

Title of Meeting:	Cabinet Decision Meeting
Date:	28 th November 2023
Subject:	Portsmouth Port Health Authority at the Portsmouth International Port
Report by:	Stephen Baily, Director of Culture, Leisure, and Regulatory Services
Wards affected:	All
Key decision:	No

1. Purpose of report

1.1 The purpose of this report is to explore options in respect to a fully funded fit for purpose Portsmouth Port Health Authority (PPHA) function based at the Portsmouth International Port's (PIP) Border Control Post (BCP) in order to meet the deadline for implementation by His Majesty's Government's (HMG) of the 2023 Border Target Operating Model (BTOM).

1.2 To be fit for purpose the PPHA is required to:

- deliver HMG legislative requirements to protect and maintain the biosecurity of imported goods.
- prevent friction at the border and maintain the UK's food supply.
- match the expectations of the PIP and food importers / exporters.
- match the existing business as usual needs / requirements of the PPHA and the PIP.

1.3 There is a need to consider four questions:

- i. Is Portsmouth City Council (the council) able to provide a PPHA in any form with the current resources and funding available?
- ii. If the answer to (i) above is '**yes**', will the PPHA functions provided be sufficient to meet the requirements of the BTOM?
- iii. If the answer is '**no**' to either (i) or (ii) how should the council communicate such to HMG to find a workable solution?
- iv. Will ongoing conversations with HMG impact the decisions the council is making respect to the BTOMs implementation in the near future?

2. Recommendations

2.1 It is **RECOMMENDED** that the Cabinet:

- a) Approves the adoption of proposal **Option 1 (Section 5.1)** as the preferred method of implementing the PPHA.
- b) Acknowledges that HMG has provided assurances of financial support to the delivery of the PPHA during its initial development "only" until April or July 2024.
- c) Acknowledges that HMG has "not" provided financial assurances beyond April or July 2024 and that should the PPHA not achieve full financial recovery through the implementation of charges beyond these dates that there is a significant risk of failing to achieve a cost neutral position and that therefore there is the potential for financial risks to the Portsmouth taxpayer.
- d) Request that the Leader, in consultation with the Director of Culture Leisure and Regulatory Services write to HMG that their assurances in terms of delivering the PPHA function are considered unacceptable and are unlikely to meet the requirements of the BTOM in such a manner that the elements within Section 1.2 are met.
- e) Ensures that any such letter confirms that the council needs to be cautious with the use of public funds to press ahead with significant recruitment and cost implications given there have been numerous failed directions imposed this far and which clearly sets out this is an unfair burden being placed on local residents at significant cost and uncertainty, and request again that additional new burdens funding is provided.
- f) Ensures any such letter shall continue to seek adequate assurances of support from HMG for the delivery of the PPHA beyond April or July 2023 should this be required.
- g) Keep the implementation and operation of the BTOM under continuous review, ensuring that an unfair financial burden does not fall to the Portsmouth taxpayers.
- h) Recognises that this situation has been, and is likely to continue to be, subject to significant change by HMG at short notice, and therefore that further recommendations may be made. These recommendations were correct at the time of writing i.e., 18th November 2023.
- i) Further considers the adoption of **Option 2 (Section 5.2)** or **Option 3 (Section 5.3)** as the preferred method of implementing the PPHA given "**(b.) to (g.)**" above and the uncertainty of further assurances being provided.
- j) Adopts the suggestions made in Section 7.

3. Introduction into the PPHA

3.1 PPHA is a team situated within the council's Regulatory Services. The PPHA have responsibility to protect the public, environmental and animal health of the UK with the primary objective of preventing the introduction into the country of dangerous epidemic diseases through shipping activity without creating unnecessary disruptions to world trade.

3.2 The team carry out a range of health controls at the PIP. These include checks on imported food, inspecting ships for food safety and infectious disease control, as well as public and environmental health checks.

