

STATES OF JERSEY



DRAFT COVID-19 (ENABLING PROVISIONS) (AMENDMENT NO. 3) (JERSEY) LAW 202- (P.83/2021): ADDENDUM

**Presented to the States on 18th November 2021
by the Minister for Health and Social Services
Earliest date for debate: 23rd November 2021**

STATES GREFFE

ADDENDUM

During the initial debate on P.83/2021, the Minister for Health and Social Services accepted a proposal for a reference back made by Deputy Tadier, to provide additional information to members as provided for in [Standing Order 83](#). The Deputy asked three questions which are addressed below.

In addition, members asked a number of other questions during the debate which this addendum will also attempt to answer.

Additional questions have been drawn from Hansard and summarised for clarity.

Questions from Deputy Tadier regarding further information relating to the proposition-

- 1. I would like to see any projections or predictions and the intelligence from the Health Department. Because they must have those predictions about scenarios and about what they think is going to happen in the winter months with the pandemic in the light of the fact that we have had an extensive vaccine programme that has been rolled out to most of the population.**

At the request of Ministers, on 15 November STAC considered modelling/scenarios on the direction of cases in the next few weeks.

The conclusion is that any models of the future position over the next weeks would be highly uncertain due to the multifactorial nature of the situation. The effect of the significant number of epidemiological and behavioural variables means that no model would provide enough certainty for effective predictions to be made. Therefore, STAC does not consider that attempting to generate local models for Jersey would add any meaningful value, and such modelling would come at the cost of drawing resources from other more useful endeavours.

This uncertainty is not specific to Jersey, and SPI-M-O¹ modelling in the UK demonstrates the problem quite clearly. Despite having access to far more modelling resources than Jersey has available, UK projections quickly run into significant uncertainty, so cannot be used for planning purposes. Uncertainty is amplified as projections runs further into the future, so a longer-range projection across several months of winter is even less informative.

The confounding factors are-

- Duration of post-vaccine immunisation for different groups
- Amount of natural immunity remaining in the population (high/low 'cycle threshold' values)

¹ The **Operational sub-group** of the **Scientific Pandemic Influenza Group on Modelling**. Despite the name, this group and its modelling is not specific to influenza. SPI-M gives expert advice to the Department of Health and Social Care and wider UK government on scientific matters relating to the UK's response to an influenza pandemic or other emerging human infectious disease threats. The advice is based on infectious disease modelling and epidemiology.

- Impact of new variants
- Impact of new treatments and preventions for COVID-19
- Resurgence of other respiratory infectious diseases (flu, RSV)
- Uptake of booster doses and first doses in under 18s
- Behaviour (contacts, precautions, networks) and how this changes over time (festive period similar to intergenerational Euro 2020 mixing)
- Willingness to be tested and adherence to future recommendations
- Timing of future waves

However, consideration of analyses conducted in the UK and elsewhere do allow some broad conclusions to be drawn-

- Further waves of infection are still expected.
- The patterns of transmission since 19 July have been very unexpected, showing considerable changes in prevalence of age groups and communities, but overall hospital admissions have been essentially constant.
- Short-term trajectories to end of 2021 are likely to be driven by behaviour, while future peaks in 2022 are more likely to be due to speed/level of waning immunity and the extent and timing of booster regimes.
- Many international scenarios suggest an extended period of time with a high number of hospital admissions. Although it is likely that these will remain below levels of January 2021, this could still put pressure on services if waves coincide with high levels of other respiratory illnesses.

In addition, some key points can be drawn directly from the SPI-M-O in the UK-

- SPI-M-O indicates that *“it will take both a rapid increase in transmission rates and repeated waning of protection from vaccination to lead to hospital admission levels in the order of magnitude of those seen in January 2021”*.
- In reference to the challenges of its own scenario modelling, SPI-M-O warns that *“a danger of subtleties in behaviour and mixing not being captured in this modelling. Increases in transmission around the time of the Euro 2020 football matches were not visible in data sources... If similar were to happen again as mixing increases and behaviour returns to pre-pandemic levels, it is possible that these modelling results may be too optimistic”*. This suggests that the festive period may see intergroup and intergenerational mixing behaviour similar to Euro 2020.
- The University of Bristol uses an alternative analysis to estimate size of future epidemics. It assumes that no mitigation measures are in place, and that the presence of antibodies reduces mortality by 95%, infection by 70% and transmission by 60%. The estimate is that the effective reproduction number would be in the range of 1.1 to 1.6 if pre-pandemic levels of mixing returned with current vaccination levels. This is broadly in line with other modelling in SPI-M-O. Notably, under these assumptions, the addition of a booster programme and vaccination for 12-to 15-year-olds (with 65% uptake) reduces the reproduction number to 0.9-1.3.

- 2. The second point would be really to do with human rights. I notice in the proposition it says that no human rights notes are included in this proposition, as it raises no issues of compliance with the E.U. (European Union) Convention on Human Rights.**

P.83/2021 will have the effect of changing the expiry date of the Covid-19 (Enabling Provisions) (Jersey) Law 2020.

By virtue of Article 16 (1) (a) of the [Human Rights \(Jersey\) Law 2000](#), “a Minister who lodges au Greffe a projet de loi must, before the second reading of the projet ... make a statement to the effect that in the Minister’s view the provisions of the projet are compatible with the Convention rights” (emphasis added).

