



T: 0300 244 4000
E: scottish.ministers@gov.scot

Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care

By email


30 June 2020

Thank you for your follow up letter of 23 June on the NHS Covid-19 App and the Section 93 Order.

I am pleased to hear that you agree a review of governance structures would be beneficial, and that with Baroness Harding positioning this work firmly within your wider Test & Trace service there is a good opportunity for greater collaboration and shared learning to be established with our Test & Protect programme.

In order for the Scottish Government to receive the assurances it needs to adopt the app, I believe it is vitally important that Baroness Harding and her governance structure has an understanding of our Test & Protect service and the expected user journeys within that. I know you agree that it would be unwise to recommend that members of the Scottish public download and use the app if it has only been designed with England's system in mind.

I understand that Baroness Harding has had an initial meeting this week with Caroline Lamb, our Director of Test & Protect where a positive discussion was had and I would encourage these to take place regularly. I believe it is mutually beneficial for both programmes to learn from each other and develop a shared understanding of our respective approaches, as well as develop appropriate governance links.

As you would anticipate from any governance review that delivers genuine collaborative working with the devolved administrations, I would also anticipate seeing greater involvement with civic society from across the devolved administrations in the design and the development of the app, which will be key to winning public trust. My officials would be happy to facilitate this, and I understand that initial discussions with the new app leadership team have been scheduled.

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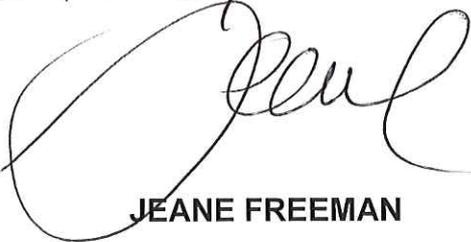


Bearing in mind the above points, I therefore agree in principle to continue with the Section 93 Order through the Privy Council process, recognising that it would otherwise be October before we could progress this further, and further noting that this still does not commit the Scottish Government to adopting the app at this stage.

I note your desire not to adhere to the full scrutiny period on the basis that the app may be available in some form earlier than anticipated, including potentially for trialling. Given that governance and delivery is being reset, and that we have not yet been sighted on any of the detail of the new version of the app, I believe it is premature at this stage to agree to your request.

You will be aware as well that the Scottish Parliament has now entered into its summer recess. I am therefore writing to the Convenor of the Health & Sport Committee to provide an update on plans around the Section 93 Order, given parliamentary interest in this agenda. I intend on appending our correspondence to that letter as I believe Scotland's potential involvement in the app is in the public interest.

I understand that the Privy Council meeting has been pushed back to 21 July, which gives us to 10 July to reach final agreement on the making, laying and coming into force details of the Section 93 Order.

Kind regards

JEANE FREEMAN

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Department
of Health &
Social Care

*From the Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care*

*39 Victoria Street
London
SW1H 0EU*

020 7210 4850

Jeane Freeman MSP
Cabinet Secretary for Health and Sport
Scottish Government

By email: scottish.ministers@gov.scot and CabSecHS@gov.scot

02 July 2020

Dear Jeane,

Thank you for your email of 1 July confirming your agreement in principle to continue discussions on the making of an Order under section 93 of the Scotland Act 1998.

I agree that there are clear advantages to ensuring a joined up approach between DHSC's Test and Trace programme and your own Test & Protect programme. I am pleased to hear that Baroness Harding's meeting with Caroline Lamb was productive. Coordination between our respective programmes can only benefit our joint work to combat the virus and I will suggest to Baroness Harding that her engagement with Caroline continues. I will also relay the points you make concerning civil society and welcome your kind offer for Scottish Government officials to facilitate this.

Thank you for providing your agreement in principle on the Order and your willingness to work together on agreeing the details. Concerning the scrutiny period, I appreciate and understand your need for further detail concerning the App's future direction and governance. Shortly after I received your letter, the App's Managing Director Simon Thompson spoke to Jonathan Cameron to convey further details on the functionality, features, and intended timeline for the App. Simon will also meet with representatives from all Devolved Administrations (DAs) on Friday to set out how we propose to ensure DA participation in the App's governance and future development.

