Preparedness Strategy (2011). Last month, a four nations workshop was held to establish a timetable to complete the draft Bill with the intention for the Bill to be held internally and providing a menu of options to be brought forward, if required, to support a four nation response to a severe pandemic.

The UK Government is working towards an end of April 2018 deadline to substantially complete its drafting of UK Government clauses and relevant supporting documentation and this information is being shared with us and is being used to inform the Devolved Administration's work. The aim is to have all the work completed by summer 2018. The work for us is to have appropriate Ministerial agreement and:

- * confirm proposed legislative flexibilities identified by UK Departments pose no concern to us(i.e. policy consensus);
- * identify whether legislation is necessary to achieve agreed legislative flexibilities for devolved issues;
- * draft clauses for any additional legislative asks not covered by the core draft legislation prepared by UK Government on the basis of reserved competence;
- * identify a process for taking Bill through Devolved Legislature at express timetable in a pandemic situation;
- * input into supporting documentation e.g. explanatory notes and legal issues memorandum.

Welsh Government policy colleagues have been identified to provide an appropriate input into various clauses of the Bill and there appears to be very few areas that will fall entirely to devolved competence. These may, but not confirmed, may include hospital discharges, mental health care and perhaps health protection measures as well as school closures and use of fire personnel. There are also non devolved areas that we have an interest in such as emergency registration of health care workers (nurses, midwives, paramedics etc) and the approach being taken is to have an interest in all areas that the Bill will cover.

There is Welsh Government legal support, through [Name Redacted] and I am advised that for the UK Bill to work in a pandemic situation, the intention would be to table a Legislative Consent Motion at the time with ideally all the preparatory work being done beforehand.

David

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From: Goulding, David (HSS - DHP Public Health)

Sent: 05 December 2017 09:50

[See recipients listed above]

Subject: PANDEMIC INFLUENZA UK REVIEW

Cabinet Secretary – For information

Irrelevant & Sensitive

Irrelevant & Sensitive The Review follows on from the UK Pandemic Influenza Exercise Cygnus held in October 2016, which you participated in, and against the background of an influenza pandemic

remaining our top national risk. The Review is also timely given that the current UK Pandemic Influenza Strategy (signed off by the 4 UK Health Ministers) was agreed back in 2011.

This is to let you know that Welsh Government officials are involved in the UK Review and are represented on the UK Pandemic Influenza Readiness Board (PFRB) that is being jointly chaired by senior officials from the Cabinet Office and DH. The link above is to a paper, to be discussed at the next Board meeting, which provides a brief outline as to how we are engaging in the Review.

David

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