

**Agenda Item No:**

**Report To: Cabinet**



**ASHFORD  
BOROUGH COUNCIL**

**Date of Meeting:** 22<sup>nd</sup> February 2024

**Report Title: Revision to Agreed Staffing Ashford Borough Council Enforcement at Sevington Border Control Post (BCP)**

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**Portfolio Holder:** Cllr. Liz Wright  
**Portfolio Holder for:** Community Safety and Wellbeing

**Summary:**

This short report notifies members that a pragmatic decision has been taken about the previously agreed plans for staffing the product border control posts at Sevington.

The time scales involved in regards to getting operationally ready require immediate action which prevents fitting into normal Committee cycles..

As a consequence of EU Transition, Ashford Borough Council (ABC) will become responsible for delivering port health controls at the new Sevington Border Control Post (BCP). These controls relate to checks on imports of animal products (products of animal origin and animal by-products) and high-risk food not of animal origin (POAO) imported from the EU. This report advises on the new service the council will be providing, the support being given by the Department for Environment, Food & Rural Affairs (DEFRA) towards establishing the service. The BCP at Sevington which is beginning to be termed the Kent BCP will now be the single POAO facility in the Short Straits operated by Gov.UK. This was further to a review of the Border Target Operating Model and subsequent decision not to open another BCP at Bastion Point. The BCP will operate 24 hours a day, 7 days a week, 365 days a year and involve over 148 staff directly employed/engaged by ABC. The service is to be introduced on a phased approach with documentary checks starting on the 31<sup>st</sup> Jan 2024 and physical checks three months later. This report addresses specifically the BCP health control service to be operated by the Borough Council acting as a Port Health Authority, it does not address wider issues relevant to the operation of the Sevington Inland Border Facility concerning other work streams.

**Key Decision:** YES.

**Significantly Affected**

**Wards:** Mersham, Sevington South with Finberry i.e., the location of the BCP

**Recommendations:** **The Cabinet is recommended to:-**

- I. Note that the Chief Executive has used her emergency powers to enable staffing and recruitment to commence further to the amendments to the BTOM and preparation for the council undertaking port health controls at the BCP beginning on 31<sup>st</sup> January 2024 and 30<sup>th</sup> April 2024 respectively.

**Policy Overview:** The council has no previous involvement with port health controls and therefore this represents a totally new policy area. We have nevertheless been undertaking a number of other allied work streams such as IUU controls and is in a much more informed position than the original start date. However, the purpose of the checks are to ensure that only products that are safe to eat can enter the food chain, to safeguard animal and public health and check compliance with relevant rules and international standards, and therefore these objectives are highly relevant to the council's existing food safety work and wider responsibilities to protect consumers.

**Financial Implications:** The financial implications are significant. We are currently fully funded via sec.31 grants under the new burdens rules. Moving forwards we will be a full fee recovery service. DEFRA have advised that sec.31 grant funding will cease in July 2024. The BCP will be operational at this time and HMRC data show we will be undertaking in the order of 850,000 Sanitary and Phytosanitary (SPS) checks per annum.

**Legal Implications:** The legal context for the council responsibilities for port health controls at Sevington are set out in Article 49 of the Official Controls Regulation (OCR), which requires competent authorities to conduct checks at designated BCPs.

There are significant legal implications related to every aspect of the BCP. The Monitoring Officer is aware and has

written to DEFRA as he is of the opinion a number of changes are required to primary legislation. DEFRA have assured the Council they feel all that is required is being planned and will be in place prior to the start.

**Equalities Impact Assessment:**

An Equalities Impact Assessment has been completed for the service and will be reviewed periodically as needed. The service will be designed taking into full account the council's equality duty.

**Data Protection Impact Assessment:**

The BCP will handle personal information and as such there will be a need for a Data Protection Impact Assessment (DPIA). This will be necessary for the initial service design and ongoing receipt, holding and exchange of data once the BCP is operational and the health are being conducted.

**Risk Assessment (Risk Appetite Statement):**

The risks associated with designing and implementing a port health service of such scale are significant.