3.3 Checks on food at the point of import are in place throughout Europe to control the risks to human and animal health. Many ports and airports in the UK have specialist facilities that deal with high-risk food imports such as food of animal origin, meat, and fish products, as well as other high-risk foods such as peanuts. The importance of these controls has been reinforced in recent times, with outbreaks of avian influenza and foot and mouth disease, concerns in respect to African swine fever, and narratives provided and updated by public health and the Food Standards Agency.

4. Relevant Issues – How did we get here?

4.1 The implementation of Sanitary and Phyto-sanitary (SPS) checks on food imports into the UK have been delayed on "four occasions" since the UK formally left the EU in January 2020.

4.2 In April 2022, HMG decided not to introduce further Safety and Security (S&S) requirements or SPS controls which apply to animal products, plants, plant products and high-risk food and feed of non-animal origin on imports into the UK from the EU that had been planned for July 2022 onwards. Following that decision, HMG developed a new BTOM (published in August 2023) which was significantly different to the previous BTOM which was published in April 2023.

4.3 Prior to this change PPHA had implemented a considerable amount of work and expenditure on recruiting, training, and equipping staff to meet the requirements of the original BOM. Additionally, a purpose-built BCP facility was constructed at the PIP in order to facilitate the original requirements of the BTOM.

4.4 The new BTOM has rendered the original requirements of the PPHA and specification of the BCP invalid. Therefore, this facility may be repurposed requiring the construction and designation of a new BCP. The existing BCP may be used in the short term should the current timetable for implementation of the BTOM go ahead. However, this installation has not yet been designated as an official BCP as this process was halted when the last postponement was announced. This will need to be completed before the BCP becomes operational. Any new facility must also undergo this designation before becoming operational. The PIP has advised that this facility and any new proposed one is subject to uncertainty until such time as future financial clarity is given in respect to their financial pressures.

4.5 The new BTOM has now been published and implementation has been specified in three stages:

- **31 January 2024:** The introduction of health certification on imports of medium risk animal products, plants, plant products and high-risk food and feed of non-animal origin from the EU.
- **30 April 2024:** The introduction of documentary and risk-based identity and physical checks on medium risk animal products, plants, plant products and high-risk food and feed of non-animal origin from the EU. Existing inspections of high-risk plants/plant products from the EU will move from destination to Border Control Posts.
- **31 October 2024:** The requirement for S&S declarations for imports into Great Britain from the EU or from other territories where the waiver applies.

4.6 HMG have issued a letter of funding intention to all Port Health Authorities. **(Appendix 1)**. They have advised the PPHA to begin preparation for the implementation of the BTOM on 30 April 2024 when the BCP infrastructure is required to be completed, designated and open for business, and the PPHA is required to have all required staff recruited, trained and competent by that date.

4.7 HMG has confirmed that PHA funding is available from November 2023 until April 2024, after which PHA's are expected to be fully self-sufficient and cost neutral. If this remains to be the case the PPHA will have a maximum of three calendar months from May to July end 2024 to achieve cost neutral output. If this is not the case, then this service will be required to be funded by the council until cost neutrality is achieved.

4.8 HMG have published *The Ecosystem of Trust Evaluation Report (ESoT)* which explores among other matters a "Trusted Trader" scheme which they intend to introduce in 2024-2025. At the time of writing, details of this scheme are unclear, however, this is likely to reduce burdens on importers importing goods through the PIP. In turn this is likely to reduce costs for said importers which will limit the income of the PPHA. If this scheme is introduced then any cost neutral plans will need to be adjusted, placing more emphasis on income required from other importers who cannot avail themselves of the benefits of the scheme.

4.9 Additionally, HMG have introduced a timed-out decision contingency feature (TODCOF) in respect to imported goods. This is an automated process for finalising a Common Health Entry Document for animal products for low-risk and medium risk animal product imports (from the EU to GB) without undertaking a documentary check.

