



Proposal for Public Health  
Scotland to become a Category  
1 Responder in the Civil  
Contingencies Act 2004

## Introduction

Public Health Scotland (PHS) is a national Special Health Board created on 1 April 2020 to be the national public health body for improving and protecting the health and wellbeing of people in Scotland. It is jointly accountable to the Convention of Scottish Local Authorities (COSLA) and Scottish Government.

PHS was formed from Health Protection Scotland, Information Services Division (both divisions of National Services Scotland (NSS)) and NHS Health Scotland (a Special Health Board) taking over all relevant functions and services.

Prior to formation, all these bodies were classified as category 2 responders in terms of the Civil Contingencies Act 2004. Discussions were previously held regarding PHS being designated as a category 1 responder; however, consensus view at that time was to remain as a category 2 responder, although the reasons for this are not fully known.

## Background

The Civil Contingencies Act 2004 and accompanying non-legislative measures, delivers a single framework for civil protection in the UK. The Act is separated into 2 parts: local arrangements for civil protection (Part 1) and emergency powers (Part 2).

Part 1 and supporting Regulations and statutory guidance establish a clear set of roles and responsibilities for those involved in emergency preparation and response. The Act divides responders into 2 categories, imposing a different set of duties on each.

Category 1 organisations are considered core to the response to most emergencies (the emergency services, NHS bodies, local authorities, Health Protection Agencies in England and Wales). Category 1 responders are subject to the full set of civil protection duties and are required to:

- Assess the risk of emergencies occurring and use this to inform contingency planning;
- Put in place emergency plans;
- Put in place business continuity management arrangements;
- Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- Share information with other local responders to enhance co-ordination;
- Co-operate with other local responders to enhance co-ordination and efficiency;
- Provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only)

Category 2 organisations (PHS, the Health and Safety Executive, transport and utility companies etc.) are 'co-operating bodies'. They have been deemed less likely to be involved in the heart of planning work, but will be involved in incidents that affect their own sector. Category 2 responders have a lesser set of duties – limited to co-operating and sharing relevant information with other category 1 and 2 responders.

The classification of PHS as a category 2 responder contrasts with the approach in England and Wales where the equivalent public health bodies, UK Health Security Agency and Public Health Wales, are designated as category 1 responders.

## Assessment

Throughout the response to the COVID-19 pandemic, PHS has played a substantial role in leading, managing, coordinating and supporting local and national arrangements and it is clear that PHS has been (and continues to be) required to provide a response consistent with a category 1 responder. The coordinated and thorough PHS response has included multiple critical functions; incident management teams, the provision of advice, support and direction on complex health emergencies; management of public and stakeholder enquiries; communications with the public (warn/inform); and the publication of guidance.

During the pandemic, PHS has been required to substantially flex resources to meet the demands and expectations of Scottish Government and although there was an Emergency Planning role, this was limited given the current category 2 responder status. Expectations and demands have pushed PHS well beyond these duties into category 1 responder level, without formal designation and resources. Without doubt, events of the past two years will reoccur, given PHS's standing and positioning within the national healthcare system and future public health related risks will require a PHS response in line with category 1 duties when they occur.

In the recently published [Scottish Government: Lessons Identified from the initial health and social care response to COVID-19 in Scotland](#) it is clear that across all four of the Harms identified by Scottish Government (direct health impacts, indirect health impacts, societal impacts and economic impacts), there is a central role for Public Health teams at national and local level to drive the country's on-going response to, and recovery from, the pandemic. The impacts of COVID-19 have required constant assessment and refinement, including the strengthening of mitigations and contingencies.

The report explicitly acknowledges that PHS does not have category 1 responder status and states this should be addressed in the future to recognise the key role PHS has in responding to emergencies and Public Health incidents of concern. The report further highlights key requirements to ultimately strengthen resilience to public health crises, including future preparedness activities and the requirement for a 'whole systems approach' to tackle incidents beyond Covid-19.

The [Management of Public Health Incidents](#) guidance also clearly places obligations and duties on PHS in public health incidents including leading on the management of incidents in Scotland, and establishing appropriate arrangements on behalf of Scottish Government Health and Social Care Directorate (and/or be responsible for coordinating the tactical health protection response by the NHS boards).

As a category 2 responder, PHS has no legal duty to participate in the activities they are currently delivering and expected to continue to deliver; category 1 responder status provides the associated legislative framework for how this would be achieved.