I remain firmly of the view that involving Scotland as active partners in the testing and development of the App is the best way forward. We should take the necessary steps to ensure this remains an option open to Scottish Ministers. I am hopeful that our efforts in response to your letter will provide the assurance you need to agree to shorten the conventional scrutiny period for the Section 93 Order. As Baroness Harding has signalled to your officials, and I suggested at the Four Nations call last week, further development of the App will take place over summer and we are keen for the Order to be in place for the start of August so that Scotland can, with your agreement, be fully involved in this. I know my officials will be discussing this with yours in more detail over the coming days.

The Office for Secretary of State for Scotland has confirmed with your officials that we need to finalise the dates for the Order coming into force by **Wednesday 8 July** at the latest. This will ensure the necessary legal steps can be followed prior to the Order being

sent for consideration at the July Privy Council. I would therefore request that we discuss this issue on Monday 6 July to agree the way forward. If you agree, I would be grateful if your office could liaise with my own to arrange a suitable time.

I am copying this letter to the Rt Hon Alister Jack MP, Secretary of State for Scotland.

Yours ever,

A handwritten signature in blue ink that reads "Matt". The signature is written in a cursive style with a large initial 'M' and a trailing flourish.

MATT HANCOCK



T: 0300 244 4000
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Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care

By email

9 July 2020

Thank you for your letter of 02 July on the NHS Covid-19 App and the Section 93 Order where you sought confirmation on my stance on the parliamentary scrutiny period.

Following our discussion on the matter on the morning of 08 July, I can confirm that Scottish Ministers wish to progress the Order with the 28 day scrutiny period. This has the practical effect of meaning an in force date of 04 September. This scrutiny is important, not simply because it is the proper role of the Parliament and should be respected, but also because it assists directly with public confidence which is so important in securing their future engagement and use.

I believe this aligns well with your intention for a UK-wide launch at the beginning of September, and allows the period before then for our respective officials to work on confirming the potential role of the app within Scotland's Test & Protect service, to agree relevant data feeds and to develop the necessary agency agreement and memorandum of understanding governing the ongoing working of the app. Similar to the trial of the previous iteration of the app on the Isle of Wight, I am aware that this will prevent Scotland from participating in any trial of the app prior to September. However, I recognise the importance of meaningful trials and if the app is still being trialled on 04 September, or if any trials have not yet commenced by that date, then I would welcome exploration of Scotland's involvement in any trials prior to a national launch.

I further understand that the governance review we have previously discussed is underway, and that my officials can expect a proposal for how ongoing governance that delivers genuine collaborative working with the devolved administrations will work later this week.

Kind regards

JEANE FREEMAN

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Department
of Health &
Social Care

*From the Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care*

*39 Victoria Street
London
SW1H 0EU*

020 7210 4850

Jeane Freeman MSP
Cabinet Secretary for Health and Sport
Scottish Government

By email: scottish.ministers@gov.scot

09 July 2020

Dear Jeane,

Thank you for your letter of 1 July confirming your agreement in principle to the making of an Order under section 93 of the Scotland Act 1998 ("the 1998 Act") to make provision in connection with the proposed contact tracing App.

This Order will cover the possibility that launching and operating the App might involve my exercise of public health functions which have been conferred on Scottish Ministers. The functions in Scottish legislation that I might be exercising must be specified in the Order in order that we might then proceed to conclude an Agency Agreement which authorises my exercising those functions.

I am now writing to seek your final agreement to the making of this Order which will need to be considered by her Majesty in Council and taken forward in the UK Parliament and the Scottish Parliament under the negative resolution procedure.

I am aware that you are not yet in a position to confirm that you want to use the App in Scotland and our officials are working closely together to provide the final assurances you need to make that decision. However, I hope that you will agree to proceed with the Order in Council so that it is in force if you do decide to enter into an Agency Agreement for use of the App. Having that Order in force does not commit your Government to entering into an Agency Agreement to use the App but it will ensure you could do so at speed once you have all the assurances you are seeking.

As you are aware, there is a meeting of the Privy Council on 21 July. If this Order is to be considered, then I will need to have your confirmation by **Friday 10 July** that you are content for this Section 93 Order to be made and for you to take it through Scottish Parliament.

We have discussed at length the appropriate scrutiny timetable for both UK and Scottish Parliaments. Although I regret that Scotland will not be able to take part in the App's development as I had originally hoped, I accept and understand your position expecting the full scrutiny period for this Order.

I am copying this letter to the Rt Hon Alister Jack MP, Secretary of State for Scotland who had already confirmed in principle the making of this s93 Order.

