

**TAVISTOCK TOWN COUNCIL
BUDGET & POLICY COMMITTEE
2nd JUNE, 2020**

CORONAVIRUS HEALTH, SAFETY & RISK MANAGEMENT

1. PURPOSE OF REPORT

To outline the basis upon which the Council might proceed in the identification, management and mitigation of the risks attendant upon existing circumstances, and also 'unlocking' measures occasioned by the Coronavirus pandemic.

NOTE: this report is specific to risks to individual or collective health and wellbeing – it does not address (other than in the recommended new risk register entry) other risks occasioned by the virus such as financial viability, inability to provide services etc. It should be read in conjunction with the report submitted to the Special Meeting of Council held on Friday 20th March.

2. CORPORATE POLICY CONSIDERATIONS

The effective management of resources, risks and appropriate forward planning underpin the principles set out in the Council's Strategic Plan 2017 – 2021.

Coronavirus represents a potentially existential threat to the Community as well as the activities, operations and resilience of the Council in the management of risk and provision of a safe and managed environment for its staff, community and stakeholders and delivery of corporate goals.

3. LEGAL AND RISK MANAGEMENT ISSUES

The Government continues to provide guidance to the public and employers. It is important to note that, almost exclusively, Government guidance is just that – guidance. Consequently, the principal legal liabilities arise not from the Coronavirus Act 2020 itself but from the pre-existing legislation that set out the rights and responsibilities attaching to employers, employees and the general public. For the purposes of this report the most significant obligations are contained in the Health and Safety at Work Act 1974, as amended.

More generally there are a wide range of potential risk management issues, some of which can be identified, others of which may still emerge. What is clear though, is that as the Council moves into the 'unlocking' phase and looks to what can be done to re-open services and facilities, bring staff back, provide more public/stakeholder access etc there is an absolute need to identify, document and effectively address Coronavirus related risk if actions are to meet an appropriately high standard of safety and effectiveness.

4. RESOURCE ISSUES

It has previously been noted that the dynamic nature of the threat that Coronavirus presents does mean that it is difficult to adequately predict all scenarios. However, it can be anticipated that the need to properly meet both the guidance, and most importantly, the statutory obligations of the Council will significantly increase costs¹, reduce (and in some cases remove) scope for delivery and fundamentally alter certain working arrangements.

5. ENVIRONMENTAL ISSUES

The environmental issues associated with this report principally arise in relation to standards of health, hygiene and proximity management.

6. COMMUNICATIONS ISSUES

As the Council moves forward it will be increasingly necessary to engage and consult with a range of internal and external stakeholders in addition to the statutory obligations in relation to staff. In particular, but not exclusively, those stakeholders whose livelihoods are connected to Council decisions such as tenants, licensees, concession holders, showmen and traders as well as partners and others.

7. RECOMMENDATIONS

The Budget & Policy Committee recommend that Council;

- a. Include a new risk on the Corporate Risk register – details as set out in section 3 below;
- b. Endorse the approach set out in the report
 - i. for the development of risk assessments and safe systems of work pursuant on the impacts of the Coronavirus health emergency;
 - ii. also to inform the principles to be adopted in the managed and phased re-opening of Council services,

¹ Eg cleaning regimes, limits on people attending premises, impact of safe distancing on working practices etc.

and the Health and Safety Policy to the Council be temporarily amended accordingly.

1. BACKGROUND

- 1.1 The Council will be aware of the wide ranging statutory and other obligations placed upon employers in the management of health and safety, not least:

It is an employer's duty to protect the health, safety and welfare of their employees and other people who might be affected by their business. Employers must do whatever is reasonably practicable to achieve this.

This means making sure that workers and others are protected from anything that may cause harm, effectively controlling any risks to injury or health that could arise in the workplace.

Employers have duties under health and safety law to assess risks in the workplace. Risk assessments should be carried out that address all risks that might cause harm in your workplace.

Employers must give you information about the risks in your workplace and how you are protected, also instruct and train you on how to deal with the risks.

Employers must consult employees on health and safety issues. Consultation must be either direct or through a safety representative that is either elected by the workforce or appointed by a trade union.²

- 1.2 It is submitted that, in managing an incremental movement from 'lockdown', to a new 'normal' the critical requirement is for the Council to have developed risk assessments appropriate to enable safe systems of work in a mid-post pandemic phase.
- 1.3 To that end all Managers have been tasked with prioritising the assessment of Covid 19 risks in their area of responsibility.

2. MATERIAL CONSIDERATIONS

- 2.1 The following represent a selection of the considerations that Managers are obliged to address in their deliberations and will,

² <https://www.hse.gov.uk/workers/employers.htm>

equally, be relevant to the decisions of Council over the weeks and months ahead. Whilst these are not exhaustive they give a sense of the breadth and depth of consideration required.

