

EMPLOYMENT MATTERS COMMITTEE

11 AUGUST 2020

HR REPOSE TO COVID-19

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Summary

Following COVID-19 and the nations response to the pandemic, HR had to respond at pace to a number of issues largely due to closure of services and a number of people unable to engage with their current work, or through health concerns associated with self-isolating or shielding. This was compelled by us being unable to access the furlough scheme as a public sector employer. To ensure consistency we agreed a consistent pay approach across all our contract types to help retain our workforce in preparation for either redeployment (where applicable) or recovery. This meant a number of our current policies needed to be reviewed to support service delivery and our people. This report outlines the key areas HR responded to, and highlights the rationale for such decisions.

1. Budget and Policy Framework

- 1.1 Whilst there is no specific decision to be made based on this report, it is important that the Committee is aware of the temporary changes in response to COVID-19, and any further considerations as we move back to recovery.

2. Background

- 2.1 All employees of Medway Council have an employment contract. The employment contract contains a number of terms setting out an employee's conditions, rights, responsibilities and duties.
- 2.2 Medway Council also have a number of HR policies (all available on Medspace) that apply to all employees. These policies cover a wide range of areas and issues, including Discipline, Grievance, Capability, Conduct, Absence and Probation.
- 2.3 Medway Council's HR policies form part of an employee's employment contract and relationship with the Council. It is therefore crucial that these

policies are adhered to by both the Council and the employee throughout the employment relationship.

- 2.4 It is therefore important that Medway Council's HR policies continue to operate in all circumstances to ensure that staff are treated equitably, consistently and reasonably at all times.
- 2.5 The Covid-19 pandemic has had a major impact on the Council with many staff working from home, shielding or in self isolation following recent national government guidance. This has caused a seismic shift in the Council's priorities and focus during this unprecedented time, with the Council's greatest priority being the wellbeing and safety of all staff.
- 2.6 Unfortunately the Covid-19 pandemic has presented barriers in the operation of a number of Medway Council's HR Policies. This can leave staff in a period of limbo and potentially causing further anxiety and stress waiting further understanding in what is already a difficult time. Equally, managers want to resolve these matters and reach a conclusion to address the issues and concerns to enable them to deliver their services effectively.
- 2.7 Given the COVID-19 pandemic, we therefore needed to adjust our approach and show flexibility and innovation in the operation of our processes so that all policies can be changed to ensure the Council's HR policies can continue to operate. It is proposed that conducting hearings both virtually and remotely will help to minimise the risk of transmission of COVID-19, adhere to social distancing and ensure the health of all parties in attendance is maintained. It will also help to ensure that the operation of Medway Council's HR Policies is sustained.

3. Response Activity

- 3.1 The table below provides a summary of all activity relating to HR and our response to COVID-19:

COVID-19 response from HR	
Activity	Description
Staff absence recording	HR set up an absence recording sheet for all managers so we could track the COVID-19 impact on the workforce.
Welfare calls to staff who are off sick, self-isolating, social distancing or shielding	Using the staff absence reports the Business Partner team set up and oversee processes to ensure that all staff who are off sick, self-isolating, social distancing or shielding have been kept in touch with. This contact has been vital for the employee's wellbeing and to avoid feelings of isolation.

	<p>Part of the service is to ensure they are accessing care first (employee support programme) and other providers.</p>
<p>Promoted testing of Medway Council staff</p>	<p>Using the staff absence reports the Business Partner team supported the Covid-19 testing team by contacting staff who were off sick or self-isolating and ensuring that they or their family member had an opportunity to get tested within the timescale.</p> <p>This resulted in staff being able to return to work sooner if the test proved to be negative.</p>
<p>Deep dive into employee's who have been absent for over 60 days</p>	<p>Using the staff absence reports, the Business Partner team contacted employees who had been absence for over 60 days to understand the reasons for the staff absence and if they required any advice or support with managing the absence, such as referral to OH.</p> <p>This ensured that both the manager and the member of staff received the appropriate support to manage the absence and enable them to return to work when fit to do so.</p>
<p>Deep dive into people who are at home unable to work</p>	<p>Using the staff absence reports the Business Partner team contacted managers to understand if the reason was due to being critically extremely vulnerable or clinically vulnerable. We sought to establish which category they were in so that they might be considered for temporary redeployment working at home, with virtual training and equipment provided to them. If the manager considered that redeployment was not appropriate, then we advised on the support available to them.</p> <p>The purpose was to reduce the number of staff at home but not working and to provide support to teams who needed extra support.</p>
<p>Process to undertaken virtual hearings</p>	<p>The Business Partner team designed a process to hold hearings either virtually by leveraging the Council's investment into technology, in particular Microsoft Teams, or where this is not possible to use a remote</p>