Designating PHS as a category 1 responder will formalise duties and legitimise roles and activities that are currently being undertaken and would enable PHS to enhance and develop its approach, including risk preparedness, situational awareness, testing and exercising and emergency capability and capacity. This status will reinforce Scotland's response to the pandemic, which ultimately require PHS involvement, leadership, engagement and support, including future pandemic preparedness.

## Partnerships

Since its formation, PHS has developed extensive resilience partnerships with local health boards, local authorities and the Scottish Ambulance Service. Additionally, there has been a recent strengthening of relationships with Police Scotland and key Scottish Government departments to enhance planning, preparedness and response for Chemical, Biological, Radiological and Nuclear (CBRN) and/or HAZMAT incidents.

PHS continues to strengthen partnerships with the UK Health Security Agency (UKHSA), which formed on 1 October 2021 and merged Public Health England, the Joint Biosecurity Centre and NHS Test and Trace. UKHSA is responsible for planning, preventing and responding to external health threats, and providing intellectual, scientific and operational leadership at national and local level, as well as on the global stage. UKHSA will ensure the UK can respond quickly and at greater scale to deal with pandemics and future threats. UKHSA have over 25 dedicated staff leading, managing, coordinating and responding in the Emergency Preparedness, Resilience and Response arena.

It is critical the emergency preparedness arrangements for PHS, UKHSA and Public Health Wales complement each other and it should be acknowledged that even where a public health incident arises in Scotland which falls within the reserved areas for UK Government (Counter Terrorism, e.g. CBRN); it is anticipated that PHS will be required to undertake a leading role in supporting the multi-agency planning, response and recovery phases.

These partnerships are important for sharing information and enhanced situational awareness; joint training and exercising; and full clarity of organisations expectations, remit and responsibilities. The legal status of PHS influences how partners work with PHS in the resilience space, and will be important in ensuring future cooperation, collaboration, exercising and partner resilience evaluations. This is particularly critical given significant areas of progress required to ensure future pandemic preparedness response arrangements with PHS undoubtedly undertaking a leading role.

## Risks and Implications

In terms of the Civil Contingencies Act (CCA), PHS is included as part of the Common Services Agency established by section 10 of the National Health Service (Scotland) Act 1978. This includes NSS, although any change to PHS responder status should not impact NSS as Section 13 of the CCA enables Scottish Ministers to amend the list of responders with the agreement of Parliament, including adding, removing or amending an entry (agency), negating requirement for change to NSS status.

A number of risks exist if PHS continues to operate as a category 2 responder, including lack of resilience and resource to meet partner and stakeholder requirements; inability to effectively collaborate and develop risk preparedness; an inappropriate emergency response; and untrained and inexperienced staff to provide leadership, direction and management of public health incidents.

In an effort to mitigate these risks PHS are currently undertaking a number of duties usually aligned to a category 1 responder:

- Collaboration with partners in risk assessment and preparedness, particularly regarding the Scottish Risk Assessment and National Security Risk Assessment. Demand will increase given that the Emerging Infectious Diseases and Pandemic Influenza Type Disease risks have not been refreshed since 2018.

- Emergency Preparedness, Resilience and Response are significant areas of work being progressed following formation of PHS, with many areas remaining aligned with legacy arrangements, due to commitments for COVID-19 response.
- PHS are extensively involved in “warn and inform” through direct reporting to the public and partners, which has been extensively evidenced throughout the COVID-19 pandemic.
- PHS are not currently a member of the Regional Resilience Partnerships, although have made direct approaches and are in the process of securing inclusion to ensure opportunities for collaboration and cooperation are captured, including future pandemic planning.
- PHS continue to demonstrate effective engagement with partners, including local Health Boards, Scottish Government, Police Scotland and Local Authorities as evidenced through collaborations relating to Euro 2020, COP26, mass gathering events and training and exercising.
- The development of a situational awareness tool for public health incidents/ outbreaks locally, nationally and globally.
- Support and develop arrangements for future Pandemic Preparedness Response.

In order to achieve this, PHS, have employed additional staff on fixed term contracts utilising short-term funding provided to support management of COVID-19 response arrangements; however, permanent staff posts (in addition to posts included at formation of PHS) will be required to maintain PHS capability and deliver as a category 1 responder.

## Recommendation

It is recommended that representation is made to Scottish Government to secure agreement and approval from Scottish Ministers for PHS be added as a category 1 responder within the Civil Contingencies Act 2004 and additional permanent funding is provided to meet all commitments and requirements to ensure PHS is appropriately prepared for leading and managing current, emerging and future public health incidents and emergencies.