GUIDANCE

2.2 The status of guidance has already been outlined. It's value is the potential (under the other applicable legislation) to demonstrate that the Council has behaved prudently and reasonably – ie it is potentially evidential as to compliance with the law as contained in other legislation.

2.3 In a novel situation as at present it also represents a valuable source of informed practice. Guidance falls into (broadly) two categories:

a) Government Guidance – for reopening itself in two parts – the '5 points'³

1. Work from home, if you can
2. Carry out a COVID-19 risk assessment, in consultation with workers or trade unions
3. Maintain 2 metres social distancing, wherever possible
4. Where people cannot be 2 metres apart, manage transmission risk
5. Reinforce cleaning processes

Also the '8 workplace safety'⁴ documents of which 'construction and other outdoor work', 'offices and contact centres', 'shops and branches' and 'vehicles' are most applicable to the responsibilities of the Council.

b) The other, non-governmental category of guidance is sectoral guidance such as that to support the reopening of shops⁵ and Social distancing in Markets⁶ together with the safe operation of cemeteries⁷ and similar for construction sites.

³ <https://www.gov.uk/government/news/new-guidance-launched-to-help-get-brits-safely-back-to-work>

⁴ <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

⁵ <https://www.usdaw.org.uk/About-Us/News/2020/Apr/BRC-guidance-to-support-reopening-of-shops>

⁶ <https://nabma.com/nabma-social-distancing-guide-for-markets/>

⁷ ICCM

- 2.4 Each manager needs to identify the guidance applicable to their area of activity and, as appropriate, distil those elements applicable to Council working practices.

GENERAL POINTS

- 2.5 Both the Council as employer and its employees have duties under Health and Safety law and the Health and Safety Policy and accompanying arrangements are designed to discharge these. The General Manager of the Council is the designated organisational Health and Safety lead and holds an advanced qualification in health and safety⁸. In that role he monitors compliance together with the fitness for purpose of systems and practices accordingly and has identified a prescribed format for the risk assessments to take.
- 2.6 More generally the risk assessment process often does not, or cannot, achieve the elimination of risk but it does seek to manage and mitigate risk to acceptable levels and, where that cannot be achieved, typically prevent an activity occurring. The guidance provided by Government broadly sets out a 'priority order' of steps to reduce risks to the lowest level possible.⁹

⁸ Dip NEBOSH

⁹ Eg see the '5 steps' – most safe homeworking, if you have to go to work 2m, if that cannot be achieved steps to manage transmission risk etc. This sets out practical steps for businesses focused on 5 key points, which should be implemented as soon as it is practical:

1. Work from home, if you can

All reasonable steps should be taken by employers to help people work from home. But for those who cannot work from home and whose workplace has not been told to close, our message is clear: you should go to work. Staff should speak to their employer about when their workplace will open.

2. Carry out a COVID-19 risk assessment, in consultation with workers or trade unions

This guidance operates within current health and safety employment and equalities legislation and employers will need to carry out COVID-19 risk assessments in consultation with their workers or trade unions, to establish what guidelines to put in place. If possible, employers should publish the results of their risk assessments on their website and we expect all businesses with over 50 employees to do so.

3. Maintain 2 metres social distancing, wherever possible

Employers should re-design workspaces to maintain 2 metre distances between people by staggering start times, creating one way walk-throughs, opening more entrances and exits, or changing seating layouts in break rooms.

4. Where people cannot be 2 metres apart, manage transmission risk

Employers should look into putting barriers in shared spaces, creating workplace shift patterns or fixed teams minimising the number of people in contact with one another, or ensuring colleagues are facing away from each other.

5. Reinforcing cleaning processes

Workplaces should be cleaned more frequently, paying close attention to high-contact objects like door handles and keyboards. Employers should provide handwashing facilities or hand sanitisers at entry and exit points.

- 2.7 Likewise Government recognises in its publications that, for example, PPE¹⁰ is a last resort and should not be medical grade, similarly the HSE¹¹ can and will enforce the applicable legislation.
- 2.8 In developing their risk assessments, and in addition to applicable guidance and sectoral practice Managers will be working through some key questions including:
- a) Who might be harmed and how;
 - b) What is already being done to control the risk;
 - c) What further action is needed to control the risk;
 - d) Who needs to carry out the action;
 - e) When the action is needed.
- 2.9 Particular attention being paid to
- a) the approaches required in common use/communal/public areas;
 - b) active implementation – communication, training etc;
 - c) monitoring and compliance;
 - d) configuration and disposition of human and other resources;
 - e) health surveillance/vigilance;
 - f) the impact of new working practices on existing risk assessments (eg if a job requires 2 people working at less than 2m separation consideration needs to be given as to whether it can proceed and, if so, how the Covid risk is managed);
 - g) whether the lockdown has introduced other risks – eg has routine legionella testing, alarm testing or machinery servicing lapsed;
 - h) what advice needs to be given to organisational first aiders;
 - i) that PPE and RPE¹² should not be used unless all better options have been exhausted and it should not be used in place of higher measures

A downloadable notice is included in the documents, which employers should display in their workplaces to show their employees, customers and other visitors to their workplace, that they have followed this guidance.