4.10 This automated clearance process will be in place from April 2024 for low-risk consignments on a permanent basis (i.e., business as usual) and medium-risk consignments on an interim basis (i.e., it is intended as a contingency feature in the initial period of the new import controls - from April until September 2024).

4.11 The TODCOF:

- will not apply to high-risk animal product imports.

- will not apply if the risk engine has selected a consignment/product for inspection at a BCP.
- triggering does not impact the ability for a BCP/PHA to charge for a documentary check.

4.12 BCP capacity (for EU-GB animal product imports) was planned / built to receive around 1% of all animal product consignments for identity and physical inspection. Under the BTOM, the policy is for documentary checks to be undertaken on 100% of medium and high-risk animal product imports. For a period after April 2024 there HMG acknowledge that new BCPs may not be able to complete 100% documentary checks before a consignment's arrival in GB.

4.13 The TODCOF is therefore a useful tool to be deployed by PPHA if it is unable to meet fully the demands placed upon it from April 2024, however, is limited availability for medium risk products is a concern.

4.14 At the time of writing, HMG have not provided precise information as to how much resource or financial support will be available. On the 24 October the council wrote to HMG (**Appendix 2**) advising that we will be unable to proceed with further preparations and recruitment until such time as available options have been considered which may require the provision of further information. **Appendix 2 therefore forms the basis of this decision paper.**

4.15 On the 14th November HMG responded to our concerns (**Appendix 3**) advising that the PPHA should aim to recruit to enable full delivery of the BTOM. HMG however acknowledged that recruiting to a full capacity by this date may be unattainable.

4.16 HMG therefore have agreed that PPHA may temporarily, on a risk basis, undertake a decreased rate of documentary checks for medium risk consignments, with prior agreement from Defra and that this may occur when it is necessitated by such staffing limitations and there is a significant risk of disruption to throughput at the BCP.

4.17 Within the letter dated 14th November HMG again confirmed that there is an expectation that the PPHAs will begin full cost recovery for all BTOM operations through charging from 30 April 2024 and that certain transitional easements will be in place throughout the period of 30 April to 31 July 2024, which may reduce our ability to issue charges to recover BTOM operational costs. As such, HMG have confirmed that they will accept financial liability in cases where easements have prevented full cost recovery through an inability to issue charges **only for this limited period.**

4.18 On the 17th November officers from the PPHA met with officers from HMG to again reiterate our ongoing concerns in respect to recruitment and funding. HMG subsequently confirmed via email that they have agreed that *"whilst the PPHA should start recruiting staff it is very unlikely that they will be able to recruit more than around a dozen people."* In practice this means that the PPHA are likely to recruit approximately 50% of the staff that are required to fully meet our responsibilities under the BTOM.

4.19 HMG have requested that if our recruitment should exceed 12 FTE then the PPHA should seek further agreement from HMG before confirming employment. HMG have

agreed that in the bid for 2023/2024 Q3 funding under the PHA Transition Grant the PPHA can include all reasonable costs incurred by the recruitment process and essential costs incurred for the designation of the new BCP that are not the responsibility of the BCP operator (due to be in February 2024).

4.20 HMG have also confirmed that conversations around operations and recruitment, and other implementation issues will continue into Spring and early Summer 2024 and that these discussions will continue to include the PPHA abilities to match the BTOM requirements and recover its costs.

4.21 In order to consider the factors in Section 1, it is submitted that there are three available options for the council to consider, and once decided, to communicate the decision option to HMG. This, in turn, may require a further response from HMG before proceeding / moving forward / implementing. Dependent upon the decision reached such may form a "key decision" moving forward and the need for further assessment / discussion.

5. Options

5.1 Option 1- Begin recruitment and preparation for the current timetable (subject to the current HMG assurances)

5.1.1 HMG have requested the PPHA to recruit and prepare for the current commitment timetable. PPHA have set out and communicated to HMG their exact requirements for staffing and equipment required to operate the BCP in such a manner that it can meet the demand for SPS checks at the PIP; maintain biosecurity and not unnecessarily interrupt UK food supply chain. These estimations were calculated on figures given to PPHA by HMG originating from HMRC.