The council's lack of previous experience in this area exacerbates the risks, as does uncertainty over the likely volume of checks that will be required. The Corporate Director (Health and Wellbeing) was recruited in 2021 to cover the lack of knowledge and experience due their significant practical and strategic port health experience.

There are considerable financial, reputational and legal risks. The BCP has been added as a corporate risk and will be reviewed and reported on.

**Sustainability Implications:**

Outside the scope of this report.

**Other Material Implications:**

There are significant staffing implications. The project is already consuming council resources which, it is anticipated, will be compensated for by the Government. Staff will be employed on either a permanent or temporary basis by the council. Agency staff will be utilised when necessary, especially over the implementation period and initial operational period. This will give flexibility to adjust resources in line with demand. Existing council staff will be involved in supporting the BCP development and continue to be involved as the service goes live in a support role. There are therefore material implications for many of our current workforce.

**Exempt from Publication:**

NO

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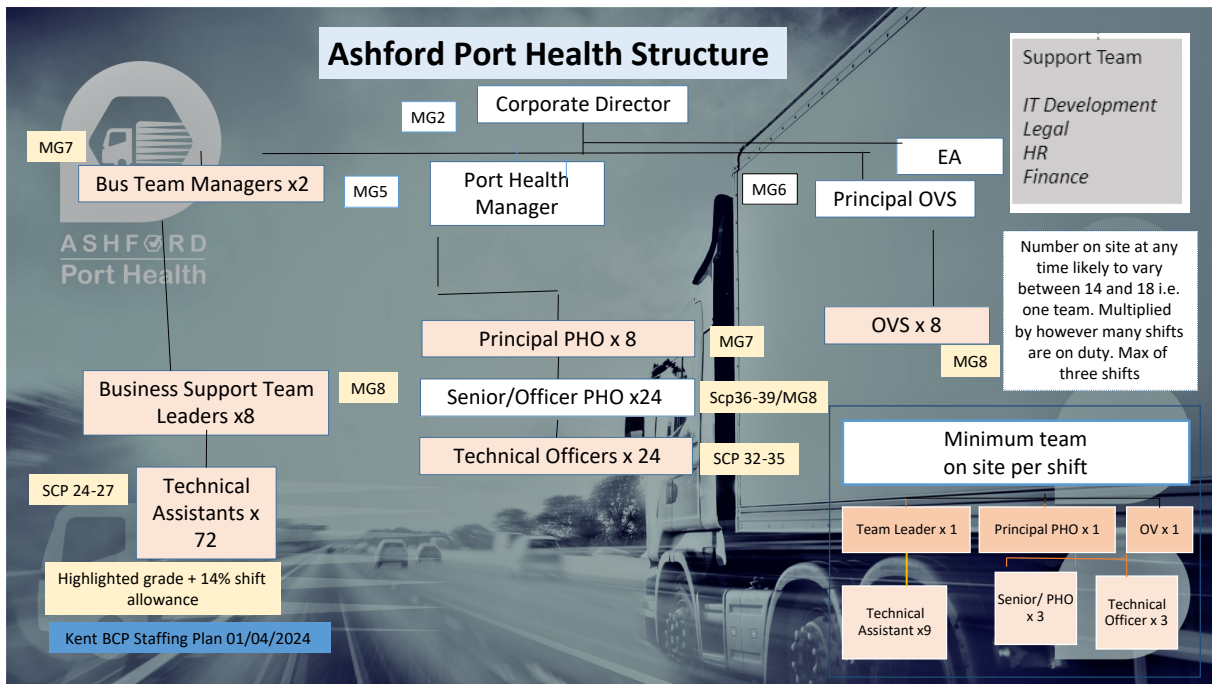
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## Agenda Item No.