¹⁰ Personal protective equipment

¹¹ Health and Safety Executive

¹² Respiratory protective equipment

2.10 A 'Staying Covid 19 Secure in 2020' notice¹³ will need to be completed and displayed in the workplace¹⁴.

3. THE RISK REGISTER

3.2 As previously noted it is necessary to revisit the Corporate Risk register in these circumstances. Whilst elements of the existing framework potentially cover Covid 19 it is suggested that a bespoke new risk be introduced, on a temporary basis, reflecting the existential nature of the risk. A potential new risk might be configured as follows:

- a) Risk details – the risk is that the Coronavirus Pandemic will lead to
- an avoidable incidence of the virus leading to adverse health impacts or, in the most serious scenario, death with attendant liability, loss and reputational damage;
 - a long term reduction in commercial income streams for the Council and/or substantial diminution in its commercial operations such as to jeopardise the viability of the current business model (which is predicated on the ability of commercial income to subsidise community activities);
 - losses of commercial income sufficient to jeopardise the ability of the Council to balance its budget in year in accordance with its legal obligations or (if of a lesser scale) substantially eroding the general and earmarked reserves to an extent that exposes the organisation to an unacceptable level of risk of future financial and/or service failure and attendant damage;
 - inability to meet the covenants, contracts and other obligations of the Council, or a fundamental reconfiguration of them out-with Council control, leading to financial failure and reputational damage;

¹³ Additionally for employers with over 50 staff there is an expectation that they will publish their Covid 19 risk assessment on their web site.

¹⁴ <https://assets.publishing.service.gov.uk/media/5eb97d30d3bf7f5d364bfbb6/staying-covid-19-secure.pdf>

- loss of organisational credibility and associated reputational damage.

b) Severity is suggested as at the highest level (5) (ie it could be catastrophic) and likelihood between 3 (possible) and 4 (probable) – most especially as regard the financial risks. At a cumulative 20 this is the highest risk the Council faces.

c) Action Details

Mitigation:-

- Council's General Safety Policy outlines roles and responsibilities in Council in relation to Health and Safety;
- The Council employs a highly trained health and safety professional and is implementing Covid 19 risk assessments and safe systems of work;
- Appropriate H&S Policies and Guidance on line, supported by free in-house training;
- performance management reporting;
- policies under review by Health and Safety lead;
- Training events for staff;
- Robust Service Planning and performance management system;
- Appropriate levels of general reserve for normal circumstances;
- Regular financial and other reporting to Council;
- disciplined approach to reinstating reserves and only incurring funded costs;
- commitment to consultation and engagement with stakeholders.

d) By - all of the above being commenced and ongoing with responsibility sitting with Council and its Management Team.

4. CONCLUSION¹⁵

- 4.2 In short the imperative is to reduce risks in the workplace to the lowest level reasonably practicable accompanied by active implementation and monitoring.
- 4.3 Any failure to do so has potentially grave risks to life, health, reputation and liability. As staff return consultation will need to take place with them and their representatives and further thought given to the interaction of the new arrangements with policies and procedures such as disciplinary and absence management as well as (previously mentioned) the Health and Safety Policy and others.
- 4.4 Particular attention will need to be given to any staff falling into the priority health categories in identifying what can (and cannot) be done.
- 4.5 In the round the Council and its Community face an existential and dynamically developing (albeit hopefully now reducing) threat. Where Government issues clear regulations those will be followed, likewise with guidance, insofar as it is organisationally possible to do so.
- 4.6 As noted in previous reporting the highest level of challenge is most likely to be in how the Council exercises its discretion and, as circumstances change, that may become increasingly complex. It remains unlikely there will often be a 'right' thing to do as the situation evolves, however there may well definitely be 'wrong' things to do. Whilst the adjusted lockdown stage which we currently occupy will in time pass its effect on the high street and/or civil society may be more protracted and complicated than we can yet anticipate. That will require much more attention, most especially in the financial arena on which this report does not focus.
- 4.7 The instructions of Council are sought and best wishes extended to all in these difficult times.

¹⁵ Appreciation is expressed to the Health and Safety Executive, Lawyers in Local Government and, most particularly Foot Anstey LLP for the adaptation of resources provided by them

**CARL HEARN
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