5.1.2 **Costs of operating the PPHA have been recalculated as £2.4 to £2.7 million annually (for all costs including 28 staff operating 365 /18 hours a day).**

5.1.3 This option is dependent on full HMG financial support for the staffing quota, and equipment required. **HMG have "not" confirmed indemnification for any shortfall in the first three calendar years from the BTOM implementation date of April 2024. Rather they have confirmed the possibility of three months additional funding and a willingness to further discuss with the PPHA its position at that time.**

5.1.4 **Currently, pending further discussions, in order to sustain itself from either May or August 2024, the PPHA must therefore be able to rely on funding from the council's reserves (i.e., the Portsmouth taxpayer).**

5.1.5 As well as staffing and equipment, other significant criteria must be in place, otherwise this option becomes unviable. Conversations with respect to the recruitment and information technologies required suggest that such a program of development will also require significant additional resources within these services in order to deliver HMG requirements in such a short period of time (these resources may have to be contracted in). Such costs will be included with 2023/2024 Q3 funding bid application (but are not guaranteed to be supported by HMG).

5.1.6 Previously the PPHA has attempted to recruit and train Official Veterinarians (OV). These specialist officers are essential for checking products of animal origin imports as well as signing off required import documentation. Without this role the PPHA cannot function. All recruited OVs have either left the service by resignation or redundancy due to the many delays to BOM / BTOM implementation. It has been decided after the difficulties involved in attempting to recruit, train and retain officers to this specialist role the best way forward for future OV support is to "buy in" the service in using a professional agency. The cost to this is estimated to be in excess of £100K per annum. This must additionally be added to any cost neutral income calculations.

5.1.7 Pending all the above being in place, the next crucial factor is the ability to recruit; train and assure competence of sufficient personnel to adequately staff the BCP for the optimal service provision to achieve the aims of the service as previously detailed. The narrative from HMG is clear that recruitment should begin, however, should more than 12 additional staff be recruited further conversations with HMG should take place. Our current predictions are that in view of previous known challenges any recruitment will be limited.

5.2 **Option 2 – Maintain current staffing levels and deliver limited-service output.**

5.2.1 If HMG maintain their current stance that funding will cease on the present timetable with no exceptions, then this authority may be required to adopt this option. No further recruitment will be undertaken, and financial plans will be calculated on maintaining existing staffing levels with minimum burden placed on Portsmouth taxpayers.

5.2.2 **Seven staff have currently been retained by the service (currently funded by HMG).**

5.2.3 In this scenario the PPHA would deliver a limited service and would not be able to function in the manner required by the PIP. This could mean potential delays for imported goods/and or risk allowing medium and high-risk goods into the UK without SPS checks being undertaken on them.

5.2.4 This would also mean a risk to UK biosecurity and a significant level of service complaints. However, if viable this would enhance the best option of security for existing PPHA personnel and ensure that at least a minimum service level is maintained. This may also require some reserve funding from the taxpayer until cost neutrality is achieved. This option is, however, far less burdensome on the taxpayer than Option 1 in the scenario that no further government funding is currently available.

5.2.5 Limited-service options would likely entail an office hours only service with out of hours service by prior appointment only. This service would not be suitable to industry and PIP needs as most roll-on roll-off ferry services from the continent that serve the PIP are outside of office hours and would fail to meet the mandated requirements as set by HMG.

5.2.6 It is still under debate as to how much prior notice importers are able to give on shipments to the PPHA in order for them to arrange to be available to process them at the BCP in time. If this is not possible other options such as HMG initiatives to allow goods to be automatically released without checks, or less favourable, holding the shipment until PPHA personnel may be viable alternatives.