# Report Title: Ashford Borough Council Enforcement at Sevington Border Control Post (BCP)

## Introduction and Background

1. In late September 2020 information was received from DEFRA that the Sevington Inland Port Facility (IPF) is to be designated a BCP and that as a consequence the council will become responsible for carrying out various port health controls on behalf of central government.
2. The health controls (i.e. checks on food at the point of import) that the council will be required to undertake are to ensure that only food that is safe to eat enters the food chain, that animal and public health is safeguarded and that there is compliance with relevant rules and standards.
3. The council is not currently responsible for any port health controls and has no experience of managing services relevant to port health activity but has subsequently recruited to fill this gap. HMRC data shows that the number of SPS checks requiring physical presentation at the BCP are 1% of a circa 850,000 freight movements. Checks are also required on high risk foods not of animal origin, organic goods, animal feed, plastic kitchenware in contact with food and IUU controls.
4. The checking regime has been delayed on 4 occasions but is now due to commence 31<sup>st</sup> January 2024 for documentary checks for EU goods and Ashford Borough Council has been written to by DEFRA advising we must get ready to operate from that time. Physical examinations are due to begin 30<sup>th</sup> April 2024.
5. Ashford Port Health staff have been chosen to man a so called National Clearance Hub dealing with EU imports from Jan 2024 and April 2024. The staff will receive extensive training to undertake this task and will also gain valuable experience.
6. A restructure was undertaken in 2022 after DEFRA delayed checks for a year and the team was cut to a maximum of 54 staff whilst the new border operating model was developed.
7. As Bastion Point (Dover BCP) is no longer opening we have reverted to the original plans already approved for Sevington with appropriate uplift in numbers based on work required for checks and to allow for the senior management restructure undertaken by the Chief Executive in 2023.



## Updated Structure for BCP.

- Due to the tight timescales between short straits decision and live physical checks the usual reporting and member approvals for the growth in Port Health staffing were not possible. The Chief Executive therefore used her urgency powers to authorise this growth on the basis that a) the structure was similar in size to the original structure approved with effect from 1 April 2021 b) Defra will continue to underwrite costs and liabilities until July 2024 (c) the Port Health service will operate on a full cost recovery basis from April 30<sup>th</sup> 2024 and therefore the risks to the budget are low.

## The current position

### *Service required*

- For imports of goods, the UK Government announced on 13 July 2020 the Sanitary and Phytosanitary (SPS) controls will be introduced in stages from January 2021 to July 2021. This has been subject to numerous delays and the regime is now due to start 31st Jan 2024 for documents and 30th April 2023 for physical inspections. Local Authority responsibility for these controls is limited to so called products which include the above groups already mentioned.
- A documentary check is an examination of official certifications, attestations and other commercial documents that are required to accompany a consignment. An identity check entails the visual inspection of a consignment in order to verify its content and labelling corresponds to the information provided in accompanying documentation. A physical check entails a check on the goods to verify that they are compliant with the sanitary and phytosanitary import requirements for GB. This includes, as appropriate, checks on the

consignment's packaging, means of transport and labelling. Temperature sampling, laboratory testing or diagnosis may also be required.

- 8 Checks on live animals and plants and plant products will be carried out by the Animal and Plant Health Agency (APHA). These will be carried out at destination from 30th April 2024. These checks are not undertaken by the council but we will share the facilities on certain product groups.

### ***Volumes and staffing requirement***

9. DEFRA have estimated, on the basis of their forecast of EU POAO import data for Eurotunnel and Dover, that the following checks will be required annually. This is the number of checks taken from HMRC data. It should be noted that high risk food not of animal origin, organics, feed, IUU and plastic materials that come into contact with food checks will also be required. This data was harder to come by but using data collected from the Food Standards Agency we estimate this to be over 1000 additional physical checks per annum. This is not include in the DEFRA figures below.

	<b>Documentary</b>	<b>Identity</b>	<b>Physical</b>	<b>Sampling</b>	<b>TOTAL</b>
Risk Based Checks	854,000	1,782	1,782	178	124,224

10. On the basis of this information and estimates of the time it takes to complete the different check, DEFRA have recommended that the following staff numbers are required.

