

Title of meeting: Cabinet

Date of meeting: 22nd March 2022

Subject: Lateral flow testing in Portsmouth after 31st March 2022

Report by: Director of Public Health

Wards affected: All

Key decision: Yes/No

Full Council decision: Yes/No

1. Purpose of report

- 1.1 The purpose of this report is to (a) provide an update on the arrangements for COVID-19 testing in Portsmouth from April 2022 following the recent government announcements, and (b) to set out the options available for supporting continued testing arrangements within Portsmouth.

2. Recommendations

- 2.1 Cabinet is recommended to:

i) Consider support for an extension of testing for three months - April - June 2022, (recognising the financial, legal and public health risks and implications outlined below) and select a preferred option from:

Option A: Maintain the status quo - from 01 April, testing will reduce in line with current government plans

Option B: Retain testing capacity to provide tests for vulnerable people, those caring for and living and working with vulnerable people, outbreak and surge capacity testing

Option C: Option B plus the provision of home test kits to households until either:

- A 3 month period commencing April 2022 has elapsed or;
- A maximum of 30,000 home test kits have been provided which is equivalent to an uptake of approximately 10% of households (subject to a final cap of £200,000 (exclusive of VAT))



- ii) Delegate to the Director of Public Health, and the S.151 Officer, after consultation with the Leader of the Council, to amend the delivery of the above selected options if there is a change in government policy or local context impacting the Public Health requirement to mitigate or manage COVID-19 infection rates.
- iii) Note that an additional report will be presented to Cabinet, if further proposals for testing arrangements within Portsmouth are to be considered.

3. Background

- 3.1 Rates of COVID-19 infection are still high in Portsmouth (630.7 cases per 100,000 population on 14.03.22), and at time of publication are rising across all age groups. Rates are generally higher than those across the whole of England, but slightly lower than in the South East region.
- 3.2 The purpose of testing throughout the pandemic has been to identify COVID-19 infection to allow those infected to self-isolate in order to limit transmission in the community and protect vulnerable people.
- 3.3 Requirements and guidance have changed over recent months but features of the testing requirements have been:
 - Requirement for people to take PCR tests if experiencing COVID-19 symptoms, and in some other specific circumstances
 - Recommendation for regular lateral flow testing, with associated requirements around self-isolation
 - Requirements for some people to regularly test due to their employment, for example, health and care workers, and others working with vulnerable people.
- 3.4 On 21st February the government released its plans for 'Living with COVID'. This document announced the intention for free universal lateral flow testing to cease on 31st March. Free universal PCR testing for symptomatic individuals will also end on this date.
- 3.5 The document indicated that free targeted testing for certain vulnerable groups would continue after this date, with eligibility criteria still to be confirmed.
- 3.6 In schools, routine testing has stopped except in special schools, alternative provision, and SEND/AP units within schools and colleges where twice weekly testing will continue. In the event of an outbreak of COVID-19 at a mainstream or SEND school, testing may be reinstated / stepped up based on the advice of the Director of Public Health or the UKHSA local Health Protection Team.
- 3.7 Throughout the pandemic there has been close liaison between Education, Schools and the Public Health team, through regular delivery of advice and practical support to access test kits. The current contingency model for testing



has been well received by schools, who feel well supported to manage cases and outbreaks. From April, local authorities can recommend and provide LFDs in outbreak situations.

- 3.8 A refreshed Outbreak Management Plan is expected from UKHSA before the end of March 2022, which will outline further plans for maintaining resilience, including contingency planning and the ability to reintroduce key capabilities such as testing in an emergency, such as the emergence of a severe new variant. This may involve retaining a basic testing capability in the city, using existing stocks of lateral flow test kits and current staffing and delivery mechanisms.
- 3.9 Locally, there is recognition of the need to adopt the "Living with Covid" approach, but an equal recognition that some people will need to be supported towards this new approach, and a desire to ensure that no-one should find themselves disadvantaged as a result of needing to purchase tests, particularly given high levels of income deprivation in the city and the rising cost of living. A proposal is therefore presented for creating a supported step-down for residents in the city who may need this.