5.2.7 HMG's TODCOF initiative to release goods without PPHA involvement is designed as a temporary pressure relief system. Issues will arise if such is significantly relied upon (for the greater part of dealing with held consignments) or when such is discontinued. If it can be relied upon, staffing levels will be utilised around it; goods will enter the UK without checks leading to biosecurity risks. When discontinued, goods may be held up at the PIP if PPHA staff are unable to meet demand. This is likely to lead to problems with UK food supply chain and potentially risk border biosecurity controls.

5.3 Option 3 – Portsmouth Port Health Authority are unable to provide a service based on the current criteria.

5.3.1 In this scenario the council will communicate to HMG that the PPHA cannot operate a service beyond April / July 2024 based on the current funding options as the risk on the Portsmouth taxpayer is untenable and as there are too many unknown variables, such as; achievability of demand versus cost neutrality goals; number of personnel required to meet demand; frequency and number of checks on goods required; imprecise income predictions, uncertainties in respect to the ESoT / TODCOF etc. etc.

5.3.2 In this scenario pressure may be placed on the authority to reconsider. The PIP will not be able to function and process incoming SPS consignments which will affect their business model. Importers will be required to use other UK points of entry to import their goods which will significantly impact the PIP. This will also place existing PPHA personnel at risk if there is no substantive role for them in the authority.

5.3.3 Portsmouth may be the only authority in this position which could invite criticism of the council. At the time of writing, communication with neighbouring port authorities has revealed a varying state of readiness to meet the requirements of the BTOM, ranging from some ports fully functioning and able to meet the demand, to some definitively unable to meet the demand in the timescale provided.

5.3.4 Taking this action may, however, persuade HMG to change their stance and provide further funding beyond the cut-off date or at least guarantee any shortfall in income to allow the service to be fully cost neutral.

6. Risk Matrix

6.1. The risks to service are summarised based on the options available in Table 1.

Table 1. Options and Potential Outcomes

Option Number	Options	Potential Outcomes	Risk
1	Begin recruitment and preparation for the current timetable (subject to	Significant impact when funding ceases on current timetable. Likely significant cost to Portsmouth taxpayer as further full cost recovery is unlikely to match costs for many years.	Very High



	HMG assurances).	Difficulty in recruiting training and assuring competence of PPHA personnel in timescale provided. Risk of redundancy of new and existing staff if process delayed again or checks level calculations are inaccurate.	
2	Maintain current staffing levels and deliver limited-service output.	Pressure on existing staff. Limited-service hours. Risk of holds on imports at the PIP or unchecked goods entering the UK. Risk to business model at the PIP. Risk to the taxpayer if funding ceases on current timetable. Reliance upon the "pressure release valve" working effectively.	Exceptionally High
3	Portsmouth Port Health Authority are unable to provide a service based on the current criteria.	Pressure from HMG. No SPS checks - massive business risk to PIP as import levels will fall. Use BCP will need to be reassessed. Uncertainty for existing staff. Delays on imported goods; disruption of supply chain, or unchecked goods entering the UK.	Unacceptably High

6.2. All options carry significant risks. These are based on the best available current knowledge. This paper will be updated on release of any new information, which may dramatically change these criteria.

7. Additional suggestions

7.1. In view of the options above it is proposed that following be accepted:

- A feasibility study should be made into securing funds to undertake options 1 and 2.
- Assurances on future funding should continue to be sought from HMG.
- Stakeholders should be made aware of the PPHA 'low' status of readiness to manage expectations of the service at the go-live date.
- A review of charges made for the service should be implemented, with a view of maximising income to sustain the service.
- The council should communicate which option when decided to HMG and request a formal response to any questions required of them.

8. Reasons for the Recommendations

- To formally set out the basis upon which the council provides the PPHA services.
- To achieve maximum efficiency for the cost to the council of providing the PPHA.
- To clarify the PPHA's position in the event of either zero or limited-service provision.
- To monitor the impact of implementing the BTOM on the PPHA.
- To increase resource funding.

9. Resource Implications (Financial and Employment)

- 9.1 All options could have significant consequences on the employment and financial viability of the service, the PIP, and the council.
- 9.2 Further information on the PPHA financial estimates is provided in Table 1 below.