	<b>Staff estimates</b>
Director	1
Port Health Manager	1
Business Manager	2
Lead Veterinarian	1
Official Veterinarians (OVs)	8
Principal Port Health Officers	8
Senior Port Health Officers/Port Health Officers (PHO)	24
Port Health Support Officers (PHSO)	24
Business Team Leaders	8
Technical Assistants	72
<b>Total</b>	<b>149</b>

Support Service Staff are not included in the Port Health Service Structure as they are additions to the extant establishment in their respective service areas.

11. It should be noted that DEFRA only provided staffing estimates relevant to OVs, PHOs, PHSOs, Technical Assistants, Team Leaders IT & Legal. Additional posts have now been agreed as relevant to the overall management of this new service area.
12. Additional resources have been identified to support the development and implementation stages such as HR and Finance resource i.e., over and above the staff estimates identified above. We will also draw from the funds available for the posts identified in the above table to support the project development and implementation i.e. those employed /engaged before 1 April 2024.
13. It should be noted that the council will be doing 100% document checks for medium and high risk goods but only around 1% physical checks. The number of physical checks will be less than 20 per day therefore. The BCP would not be able to process more physical checks due to space limitations. The Service will be required to oversee surveillance thus low risks goods will also be called to the BCP for that purpose.
14. DEFRA have used Costain who are a large management consultancy to gather information concerning the number of freight movements and the times of arrival of freight movements. Their research shows that goods will arrive 24 hours a day and the service is therefore required to operate in that manner.
15. To ensure coverage of the entire operating period and due to the condensing all checks to Sevington we have added an additional operational team thus an increase from 7 teams to 8. This additional team is also proposed to work on a static shift basis and will provide additional resource during Monday to Thursday 10:00 – 22:00.

### ***Legal context***

14. The legal context for the council's responsibilities for Port Health controls at Sevington are set out in Article 49 of the Official Controls Regulation (OCR), which requires competent authorities to conduct checks at designated BCPs. The Trade in Animals and Related Products Regulations (TARP) 2011 and the Official Feed and Food Controls Regulations (OFFC) 2009 then set out those authorities as being the relevant local authorities, i.e., the Borough Council for Sevington.
15. The Council has been advised by DEFRA that the Public Health Act 1984 precludes a Port Health Authority, such as Dover, acting outside of the area of its jurisdiction set out in the relevant Port Health Order, hence, the approach to Ashford and the need to plan local authority enforcement at Sevington and designation of the council and staffing of the facility.

### ***DEFRA support and financial implications***

16. DEFRA recognise that there are significant challenges as the council prepares for the introduction of SPS controls on EU goods and are committed



to supporting the authority with its preparations. DEFRA officials are now chairing a fortnightly Steering Group where the council receives policy updates and are able to raise concerns and questions. DEFRA have also agreed to hold regular meetings with council officers to provide a package of additional, bespoke support given the scale of work we need to work together on.

17. DEFRA have created a new “embedded” team who will partner us during implementation, transition and through go-live in Jan 24 and April 24 respectively. We have commercial arrangements in place concerning sampling and Cat 1 waste to support our preparations already.
18. DEFRA have provided formal reassurance regarding any financial risk arising from the recruitment of additional staff to our authority and we continue to getting funding via this process until we can recover costs through charging fees.
19. DEFRA are conscious that even though they have shared with the council the best evidence available on the likely trade flows, these predictions might not materialise, at least in the short term. As a result, DEFRA acknowledge that a risk remains that we are not able to generate enough revenues to cover the costs arising from the implementation of the new regime of checks post-April 2024. This financial risk, in the absence of certainty regarding funding made available to the council, means that we may find it challenging to start recruiting new staff, and to attract the right candidates. DEFRA have indicated that they do not want the council to under-recruit, which creates additional and further pressures later in the implementation.
20. DEFRA have therefore assured the council that in the event we experience a shortfall in revenue in the period April 2024 to July 2024, they will absorb the financial risk. This is on the condition that:
  - our recruitment plans match those agreed as part of our application to the PHA Transition Fund
  - we update DEFRA on progress to recruit additional staff for the purpose of the future regime of import checks
  - where relevant, we can demonstrate that, from April 2024, we actively use new evidence on actual volumes of EU-SPS imports, and on the costs arising from the new regime of import SPS checks, to adapt the size of our workforce:
  - we work with DEFRA on the establishment of a regime of EU SPS import fees and charges, appropriate to cover the costs arising from the implementation of the new regime of checks.
21. The initial bid, was submitted to DEFRA on the 12 November 2020 covers the staff costs (including shift payments) to 31 March 2021, non-staff costs including ICT provision, PPE, payroll licence fees, training costs, agency fees, EU sponsorship fees and on-going Home Office support, potential reimbursement and visa costs, insurance and a management fee. The process has continued since this time.