4. Testing provision in Portsmouth

- 4.1 Residents who need to take a PCR test can currently attend the Local Test Site in the city centre (the former Sainsbury's site). However, as of 31st March, the national programme of free PCR testing for symptomatic individuals will cease.
- 4.2 Residents wishing to take lateral flow tests can currently obtain these for free in Portsmouth until 31st March, from the Asymptomatic Test Site (ATS) based at Somerstown Hub, where they can also take a supervised test.
- 4.3 Lateral flow tests are also available online for home delivery, from local pharmacies to collect home test kits and from ATS until 31st March. All residents are encouraged to ensure they are well prepared and have LFD tests at home. Locally, we are taking opportunities to highlight to people that tests are currently available, the benefits of testing, and the impending change to that situation.
- 4.4 From 01 April we will need to adapt our approach to testing in Portsmouth to take account of the revised national guidance, and support residents to receive the right level of support as we transition to the 'Living with Covid' phase of managing the pandemic.

5. Proposals for testing in Portsmouth beyond 31st March

- 5.1 **Option A: Maintain status quo:** From 01 April, testing will reduce in line with current government plans. Free testing delivered by a national testing programme will continue to be delivered to certain groups after 31st March:
- NHS and social care staff



- SEND schools and staff
- DHSC have stated that vulnerable groups will continue to receive access to free testing, and more detail on how this will be delivered, and to whom, is awaited.

- 5.2 This option ensures that Portsmouth remains in line with central government plans.
- 5.3 The current programme will continue to be funded by national government. There would not be any additional financial burden to the City Council.
- 5.4 The key risk with this option is that whilst test kits will be available to purchase from private providers from April, some individuals who could benefit from testing may face financial barriers to accessing test kits.
- 5.5 Option B: Retain testing capacity to provide tests for vulnerable people, those caring for and living and working with vulnerable people, outbreak and surge capacity testing:** Portsmouth will continue to operate a fixed Asymptomatic Test Site and supervised roving model whilst we deliver a service for vulnerable people, and those supporting them, as defined by DHSC (details to be confirmed by the end of March). With this option we will also have the ability to deliver outbreak testing and surge capacity testing in line with advice from UKHSA and the DPH. We propose that this is maintained until the end of June 2022 to enable us to continue to manage situations while infection rates remain high. LFD home test kits will be available to all to buy from pharmacies and online.
- 5.6 This enables a delivery mechanism for anticipated government plans to offer testing to vulnerable people, in the event of an outbreak or surge testing following the emergence of a new variant. Providing ongoing testing in these circumstances will limit spread of infection and protect the health of the population.
- 5.7 PCC currently holds 54,000 supervised testing kits, with a use by date of 12/01/23. To date 12,000 supervised tests have been completed. These kits have been funded by DHSC. Current stock is expected to be sufficient for this proposal, on the basis that demand is expected to reduce in line with the new national 'Living with Covid' position. We also have necessary PPE, equipment, and IT to operate the suggested programme without further spend in those areas.
- 5.8 As home test kit stocks are depleted, testing will need to be supervised due to type of test kits available.
- 5.9 Indemnity cover for this model is being discussed at national level as part of the development of a refreshed UKHSA Outbreak Management Plan. At present, all indemnity cover for testing delivery ceases on 31st March (see below).

- 5.10 In this option, there are additional ongoing costs for delivery (minus tests, PPE, IT and other equipment), based on maintaining the two current Asymptomatic Sites, as set out below.

	April	May	June	Total
Staffing Cost	£25,300	£25,700	£25,700	£76,700
Room Hire **	£4,500	£4,500	£4,500	£13,500
Car Parking	£510	£510	£510	£1,530
Pharmacy Testing *	£650	£650	£650	£1,950
Fuel *	£115	£115	£115	£345
Clinical Waste *	£125	£125	£125	£375
Consumables	£125	£125	£125	£375
Total	£31,325	£31,725	£31,725	£94,775

* Based on current average (Jul 21 -Jan 22)

** Based on current cost divided by two (reducing Somerstown to one room only)

- 5.11 **Option C: Option B plus additional provision of home test kits for 3 months (April - June):** As in Option B, Portsmouth will continue to operate a fixed Asymptomatic Test Site and supervised roving model until the end of June 2022, but with the addition of 4 satellite sites. Home test kits would be provided for collection at community locations (for example community centres, libraries, housing offices). LFD home test kits will be available to all to buy from pharmacies and online.
- 5.12 Recognising that there is a possibility that the cost of these could be a barrier for some people and that an inability to access testing creates disadvantage, members have requested consideration of how this risk could be mitigated as part of this Option.
- 5.13 Option C would enable each household in the city to access one box (of 5 tests) a month for 3 months from community sites on production of proof of residence. The expectation is that overall demand will be relatively low, at around 10% of households in the city. This option will be capped to ensure the maximum number of kits purchased does not exceed approximately 30,000 home test kits or the maximum £200,000 budget cap, to enable c.50% of the available Contain Outbreak Management Fund (COMF) grant to be retained to provide some financial capacity to respond to future requirements. Once the 30,000 home test kits have been utilised there won't be any further kits available. All schools will be invited to promote the home testing scheme to pupils and their families as part of the home testing offer for all households.