Table 1

Expenditure Type	Estimated Cost 24/25
Staffing*	1,746,915
Legal Support	7,000
IT	3,000
Training^	80,000
Equipment (including maintenance)	5,000
Overtime^	10,000
Uniform	25,000
Stevedores^	182,500
BCP Recharge (utilities, rates, cleaning, parking) ~	372,952
Subtotal	2,432,367
Contingency (10%)	243,237
Total	2,675,604

* 29 Staff as calculated to be the minimum necessary - with £100,000 included for the necessary OV contract.

^ Early estimation of costs.

~ Very high-level estimates - significant work required to ascertain true costs.

10. Integrated Impact Assessment (IIA)

- 10.1 Attached as Appendix 4.

11. Legal implications

- 11.1 The BTOM places complex legislative requirements onto the PPHA which are liable to auditable by more than one central government department, such as the Food Standards Agency (FSA) and the Animal Plant and Health Agency (APHA), both of which can levy punitive sanctions against the council for non-compliance with statutory requirements and / or poor performance. The implications on biosecurity, public safety, the economy, and the PIP cannot be understated.

12. Director of Finance's comments

- 12.1 There are significant financial risks to the authority should its funding strategy fall short of requirements. Medium term financial assurances must be sought from HMG before any such large-scale operation commences. If such financial commitments are not received by HMG, the authority must formulate a realistic plan to safeguarding the Portsmouth's taxpayers irrespective of the scale of the PPHA, the demands placed upon it and its expected financial output, whilst also considering the legal implications of failing to meet statutory obligations as set out

above. HMG are aware that the council considers this to fall within the definition of "additional burdens" and should be funded accordingly.

13. Director's Comments

- 13.1 This is perhaps one of the most critical and far-reaching decision papers facing this service. Biosecurity, public safety, and preservation of the UK food supply chain are vital considerations when reaching this important decision. A lack of robust available information from HMG and uncertainty of future factors / delivery mechanisms do not assist in determining the best path forward. The council must act in the best interests of the public they represent and therefore the considerable efforts of the PPHA to recognise the complexity of this narrative and attempting to attain an acceptable solution for all stakeholders is very much appreciated.

.....
Signed by: Richard Lee, Regulatory Services Manager and Stephen Baily, Director of Culture, Leisure and Regulatory Services

Supporting Documents

- Appendix 1 - 10 October 2023 - Letter from HMG in respect to funding**
- Appendix 2 - 25 October 2023 - The council's response to HMG**
- Appendix 3 - 14 November 2023 - Further letter from HMG**
- Appendix 4 - IIA**

Documents replied upon:

The Border Target Operating Model: August 2023

[The Border Target Operating Model: August 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-border-target-operating-model-august-2023)

From HMG:

The final Border Target Operating Model sets out a new approach to security controls (applying to all imports), and sanitary and phytosanitary controls (applying to imports of live animals, animal products, plants, and plants products) at the border. It sets out how controls will be simplified and digitised, and our ambition for the UK's new Single Trade Window. It incorporates and responds to feedback from stakeholders on the earlier [draft Border Target Operating Model](#) wherever possible. It has been developed with further collaboration across the UK, Scottish and Welsh Governments, and engagement with officials from the devolved administration in Northern Ireland.

The Ecosystem of Trust Evaluation Report 2023

[The Ecosystem of Trust Evaluation Report 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-ecosystem-of-trust-evaluation-report-2023)

The Ecosystem of Trust evaluation report assesses a full set of pilot activities undertaken between government and industry from October 2022 to March 2023.

The timed-out decision contingency feature.

Appendix 5.

The recommendations set out above in Section 2 were approved/ approved as amended/ deferred/ rejected by Councillor Steve Pitt the Leader of Portsmouth City Council on 28th November 2023.

.....
Signed by: Councillor Steve Pitt, Leader of Portsmouth City Council