Yours ever,

A handwritten signature in blue ink that reads "Matt". The signature is written in a cursive, slightly slanted style.

MATT HANCOCK

T: 0300 244 4000
E: scottish.ministers@gov.scot

Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care

By email

10 July 2020

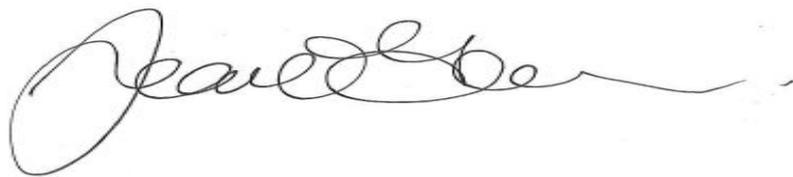
Dear Matt

Thank you for your letter of 09 July on the making of an Order in Council under Section 93 of the Scotland Act 1998 to make provision in connection with the proposed contact tracing app, in which you seek confirmation of my assent for this order to proceed for consideration by Her Majesty in Council.

I can confirm that Scottish Ministers wish to progress the Order for due consideration by Her Majesty in Council on 21 July 2020 and taken forward in the UK Parliament and the Scottish Parliament under the negative resolution procedure. This would provide for the order to come into force on the 04 September 2020, which as you know allows for the proper scrutiny of our respective Parliaments.

I would like to reiterate that my assent to progress the order does not in principle, or otherwise, confer any agreement by Scottish Ministers to Scotland's participation in the app itself, although I welcome the continued engagement between our officials on this matter.

I am copying this letter to the Secretary of State for Scotland.



JEANE FREEMAN

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Robin Swann
Minister of Health, Northern Ireland Executive

Stephen Donnelly
Minister for Health, Government of Ireland

Copied to Vaughan Gething, Minister for Health & Social Services, Welsh Government and Mike Russell, Cabinet Secretary for Constitution, Europe and External Affairs, Scottish Government

31 July 2020

Dear Robin and Stephen,

I am writing to you both to confirm that I will be announcing today Scotland's intention to develop its own proximity tracing app as part of our Test & Protect service, based on the work of your respective departments.

I would like to place on the record my thanks for the support and assistance that your officials have provided my officials in reaching this decision. The Scottish contact tracing app will be developed by NearForm using the same software that you have developed, for which I am grateful Stephen of your Government's decision to make available the source code, and my ask is that we continue to work together to ensure that our individual apps will work with each other to support movement across our respective countries.

I am keen as well that we continue to share learning and I would hope that any further changes to the apps source code that arise from any work that Scotland does will be of benefit to you both. I am also grateful for your early work on public communication and marketing, as well as your officials willingness to share material, as I believe that as far as possible consistent messaging on the relative benefits of using proximity tracing apps both within, and between, our countries, will be a key factor in determining the success of our response to Covid-19.

Finally, Robin, following the Republic of Ireland's successful launch of their Covid-19 Tracker app I would like to wish you well in today's launch of Northern Ireland's StopCOVID NI app.

Kind regards,



JEANE FREEMAN

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Rt Hon Matt Hancock MP
Secretary of State for Health & Social Care

*Copied to
Robin Swann, Minister of Health, Northern Ireland
Executive; and
Vaughan Gething, Minister for Health & Social
Services, Welsh Government*

31 July 2020

Dear Matt,

I am writing to you to confirm that I will be announcing today Scotland's intention to develop its own proximity tracing app as part of our Test & Protect service.

You will be aware that I asked my officials to consider further options for Scotland, including potentially developing our own app. After careful consideration, I have decided that it is prudent for us to progress with developing our own simple proximity tracing app as an integral part of our Test & Protect service, based on the work already carried out by the Republic of Ireland and Northern Ireland. This will only focus on proximity tracing and does not negate the need for our officials to continue working closely to understand if, and how, the UK app can potentially add additional value to our Test & Protect service.

My ask is that we continue to work together to ensure that our individual apps will work with each other to support movement across our respective countries

I am keen as well that we continue to share learning and I would hope that our work in Scotland will be of benefit to the work of the UK Government. I believe as well that as far as possible consistent messaging on the relative benefits of using proximity tracing apps both within, and between, our countries, will be a key factor in determining the success of our response to Covid-19.

Kind regards,



JEANE FREEMAN

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