5.14 Test kit distribution will be recorded through a locally developed online form and database. Those collecting home kits will be asked to present a form of identification that indicates that they are resident in the city, or have been asked to collect a kit by their school. Monitoring through the database will ensure each household is allocated the correct number of kits.

5.15 The costs of this option are calculated as:

Supervised testing with two additional satellite delivery sites:

Location	# of bays	Operating Hours		Weekly Hours
		Monday - Friday	Saturday	
Somerstown ATS (South)	1	08:00 - 18:00	08:00 - 13:00	55
Satellite ATS 1 (North)	1	10:00 - 16:00		30
Satellite ATS 2 (East)	1	10:00 - 16:00		30
Satellite ATS 3 (West)	1	10:00 - 16:00		30
Total				145

	April	May	June	Total
Staffing Cost	£30,900	£31,600	£31,600	£94,100
Room Hire **	£4,500	£4,500	£4,500	£13,500
Car Parking	£510	£510	£510	£1,530
Pharmacy Testing *	£650	£650	£650	£1,950
Fuel *	£115	£115	£115	£345
Clinical Waste *	£125	£125	£125	£375
Consumables	£125	£125	£125	£375
Total	£36,925	£37,625	£37,625	£112,175

Computer monitoring system set up:

Staff time	Cost to organisation
One week of project management time	£1,150
One week of analyst time	£800
Three weeks development time	£2,775
Total cost	£4,725

Staff costs will be met from existing budgets.

Total costs for 3-month delivery:

Supervised testing (4 delivery sites)	£112,175
Home test costs	£165,000 - 200,000
Computer monitoring system set up	£4,725
Letter printed and posted to all households	£34,000 - 48,000
Total cost	£315,900 - £364,900

- 5.16 The basis for this option is that most people will adapt readily to the changed context. However, for a variety of reasons, this transition will be more challenging for some people and therefore for a short period, supportive local arrangements will provide a phased stepdown for individuals who feel they need this, including more vulnerable people. It will also enable PCC to gather data to inform the longer term based on likely need and demand, and the public health impact of the measures.
- 5.17 This will be an adaptation of the existing offer, and will build on existing relationships with libraries, community centres and other sites to ensure that a testing option is available to all but with a focus on areas where we know people may be less able to pay for tests.
- 5.18 It needs to be noted that there is no clear evidence base for this measure in terms of the extent to which this would prevent transmission and protect vulnerable people. There is also no clear model to support the assumed 10% demand - factors including demand related to children testing to attend school could skew this, as well as a degree of stockpiling (for example, households acquiring tests in the period to June not because of immediate need but to be covered in the future).
- 5.19 This option does come with some significant risks that need to be considered:
- The current **Collaboration Agreement between DHSC and PCC will terminate on 31 March 2022**, save for (i) any terms which expressly or by implication survive termination, or (ii) as set out in any decommissioning guidance. **The Collaboration Agreement and Comfort Letter will not apply** to any testing carried out by a Local Authority **after 31 March 2022**. Any testing carried out after this date will be carried out at the Council's own risk. Therefore, the proposal will need to be covered by PCC indemnity and new Standard Operating Procedures, and PCC will need to take on any financial and legal risks of the proposed programme. In addition, the Council must comply with, and must ensure that all third-party providers comply with, any data retention policies which are applicable to the data in their control.
 - Procurement risks - Under Public Contracts Regulations (2015) the statutory threshold above which a formally advertised regulation compliant procurement process must be undertaken for contracts concerning the supply of goods is £213,477 inclusive of VAT (£177,898 exclusive of VAT). The council's constitutional tender threshold set out within its own Contract