## **Risks**

22. Accordingly, DEFRA have been advised that the bid submitted by the council cannot be taken as an indication or acceptance that the services can be provided to the required standards. A number of government commitments and assurances are required if the BCP services are to be set up and operated in line with current expectations. We are working in partnership with numerous Government Agencies to achieve what we need to do.
23. The Council has previously requested a longer period of financial underwriting while volumes stabilise and arrangements for jointly keeping under review the impact of any changes to the regulatory or trading regimens. This request will be made once more.
24. As well as the financial risks, there are considerable logistical risks involved. The scale of the task is clear when one appreciates that the number of new posts required represents at least 25% to 30% of the council's current workforce. There are also considerable concerns that the number of professional staff required are just not there to be recruited. DEFRA are assisting in regard to access to OVs but Port Health Officers and Port Health Support Officers i.e., Environmental Health Officers and Technical Officers, are in very short supply. In addition a number of professional support staff are required and it is uncertain how buoyant the recruitment market is for these posts. Recruiting this number of staff will be an enormous task and will require recruitment agency support as well as the additional permanent HR staff resources for both the implementation stages and on-going service.
25. It is worth emphasising that the BCP at Sevington was been planned on the basis of taking imports from Eurotunnel but will now also serve the Port of Dover increasing the volume of EU POAO imports.
26. These risks are being captured within the corporate risk register and BCP project risk assessment. Early engagement with our audit service will further strengthen our ability to identify and analyse risks as well as determine appropriate risk responses.

## **Equalities Impact Assessment**

28. An Equalities Impact Assessments will be required for this new service and will be prepared in due course. The service will be designed taking into full account the council's equality duty.

## **Consultation Planned or Undertaken**

29. It is hoped that staff who are working on a static shift at present as a result of previous delays will be absorbed into the new 8<sup>th</sup> team and therefore consultation will not be required.

## **Other Options Considered**

30. There are no other options.

## **Reasons for Supporting Option Recommended**

31. The council would be failing in its statutory duties were it not to undertake the required port health checks for a BCP located in its area. DEFRA have indicated that in regard to Eurotunnel, the Public Health Act 1984 precludes a Port Health Authority, such as Dover, acting outside of the area of its jurisdiction set out in the relevant Port Health Order.

## **Next Steps in Process**

32. An officer steering group has been established to drive this project forward. This group is chaired by the Director Health and Wellbeing and key AD's. They are joined by additional officers some of whom are being assigned to work purely on this project. Arrangements are being made to back-fill within services and where necessary this will involve the recruitment of temporary staff.
33. As soon as we have received confirmation of the funding bid, the hard work really begins in terms of designing the service in detail, developing a timeline for staff recruitment, identify the roles performed by the various staff groups, purchasing the required IT systems and integrating them with council back office systems, designing the checking processes, undertaking the necessary recruitment and beginning the various training programmes.
34. We are pleased to have not only the assistance of DEFRA but also the support of the Association of Port Health Authorities and the Ports of London and Felixstowe. This assistance will be invaluable.

## **Conclusion**

35. The creation of new inland border posts after EU transition is of national importance. The site at Sevington is a key part of the national plan and when fully operational will be one of the largest BCPs in England, possibly even the largest. Our council is therefore playing a vital role in making a success of the country's new trading arrangements with the EU.

## **Portfolio Holder's Views**

36. awaited

**Liz Wright, Portfolio Holder for Community Safety and Wellbeing**

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