The provisions of the projet, in this case, is the change of expiry date. There are no human rights implications associated with that date. The question of compatibility of the Enabling Law itself is addressed by the original statement of compatibility and associated notes on the compatibility of the Enabling Law with the European Convention on Human Rights attached to the original proposition to introduce it.

As P.83/2021 states on page 6-

“No human rights notes are included in this proposition as the Law Officers have confirmed that the draft Covid-19 (Enabling Provisions) (Amendment No.3) (Jersey) Law 202- raises no issues of compliance with the European Convention on Human Rights.

For reference, the human rights notes in respect of the Enabling Law itself form part of the original proposition [P.29/2020](#).”

- 3. The third point ... is that I would like to see what consultation has been done with businesses about the implication for extending these powers further, given the fact that pubs, clubs, supermarkets, et cetera, are the ones who are likely to have to be enforcing these emergency powers if they are to be used when we extend them.**

Throughout the pandemic, government has been in ongoing dialogue with business, both directly and through the ‘Safer Jersey’ standing meeting, which is chaired by the Head of the Contact Tracing Service and which is attended by various industry representatives, including Visit Jersey, Jersey Hospitality Association, Jersey Business, and the Chamber of Commerce. This has always included early engagement around guidance updates and allows government to receive timely feedback on the challenges faced by businesses.

By way of example, last week government convened an engagement event to update stakeholders on the upcoming ‘Keep Jersey in Business’ campaign.

In respect of the Safer Travel Policy, government has maintained regular contact with representatives of the visitor economy and commercial travel operators, both directly and through Ports of Jersey Limited.

Questions from other members, drawn from Hansard and summarised-

4. Will members have an opportunity to receive a briefing from the Medical Officer of Health (this should address the expectations for winter)?

A briefing for States members was held on Thursday 18 November to provide additional information together with the necessary context.

5. What are the arrangements for the management of the Covid powers over the change of government?

Article 19 (7) of the [States of Jersey Law 2005](#) provides that the new Council of Ministers comes into being when the last Ministerial selection is made. At this point, Ministerial powers transit to the new appointees. Until that point, powers are held by the ‘outgoing’ Ministers, if they remain members of the Assembly.

If a Minister is not re-elected as a States member, then they cease to be a member of the Assembly at the moment their electoral successor takes office. When that occurs, the Ministerial office becomes vacant.

In that case, Article 27 (2) of the [States of Jersey Law 2005](#) provides that “*The Chief Minister may, during the temporary absence or incapacity of a Minister or a vacancy in the office of Minister ... personally discharge the functions of that Minister or ... designate another Minister to discharge the functions of that Minister.*”

6. When will the recent STAC minutes become available?

STAC minutes to 11 October 2021 have been provided to Scrutiny on a confidential basis, and minutes of STAC meetings up to and including 13 September 2021 have been published on gov.je

7. Is it correct to say that P.83/2021 has ‘no financial implications’?

P.83/2021 will have the effect of changing the expiry date of the Covid-19 (Enabling Provisions) (Jersey) Law 2020. [Standing Order](#) 21 is clear on the terms of the financial and manpower statement, which is concerned with “*whether the proposition, if adopted, would have any implications for the financial or manpower resources of the States or any administration of the States*”. In this case, the outcome of the proposition does not have any direct financial implications.

It is entirely true to say that there will be financial and ‘manpower’ implications from the emergency legislation under the Law, but the extension of that legislation was debated and approved separately as part of P.84/2021.

Details of expenditure on the management of the pandemic and the associated economic revitalisation efforts are contained in the Government Plan. With the current state of uncertainty about the demands over winter 2021/2022, no meaningful projection of total overall costs can be provided in advance.

8. What assessment has been made of the effectiveness of measures introduced so far?

An analysis has been made of the effectiveness of various ‘non-pharmaceutical interventions’ (NPIs), based on the best available international data. This cannot isolate the direct effect that each measure had when introduced in Jersey, as there are a significant number of confounding factors that preclude precise conclusions being drawn.

Jersey has followed the principles laid down by the European Centre for Disease Prevention and Control (ECDC) and World Health Organisation (WHO) by not applying single NPIs in isolation, and instead layering interventions together and applying a package of measures. Interventions have been applied and lifted in ‘layers’ according to the various operational strategies that the government has introduced during the pandemic.

Such shifts in the stringency of several restrictions simultaneously is a ‘complex intervention’ which makes assessment of the individual parts very difficult, as changes in effects cannot be assigned to any of the measures in isolation. Another factor that clouds analysis is the compound nature of reductions in transmission, whereby a reduction in the likelihood of transmitting the virus between people in a particular situation from 100% to 90% results in 1/10 fewer infections but reducing that likelihood from 30% to 20% results in 1/3 fewer infections.

In addition, there are a range of confounding and uncontrolled variables, for example, schools closing due to half terms and holidays, impact of tourism, levels of compliance, levels of testing etc.

Lastly there is an uncertain level of lag in infection numbers. When reviewing effectiveness of single or multiple NPIs when introduced and lifted together, it is accepted by the ECDC and WHO that it can take up to 14 days to begin seeing an effect on virus levels, due to 10-14 day disease progression. Where NPIs are removed, the delay in effect is more variable and can extend up to 3 weeks due to variable behaviours amongst the public (e.g. how soon individuals feel it is safe to resume an activity).

Taken all together, it is clear that the characteristics of the pandemic response in Jersey and elsewhere (i.e. simultaneous and/or overlapping measures taken for expediency) do not provide a suitable ‘natural experiment’ from which efficacy of the individual measures can be isolated.