Procedure Rules is £100,000 above which an advertised tender process should be undertaken, unless there are compelling reasons to waive this requirement. No existing compliantly advertised contractual arrangement such as a framework agreement has been found which would allow the council to purchase above the threshold without the need for advertisement. The council could purchase 30,000 test kits (boxes of 5 tests) to meet the 10% take up demand estimate for £165,000 (exclusive of VAT and at the lower end of the price estimates) via a streamlined non-advertised competitive request for quotation process without breaching the statutory threshold set out within the regulations, although a waiver to depart from its own constitutional Contract Procedure Rules would still be required. Should the costs for purchasing 30,000 boxes come in above the lower value cost estimate of £165,000 (exclusive of VAT) and above the statutory threshold of £177,898 (exclusive of VAT) the council would be required to raise a higher risk waiver which would put the council in breach of the regulations and open to legal challenge which could take the form of damages and / or the contract being set aside along with payment of civil penalty. Alternatively, the council could seek to purchase a smaller initial volume of packs and undertake a compliant advertised procurement process in parallel under an accelerated timescales argument which could establish a compliant contract within 4-5 weeks, although this option would not eliminate risk of challenge and could also pose delivery disruption risks should supply be compromised by stock shortages or lead-in times.

- This option is not aligned with the government's national policy for free testing. Therefore, as well as media interest there is likely to be scrutiny from various campaign and pressure groups looking at the use of public money, integrity of the processes in place, and overall success and achievements of the scheme through Freedom of Information Requests. It may also be the case that DHSC seek to prevent the scheme moving forward. This would potentially be damaging in terms of future joint working and allowing local freedom.
- Financial risks are considered below.

6. Integrated impact assessment

See attached as Appendix. 1

7. Legal implications

- 7.1 There is no statutory obligation to provide additional testing beyond the end of this month (March), such testing as is posited is purely voluntary. At common law there is no duty to routinely provide the additional 3 months testing, indeed beyond a desire to do so the decision is purely one that is looked at as being one that may or may not be a competent decision within the auspices of the Localism Act 2011.

- 7.2 It is clear that PCC already has stocks available that can be held until Central Government provides guidance as to what are vulnerable persons/groups who may be eligible for a free supply as at the end of March - acting knowing that this is on the horizon would potentially present difficulty as the options posited are not aligned with anything as of yet, and this presents additional risk.
- 7.3 Additional to the above there is an issue that in providing additional testing PCC is assuming a responsibility beyond its need to do so at Statute or Common law and in doing so creates a potential expectation moving forward coupled with an entitlement to demand provision that if not satisfied could lead to the ascribing of liability based upon a breach of a self-created obligation analogous to a "duty".
- 7.4 It is to be note that the current cost per unit is considerably discounted and that future purchases could be as much as 30% more than the current costings in this report. If purchasing costs more than £213k then the Public Contracts Regulations 2015 will engage such that absent any emergency (there is none) reasoning then awarded contracts outside a compliant tender process could be challenged and or set aside.

8. Finance comments

- 8.1 As highlighted above, there is no statutory obligation to provide additional testing beyond the end of March, and therefore no additional funding will be available from central government to support these proposals.
- 8.2 The Council has previously received funding allocations from central government through the Contain Outbreak Management Fund (COMF) and this remains the only appropriate source of funding for extending the testing regime beyond the 31st March 2022. The purpose of this grant is to support the Council's activities in relation to the mitigation against and management of local outbreaks of COVID-19. The Department of Health & Social Care provided guidance of the range of activities that the grant was intended to support, which included: 'Targeted testing for hard-to-reach groups out of scope of other testing programmes'.
- 8.3 To date the COMF funding has been used by the City Council to actively support a range of initiatives during pandemic including:
- Covid Business Compliance Officers
 - Local Contract Tracing
 - Community Champions (including support to the vaccine programme in Portsmouth)
 - Supporting provision of PPE
 - COVID-19 Communications and Marketing Campaigns
- 8.4 Whilst the national COVID restrictions have been lifted and locally we transition to the 'Living with Covid' phase of managing the pandemic, there does remain a

level of uncertainty. Whilst there is currently c.£0.7m of uncommitted COMF grant funding available to support these proposals, the Council should seek to retain some level of unallocated grant funding to enable the Council to have the financial capacity to take action to mitigate or manage local outbreaks during the coming financial year. Whilst each of these options is affordable within the remaining available COMF grant allocation, each option should be considered in the context of the "Opportunity Cost" i.e., the Alternative Use for which such funding could be used.

8.5 The table below sets out the range of costs for each of the above options.

Option	Cost Range
Option A: Maintain status quo	Nil
Option B: Retain testing capacity to provide tests for vulnerable people, outbreak and surge capacity testing	For period April - June 22 = c.£95k (<i>cost per month = c.£32k</i>)
Option C: Option B plus additional provision of 30,000 home test kits for 3 months (April - June) (to a maximum financial cost of £200k):	£315,900 - £364,900

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Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: