



Agenda Item No: 15

Report To: Cabinet / Council

Date of Meeting: 24 November 2022 / 22 December 2022

Report Title: Restructure of Port Health to fit Defra's new Target Operating Model for Border Controls 2023

Report Author & Job Title: Anthony Baldock, Director of Health and Wellbeing
Portfolio Holder: Cllr P Bartlett

Portfolio Holder for: Portfolio Holder for Safety and Wellbeing

Summary:

As a result of the delays to checks being applied to certain high risk goods from the EU post BREXIT the Port Health Service is still not fully operational.

The delays are due to Central Government who have embarked on reviewing the original plans for the Border Control Post built at Sevington.

The number of checks on goods and way that the checks will be undertaken is also very different to what was previously envisaged. As a consequence the team will shrink in numbers substantially namely circa 75 FTE's to 54 FTE's.

The Council, through no fault of its own, has to amend the staffing arrangements concerning the Port Health Service due to directions given by Defra.

Defra are underwriting all costs involved with the changes to the staffing and structure and there is no financial jeopardy arising for Council.

Members of the Cabinet are asked to familiarise themselves with the proposals in the report and review the associated costs which will be funded by Defra as outlined above.

Key Decision: NO

Significantly Affected Wards: None specifically

Recommendations

The Cabinet is recommended to:-

- i. Review the proposed new Target Operating Model and recommend to Council that it be adopted.
- ii. Note the potential redundancy costs (set out in the exempt appendix) in accordance with Section 10 of the Retirement, Redundancy and Discretionary Compensation Policy Statement
- iii. Note the costs associated with the early release of pension (set out in the exempt appendix), in the event a redundancy results, and to seek approval by Council of the costs associated with early release of the local government pension benefits.
- iv. Note that KCC Pensions have not been able to fully assess historical scheme membership for postholder 6571, and the pension strain costs may change. Defra have undertaken to underwrite all costs associated with this reduction in headcount, it is on this basis the recommendation is that Council approve the release of the pension and that the Deputy Chief Executive be given delegation to authorise any other additional costs that may be incurred once KCC Pensions have the full historical scheme membership details for this post holder.

Policy Overview:	Managing Restructure, Redundancy and Organisational Change Policy Retirement, Redundancy and Discretionary Compensation Policy Statement
Financial Implications:	The Exempt Appendix highlights the potential costs of redundancy and early release of pension; the total liability is anticipated to be circa £499,749.09 and will be met by Defra.
Legal Implications	Risk of unfair dismissal claims are minimal as our Managing Restructure, Redundancy and Organisational Change policy has been actioned appropriately throughout this project.
Equalities Impact Assessment	See Attached

Other None

**Material
Implications:**

Exempt from N/A
Publication:

Background N/A
Papers:

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Restructure of Port Health to fit DEFRA's new Target Operating Model for Border Controls 2023

Background

1. In late 2020 Ashford Borough Council was informed by Central Government that we were to conduct Port Health Service functions at the new Sevington Border Control Post.
2. The Port Health Service was created to undertake border controls for freight entering the UK by way of the Channel Tunnel at the request of Central Government. The costs have been fully under-written by Defra since inception. Checks on EU goods that need controls for sanitary and phyto-sanitary (SPS) reasons have been delayed on a number of occasions.
3. Defra set the template for the team that would be needed for Sevington and ABC has recruited a number of roles both directly within the Port Health Team and back office roles based on the Defra modelling and advice. However, a cautionary approach was taken and ABC did not fill all the roles due to emerging uncertainty around start dates.
4. The Minister of BREXIT for opportunities (Jacob Rees-Mogg) visited a number of extant Border Control Posts (BCPs) and facilities under construction in May 2022 and the SPS regime for EU goods that was due to start in July 2022 was scrapped in its entirety. This was due to a desire from central Government to create a world class border in connection with its Border 25 Vision and apply to all SPS controls including EU goods.
5. A new Target Operating Model (TOM) is therefore being developed with the stated intention of SPS checks being introduced for EU goods in December 2023. Ashford Port Health has been invited into a number of forums to help input into the new approach. It is apparent that the level of documentary checks that will be required is likely to be significantly reduced as the risk profiles will be amended and so-called systems of Eco Trust and Trusted Traders Schemes are planned.
6. Due to the delays resulting from the Border 25 vision decision the Cabinet Office reviewed Defra's plans including the staffing required to operate BCPs and also the funding of the regime during the standstill period.
7. As a consequence of the Cabinet Office review the decision has been taken centrally, by Government, to limit the number of staff at BCPs that the Government are willing to fund to 150 nationally. ABC has been allocated 54 of these posts.
8. In the short term, whilst the staff will not be undertaking SPS checks at Sevington Defra have been approached by Border Force and the Animal and Plant Health Agency (APHA). Defra have indicated that the staff that are

retained will therefore be working on projects connected with personal imports and pork meat and Ukrainian pets entering the UK.

The Impact

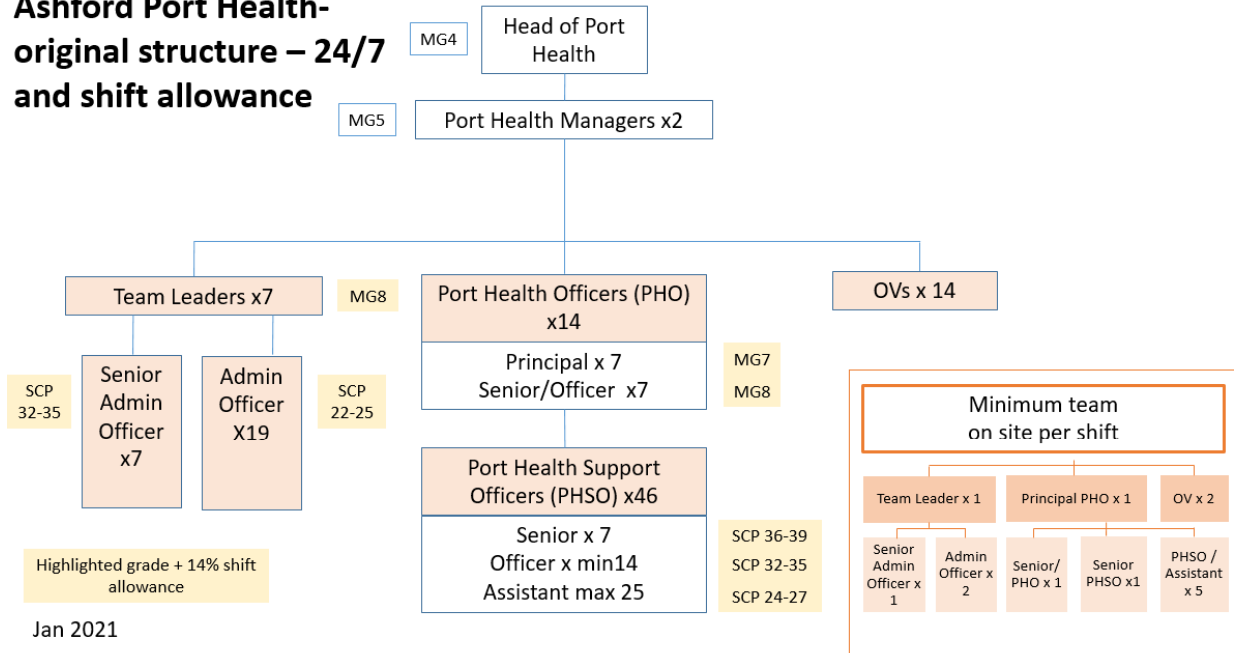
9. The 54 posts that have been allocated to ABC are technical roles. This has resulted in ABC needing to restructure the current staffing arrangements to both fit the new head count and take into account the changes in the nature of the role.
10. Defra have advised that they will not cover the costs of any roles over and above those 54 allocated to ABC; if the Council wishes to keep additional staff then we will carry the financial burden and risks.
11. The headcount for the Port Health Service is currently 74 including support staff.
12. The Official Veterinarians (OVs) are not directly employed by the Council as this service is contracted. The contract has therefore been wound down and any costs incurred will be reclaimed from Defra. The contract does have a break clause that has been implemented.
13. The original design for the model as supplied by Defra was built around 7 teams and a 24 hour 7 day a week service. Analysis of the data and the emerging Target Operating Model shows that this is not required and as a consequence the service will be designed around fewer teams.
14. The number of Official Veterinarians is also based on the trends originally forecast by Defra, we believe this is over-stated and therefore this role will be scaled back. In the future we intend to directly employ OVs but in far lesser numbers.

Rationale for New Team Structure

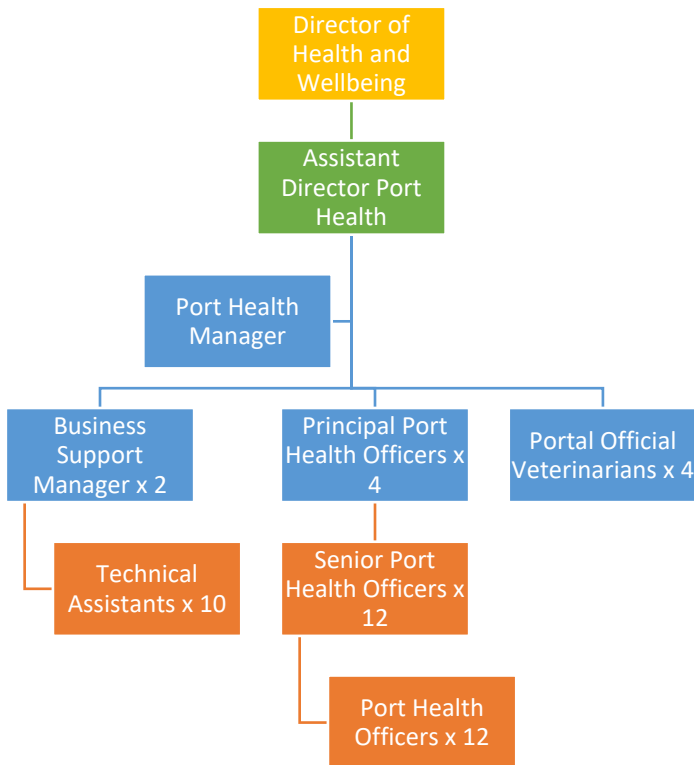
15. The original model devised by Defra in 2021 included a technical team and a very large business support team. This was due to the perceived high number of administrative tasks needing inputs such as documentary checks on SPS goods.
16. The Border 25 vision is seeking to move away from the requirement to undertake 100% documentary checking for SPS goods and the new TOM is therefore going to result in a very large scale reduction for non-technical work. In effect the business support team as envisaged is no longer required at Sevington to run the Port Health Service.

17. Original Structure

Ashford Port Health- original structure – 24/7 and shift allowance



18. Proposed structure New Structure



Assistant Director of Port Health / Director of Health and Wellbeing

19. The Assistant Director of Port Health role was not filled in the recent restructure when the Director of Health and Wellbeing post was created. This post will not be filled until Sevington is operational and a review of the need can be completed. Current funding from Defra for the Assistant Director role is being used to cover part of the Director of Health and Wellbeing's salary.

Port Health Managers

20. We currently have three Port Health Manager posts in the current structure. We have not recruited to one of these posts so that one post is vacant and the two current post holders are each focused on different aspects of the service, one looks after the technical team, the other after the administrative team as per the individual job descriptions.
21. With the large scale reduction in non-technical work it is proposed that we also reduce to one Port Health Manager and make the Port Health Manager responsible for the business support team redundant as there will be no team for this post holder to manage. It is also proposed to delete the vacant post.

Principal Port Health Officers

22. As mentioned above the trade pattern also shows that freight does not flow through Sevington via the channel tunnel in any sizeable volumes at unsociable times. The requirements for staffing the port health service will need to be revised as the trade volumes and patterns in the new operating model become clearer. In the interim there will be no changes to existing working patterns and this will be subject to a future consultation. It does seem sensible to highlight at this stage that the future working patterns may require us to amend shift patterns completely. Fewer shifts and teams therefore impacts on the number of Principal Port Health Officers required. It is proposed that PPHO be reduced from 6 to 4. This will enable sufficient line management cover for both BCP buildings at Sevington. All of the current post holders have been out at risk of redundancy.

Business Support Team Leaders

23. The current 7 Team Leader roles will be deleted and a two new posts of Business Support Manager created to handle some of the work that would have been overseen by the Port Health Manager role that is being removed. It is proposed that these posts will manage the Technical Assistants and also be outward looking in terms of seeking commercial opportunities for income generation. Of the 7 Team Leader roles in the current structure, one post is currently vacant. It is proposed that this vacant post will be deleted, all of the current post holders have been put at risk of redundancy.

Senior Business Support Officer, Business Support Officer and Administrative Apprentice

24. It is anticipated that the large scale documentary checks will be replaced with an automated IT system being developed by the government. All the staff within the business support team (Senior Business Support Officer, Business Support Officer and Administrative Apprentice) have therefore been put at risk of redundancy.

Senior Port Health Officer

25. The nature of the work will be highly technical in nature and we will need signatories to clear fish being products of animal origin. This role can be undertaken by Official Fish Inspectors we will therefore increase to 12 Senior Port Health Officers and reduce the number of Official Veterinarians in the staffing model.

Port Health Officers

26. As above the nature of the work will require us to clear products of animal origin and high risk foods not of animal origin staff will need to be food competent certifying officers. As a result we proposed to increase our current PHO numbers to 12. The 4 current post holders have not been placed at risk of redundancy. There will be a further 8 vacant roles for other displaced staff to be considered for as suitable alternative employment. We will consider individuals with bridgeable training gaps for these roles.

Senior Technical Officer

27. The proposal is that we no longer have a Senior Technical Officer as we have increased the technical capacity elsewhere. The two post holders in this role have been put at risk of redundancy and are be in the pool for ring-fenced roles created elsewhere in the service.

Technical Officer

28. We currently have 2 officers in these posts and we intend to increase this to 8 as we will need sufficient food competent persons to sign off products of animal origin (POAO) that are fish based or composite products with less than the level of POAO requiring the need for an Official Veterinarian. The number of official veterinarians is also to be reduced from 14 to 4. A number of staff have been studying to become competent for this role and we should therefore be able to recruit from the port health technical assistant pool.

Technical Assistants

29. The work the Technical Assistants do has a large administrative non-professional content that supports the professional staff in inspections and sampling etc. It is envisaged that the requirement for support will diminish and so it is proposed that we reduce to 10 of these roles. All 29 staff have been placed at risk of redundancy.

30. A number of staff in this group have been studying for professional qualifications and some are considered suitable for more senior vacant roles freeing up Technical Assistant roles for staff who have not commenced their studies yet.

31. The JD for this post has been amended to reflect the requirement of the proposed TOM.

Support staff

32. A number of support staff have also been recruited to support the Port Health function. These included IT, Legal and HR staff. Whilst we are not operational (anticipated to be late 2023) it is proposed that we make the IT roles redundant as there is no work for them to carry out. If necessary, the Legal role, which is currently funded by Port Health budgets, will be wrapped up in a separate consultation following a review of litigation work so it is not proposed to put this post holder at risk as part of this consultation. However, the retained Port Health service will still require HR and Payroll support so it is not proposed to review the staffing in this service at this stage. An Impact Assessment to show the costs of staff with all exit costs etc. and then the cost of the structure from 1 March 23 onwards has been prepared and submitted. The costs have included remaining back office staff to deal with Port Health matters in HR and Payroll. Defra have questioned the back office costs but there has been no indication these won't be covered. Correspondence received from Defra on 24 August 2022 has indicated that HR and Payroll staff involved in supporting remaining Port Health staff can be included in future bids.
33. The original consultation proposal for IT was for the Port Health IT Support Team Leader (x1) and IT Support Officers (x3) and IT Support Officer Trainee (x1) to be placed at risk of redundancy.
34. In the meantime, the 3 IT Support Officers resigned from their posts to pursue a more stable employment situation. As part of the consultation process it was additionally proposed to retain the IT Support Officer Trainee. The retained Port Health Service will require IT support and it is proposed that this is met via the general IT team which will include resource from the IT Support Officer Trainee.

Changing shift patterns

35. As mentioned above the trade pattern also shows that freight does not flow through Sevington via the channel tunnel in any sizeable volumes at unsociable times. The requirements for staffing the port health service can therefore be planned around a longer day and it is proposed that any requirements for weekend cover or night cover will be met through a contractual overtime agreement.
36. The requirements for staffing patterns at the port health service will need to be revised as the trade volumes and patterns in the new operating model becomes clearer.
37. In the interim there will be no changes to existing working patterns and this will be subject to a future consultation. It is sensible to highlight at this stage that the future working patterns may require us to amend shift patterns completely.

The transition to the new Target Operating Model

38. The new TOM is not anticipated to be live until late 2023, which means that we will not be operating as a Port Health Service until this time. However Defra have some transitional roles that will support import checks and bio security that are going to be made available as secondments for retained staff.

Other options considered

39. Defra have been very specific that they have considered the new burdens likely to arise at Sevington and will only fund a maximum of 54 posts. They have also specified these posts must be of a technical nature.

Risk assessment

40. It is possible that the SPS regime will not begin as planned in December 2023. Defra have nevertheless guaranteed that ABC will not be put into any financial jeopardy and will under write the costs for the 54 staff.

41. It is possible that the technical staff we are hoping to keep may find other jobs due to the constant delays and uncertainty around the future. Should that happen it is proposed to leave those posts vacant until 2023 and more clarity is available concerning the TOM.

Consultation

42. The consultation pathway was set out in the initial consultation paper as follows.

Week(s) commencing	
6 September 2022	Announcement day, invites to individual and group consultation meetings sent out.
12 September 2022 19 September 2022	First consultation group meetings
26 September 2022	Opportunity for second consultation meeting
3 October 2022	Respond to feedback from consultation
06 October 2022	Using feedback from the consultation finalise proposals for the JCC meeting
27 October 2022	JCC meeting
31 October 2022 7 November 2022 14 November 2022	Selection processes
24 November 2022	Cabinet meeting

12 December 2022	Notices of redundancy issued (subject to council approval if applicable) and revised contracts of employment issued.
22 December 2022	Council meeting

43. Consultation has progressed well and has secured a high level of engagement from the affected employees.

44. The JCC meeting took place on 27 October 2022 and there was general consensus that a reasonable and meaningful consultation process had taken place. However, disappointment was expressed regarding the external situation and the regrettable situation that staff were in. Members are referred to the minutes from this meeting for full details.

Selection process and redeployment

45. A summary document was sent to all affected employees outlining the proposed selection processes. This document also detailed the process for voluntary redundancy, allocating vacant roles in the proposed structure and redeployment to roles across the council.

46. All ABC vacancies have been initially circulated to Port Heath staff with a view to securing alternative employment within ABC wherever possible. Any Port Heath applicants who remain at risk following the selection and allocation process will be prioritised in the application process.

47. Their suitability for available roles will be assessed by way of an interview process before the posts are opened to applications from other internal or external candidates.

Implications Assessment

48. The implications of this proposal (brought about by the change of direction from Government) was that up to 59 post holders were placed at risk of redundancy, and up to 42 posts may be redundant. However, as a result of the allocation of officers to more senior technical roles (by identified bridgeable training gaps) plus some natural turnover in recent weeks means that the number of redundancies will be much less than this. As detailed in the Exempt Appendix it is proposed to make 11 posts redundant (7 compulsory and 4 voluntary). We will continue to work with the 7 individuals in the compulsory group to identify suitable alternative roles for redeployment.

Financial implications

49. Not all staff have two years' service so it is possible that some will leave without a redundancy payment. All staff whose posts are made redundant will be entitled to receive notice of the termination of their employment or payments in lieu of notice in accordance with their contractual or statutory entitlements as well as an appropriate adjustment for holiday taken or accrued. Other staff who have continuous service of more than 2 years will be entitled to redundancy pay based on our discretionary compensation policy. i.e. Statutory number of weeks as per the DTi ready reckoner, based on actual weeks' pay and a 1.25 multiplier.
50. Staff who are in the LGPS, over 55 and have two years pension scheme membership are entitled to the early release of their pension in the event of their redundancy, this may result in a cost (pension strain) to the council.
51. Defra has indicated that it will cover the costs of redundancy and pension strain.
52. Costs associated with this proposal are provided at Exempt Appendix 1.
53. Section 10 of the Retirement, Redundancy and Discretionary Compensation Policy Statement is detailed as follows.

The Council will make a discretionary compensation payment in redundancy cases, in accordance with regulation 6 of the Regulations, subject to the following conditions:

- (a) there is no reasonably suitable redeployment opportunity for the employee;*
- (b) the employee if so required enters into a legally binding compromise agreement in terms that the compensation payment is in full and final settlement of any employment law claims the employee may have arising from the termination; and*
- (c) where the discretionary compensation payment is £100,000 (excluding pension capital costs) or more, the proposal shall be referred to full Council for decision; or*
- (d) where the total capital cost is below this threshold the Chief Executive, with the concurrence of the Leader based on the recommendation of the Portfolio Holder and in consultation with Corporate Management Team, has the delegated authority to approve. Payments below £25,000 will not be subject to the Leader's concurrence*

54. Therefore, Cabinet are asked to note where 10d applies.
55. The Council's policy on the application of pension scheme discretions is that all costs associated with early release of the local government pension benefits must be approved by Council, and this is reflected in the recommendations of the report.
56. In this instance the one post holder (6571) has historical scheme membership that has not been assessed fully by KCC Pensions which may change the costs of the pension strain, Defra have undertaken to underwrite all costs associated with this reduction in headcount, it is on this basis the recommendation is that

Council approve the release of the pension and that the Deputy Chief Executive be given delegation to authorise any other additional costs that may be incurred once KCC Pensions have the full historical scheme membership details.

57. Any staff member who is at risk of redundancy will not be required to repay relocation or training costs if they are made redundant, nor if they find another role whilst at risk.

58. Where a member of staff is successful in being redeployed to another role in the council, and there is a reduction in salary in the new role, the Council's salary protection arrangements will apply whereby salary is protected at a maximum of one grade above the grade for the role for three years. This will also be underwritten by Defra and has been included in the impact assessment.

59. The proposed new structure will be fully funded by Defra up until go-live with the new TOM. Thereafter the service will be funded through fees and charges.

Conclusion

60. It is with great disappointment that we are proposing to reduce the size of the Port Health Service. The staff have been patient with us since our first aborted go live date in April 2021.

61. It is regrettable that the change in government direction has impacted the service and its dedicated officers in this way, and we will look to make the process as smooth as we can for all those affected.

Comments from the Portfolio Holder

62. "I support the work being carried out to right size the Port Health Team. ABC has worked well with the Government to deliver its aspirations for the IBF/BCP and it is correct that we now adjust our team to deliver TOM for their Border 25 vision." Cllr P Bartlett