	<p>paper/electronic based submission system instead.</p> <p>The Team prepared extensively in preparation for virtual hearings, and conducted both software testing and a full mock virtual hearing in order to identify and resolve any issues prior to proceeding with live virtual hearings.</p> <p>The team also produced a Guidance Document (Appendix 1) for virtual hearings and this is currently being updated further as a result of reflecting on those hearings held thus far.</p>
Risk assessments	<p>As the Council proceeds with its plan for Recovery the Business Partner team sought to ensure that service areas had a clear framework to understand the individual impact of Covid-19 risk factors on employees, their working arrangements and potential return to workplace sites and office buildings.</p> <p>In particular, the team sought to ensure the development and implementation of clear processes to help protect the health and safety of those employees that are from high risk groups associated with increased risk of infection and effects from Covid-19.</p> <p>The team developed and released a “Toolkit” for service managers to use with their staff that included a clear discussion checklist, (Appendix 2) a tailored and Covid-19 specific Risk Assessment (Appendix 3) Template for high risk groups and a completed example (Appendix 4) of a Covid-19 specific Risk Assessment for high risk groups.</p> <p>The team are currently supporting service areas on an ongoing basis with these documents by answering queries from any members of staff that raise queries on them, and will arrange training session if there is a sufficient demand from service areas.</p>
'Hot Topics' document on a weekly basis	<p>Each week, since 27 March when lockdown measures began, the Business Partner team has written focused content on a number of 'Hot Topics' which cover content ranging from wellbeing to employment issues and the</p>

	<p>latest COVID-19 updates from the government.</p> <p>On average, HR have been issuing six items each week and aim to inform those working for the Council of the most up to date information regarding the Council's approach to dealing with COVID-19 and also wider updates from the government and what that means for them, either in their role or their personal life. Full list of topics can be found in Appendix 5)</p>
Daily Care first webinars	<p>In addition to updates from the Council and government, Care first daily webinars have been promoted by the Business Partner team each week for employees to access and benefit from experts talking about issues such as children's mental health. These have covered several topics relevant to the situation and remain accessible following the webinar via a dedicated link.</p> <p>The Business Partner team have also got these uploaded to YouTube so that they can be viewed with captions and subtitles.</p>
Manager and employee Frequently Asked Questions document	<p>A 'Managers' Frequently Asked Questions document has been created and updated daily since 12 March. (Appendix 6)</p> <p>Due to its popularity, this was incorporated into a 'staff' FAQ document which has also been updated daily since 19 March 2020. (Appendix 7)</p> <p>This document allows managers and staff alike to look in one place for a response to a number of queries and give guidance regarding action to take in relation to Covid-19.</p>
Temporary changes to internal policies and processes to reflect changes due to Covid-19	<p>As Covid-19 continued to spread, the Business Partner team made some temporary changes to internal policy and processes to reflect the current situation. Our aim was to help reduce the spread of COVID-19 and safeguard the welfare of our staff during the COVID-19 outbreak, while</p>

	<p>continuing our operations as normally as possible.</p> <p>A document (Appendix 8) was created and shared to explain what temporary changes had been made to our usual internal policies and procedures. A number of temporary changes were made including changes to the following policies:</p> <ul style="list-style-type: none"> • Sickness Absence reporting • Sickness Absence Form • Sickness Absence Triggers • Sick pay • Flexible Working • Requirement to work remotely • Annual Leave policy • Care for dependants • Recruitment • Appraisals and MedPay cycle • Redeployment • DBS ID checking • Expenses Claims
<p>New 'Working from Home' Policy</p>	<p>As the Council starts to proceed with its wider work streams and recovery the HR Business Partner team have recognised that during the pandemic many staff members have enjoyed the flexibility of working from home and equally the Council has seen the successful continued operation of many service areas and teams through leveraging its wider investment in technology to facilitate homeworking.</p> <p>The team have recognised that the current details and guidance for homeworking currently contained in the Flexible Working Policy needed an update and new approach given the increased attention to homeworking arrangements and what this may mean moving forward on reflection of wider Council strategy.</p> <p>As a result the team have developed a new dedicated and specific Homeworking Policy which is currently in draft form.</p> <p>Due to the importance of this new policy and its development, the team have reached out</p>

	<p>to a wide variety of service areas across the Council and have set up Working Groups to allow specific representatives from different service areas to voice suggestions for the new policy and to allow service areas to have an active involvement and participation in shaping the content of the policy.</p> <p>The first working group meeting was held on 10 July 2020 and more are currently being scheduled as the policy continues to develop.</p>
Undertaken weekly Trade Union (TU) engagement	The Head of HR has fully engaged with the TUs to ensure they are given regular weekly updates about the evolving situation and investigated any areas of concern or queries the TUs have received. The organisation has worked collaboratively with the TUs for the benefit of all staff, through weekly virtual calls.
Supporting with Covid-19 staff swabbing for employees	The Business Partner team have supported on setting up and overseeing processes to ensure that all symptomatic staff and/or their household members are sent for Covid-19 swabbing.
Supporting aids for employees undertaking various roles	<p>The Business Partner team have worked with the organisation in adapting support aid communications for staff undergoing various roles.</p> <p>This has been a really useful tool for people to ensure duty or care and consistency. (Appendix 9)</p>
Dedicated MEDspace page for staff to easily access information on COVID-19 impact	<p>HR Business Partner team have set up a number of informative pages on MEDspace for staff to easily access, including:</p> <ul style="list-style-type: none"> • HR A-Z glossary relating to COVID-19 • Supporting mental and Physical wellbeing • Supporting employees at home • Care first and Webinars
Set up and overseen processes and arranged for vulnerable employees to get an additional supermarket slot	<p>The HR Business Partner team recognised the increased pressure that the pandemic placed on our key workers and also the high risks that Covid-19 posed to our vulnerable staff.</p> <p>As a result the team helped to set up an additional supermarket slot at ASDA's Gillingham Pier Store in Medway for our</p>

	<p>vulnerable staff and key workers in order to allow them to purchase essential groceries, medication and other supplies.</p>
<p>Diversity Impact Assessment relating to Covid-19 and the People impacts of the Council's Recovery Plans</p>	<p>As a result of Government measures due to coronavirus such as shielding, self-isolation, 2-metre rule, work from home if you can, avoid public transport if you can and the temporary closure of some of our frontline services such as libraries and leisure centres, this has meant significant changes to who and how employees undertake work.</p> <p>To comply with this, where possible, staff who can are working from home. Those that cannot undertake their normal work from home are undertaking their role in the workplace following social distancing rules and/or with additional compliance measures in place, have been redeployed to alternative tasks or are at home due to covid-19 sickness as they are shielding and are unable to undertake work from home.</p> <p>The Council is now looking forward and thinking about the recovery phase. It is important to not only think about the physical health impacts but also the mental health impacts on staff and the disability impacts. (Appendix 10).</p>
<p>Occupational Health Service appointments and support</p>	<p>Occupational Health appointments have moved to virtual. The HR Business team keep in regular contact with the provider to ensure there is no delay to appointments and the service received is working.</p>
<p>Annual Leave (AL) and Carry Forward (CF)</p>	<p>All carry forward reports have been provided to Assistant Directors/Directors to add planning and ensure people are being able to apply for leave.</p> <p>Guidance has been produced regarding CF for 2021-2022. Staff are aware this is only for people who have been infected with Coronavirus or been unable to take due to them being busy. A calculator has been produced to assist people in planning leave. And a communication campaign has been designed to encourage people to consider a staycation.</p>

SS4U system assistance	The HR Business Partner continue to provide support around the use of our internal people system. The feedback has been well received and virtual support is deemed better than colleagues in office to assist
Absence management log support	Where service areas, i.e. Children's, have been particularly stretched the HR Business Partner Team have provided completion of service's absence logs, and signposting and advice around absence recording.
Redeployment of staff to critical Council functions	<p>As part of the Council's key response to the Covid-19 pandemic, the HR Business Partner team recognised that many staff needed to be temporarily redeployed to other critical service areas and critical Council functions to ensure the continued delivery and operation of key services that are vital to our local communities.</p> <p>The team successfully worked alongside other service areas to set up and oversee key parts of a widescale temporary redeployment process.</p> <p>In particular, the team set up key processes for the drafting and provision of temporary redeployment letters to those staff affected by the temporary redeployment process, which served to explain to staff the arrangements for the temporary redeployment and the impact this would have on their current working arrangements and their substantive post that they would usually undertake instead.</p>
Monitored a new HR Covid-19 advice in-box	<p>The HR Business Partner team wanted to offer an immediate response to staff, so a new dedicated inbox was set up.</p> <p>The team has fielded a large range of evolving staff queries throughout the pandemic via the HR Covid-19 advice inbox which has been useful in designing guidance, hot topics and policies changes.</p>
Discussions around furloughing staff	HR has assisted the business, in conjunction with Payroll, to look at furloughing staff options, this has only been in a handful of cases.
Letter for staff to provide to schools to evidence "key worker status" if required	The HR Business Partner team drafted a letter for staff to use as evidence of their "key worker status" so that staff could provide this

	letter to schools in order to hopefully secure a continued place for their children in schools throughout the pandemic if required.
E-Learning content	The Work Force Development (WFD) team have been moving learning material into an on-line format. We have seen a dramatic increase in learning online and will continue to monitor.
In-Touch publications	The WFD team have produced a number of in touch presentations (Appendix 11) to help support the workforce with virtual learning on subject matters.
Virtual recruitment interviews	The Recruitment team have produced additional guidance and support material to assist hiring managers with virtual interviews.
Induction	WFD have produced an electronic induction material to support new recruits.

4. Advice and analysis

- 4.1 The Council want to ensure we are in a position to respond to the needs of our workforce as situations arise. Applying policy changes was by far the biggest impact HR had to resolve in order to assure the workforce and help retain our employees, and help us mobilise recovery. Whilst other Local Authorities had decided to pay contracts up to the end date (for example seasonal - Medway Adult Education Tutors) and to release everyone on zero hour contracts this is not something we decided on. We first considered redeployment for example Leisure Centre colleagues dropping of food parcels or providing a shopping service.
- 4.2 We agreed that all staff are kept on payroll that have a direct contract with us (zero, casual and perm) and are on a planned or on-going assignment and that any agency workers contact their current contract provider to request assistance (agency or umbrella company), who is able to access furlough, the government job retention scheme. The only exception being those who did not have contracts in place (invoice system), they were routed to the self-employed route.
- 4.3 Additional consideration was given to staff who are unwilling to work. At the time government guidance was that employers should encourage their employees to work from home wherever possible. Where this is not possible, as a general rule, an employer can require employees concerned about contracting COVID-19 to attend work. However, where business needs allow, we advised line managers to take a more flexible approach and allow employees to take periods of annual or unpaid leave. Where the employee had an underlying health condition, is an older worker, or is pregnant, we undertook additional risk assessments.

- 4.4 If the member of staff could work from home this resolved the issue. If not, we considered the current Public Health (PH) advice, the specific reason employee is concerned about attending work and whether it would be discriminatory to refuse working from home, take disciplinary action or withhold pay in light of employee's refusal.
- 4.5 If we decided there is no discrimination, and the PH advice is such that the employee could reasonably be asked to continue to attend work then the employee could be investigated for misconduct in terms of their refusal to follow a reasonable management instruction and their unauthorised absence. If the absence is unauthorised then the employee would likely not be entitled to pay as they are not willing to attend work. We have not had any cases of this, however we have had a handful of people opt for special leave without pay in order to remain off work.
- 4.6 Access to sick pay for all contracts remained available. This is a mix of Occupational Sick Pay (OSP) and Statutory Sick Pay (SSP) for permanent members of staff. However, if someone is sick due to infectious diseases they will receive full pay for this period. To qualify for SSP for all other contract types' employees must meet the lower earnings limit of £118 per week as an average of the last 12 weeks. For those earning less they can make a claim for Universal Credit or new style Employment and Support Allowance.
- 4.7 People who were at very high risk of severe illness from COVID-19 because of certain underlying health conditions which made them vulnerable were advised to "self-shield" by staying at home for at least 12 weeks. Employees who were staying at home in accordance with government advice were entitled to statutory sick pay (SSP), even if they were not ill (household included). The Government introduced temporary legislation (the Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020 (SI 2020/287)) with the effect that individuals who are unable to work because they are self-isolating are deemed to be incapable of work for the purposes of SSP. The employee must of been self-isolating in accordance with coronavirus guidance published by Public Health England. The full pay entitlement due to infectious disease would apply as outlined above.
- 4.8 The position for employees with underlying medical conditions who do not fall into the most vulnerable category, those aged 70 and above, and those who are pregnant was less clear. Government guidance was that these employees should be particularly stringent in following social distancing measures and work from home where possible. As the guidance falls short of advising this group to self-isolate, arguably they would not be entitled to SSP under the temporary legislation. The Council therefore had to ensure that we comply with our other duties to protect these workers, for example reg.16 of the Management of Health and Safety at Work Regulations 1999 (SI 1999/3242) imposes a duty on employers to conduct a risk assessment if working conditions could involve risk to a new or expectant mother or their baby. We have no issues or cases to report.

- 4.9 Our typical position has been to follow good practice and avoid unnecessary risk. We therefore have where required treated absence due to self-isolation or staying at home on government advice as sick leave and paid the employee in accordance with our usual policy, which is an employee who is prevented from attending work because of contact with an infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under the occupational sick pay scheme. This stance was to also help avoid the situation where an employee attends work against medical guidance, risking the spread of coronavirus, because they are concerned about not being paid or having to use up their annual leave allowance to cover any absence.
- 4.10 HR response to the organisation has been acknowledged and appreciated by our Trade Union colleagues. (Appendix 12)

5. Summary

- 5.1 Here is further detail on the main subjects impacting our policies and decisions.
- 5.2 Full governance and decision making was applied to adopt a pay approach for each contract type and scenario in March. Such that:
- Any one unable to work, who was in the vulnerable group, had a underlying health condition or had a member of their household in a vulnerable group was entitled to sick pay under the infectious disease policy.
 - Anyone unable to work as they were caring for dependants or they had a member of their household with a underlying health condition (not vulnerable) used paid or unpaid leave.
 - Anyone unwilling to work, concerned about leaving home, or are caring for dependants with no underlying health should used paid or unpaid leave. If this presents as an issue. Discussion with HR was held to resolve.
- 5.3 Following government guidance we reviewed the pay approach for our people in May such that:

*Clinically Extremely Vulnerable and **Clinically Vulnerable guidance:

- Anyone who had received a letter or had been told by their GP that they were clinically extremely vulnerable* were advised to stay at home and avoid face to face contact (known as shielding). If they were unable to work they were to receive sick pay or special leave with pay. We advised the rest of the household did not need to shield themselves, but they should do what they can to support, by following guidance on staying alert and safe (social distancing).

- Anyone who was deemed clinically vulnerable** were advised to stay at home as much as possible, and if they do go out they are to take particular care to minimise contact with others outside of their house.

Clinically extremely vulnerable	→ first option	→if not suitable	→if not suitable	Only remaining option
Officer Clinically extremely vulnerable:	unable to work at home,	to be redeployed to a role they can do from home,	or if unable	will receive sick pay under the infectious disease policy.
Officer's dependents clinically extremely vulnerable	caring for dependents, unable to work from home in their current role	does not wish to attend work and follow guidance on staying alert and safe (social distancing)	to be redeployed to a role they can do from home, or if they do not want to do alternative work,	leave or unpaid leave should be taken.
Household member clinically extremely vulnerable	unable to work from home, and	does not wish to attend work and follow guidance on staying alert and safe (social distancing)		leave or unpaid leave should be taken.
Clinically Vulnerable	→first option	→if not suitable	→if not suitable	Only remaining option
Officer Clinically vulnerable:	unable to work at home,	to be redeployed to a role they can do from home,	come to work with minimal contact with others, or if unwilling...	leave or unpaid leave should be taken.
Officer's dependents clinically vulnerable	caring for dependents, unable to work from home in their current role	does not wish to attend work and follow guidance on staying alert and safe (social distancing)	to be redeployed to a role they can do from home, or if they do not want to do alternative work,	leave or unpaid leave should be taken.

Household member clinically vulnerable	unable to work from home, and	does not wish to attend work and follow guidance on staying alert and safe (social distancing)		leave or unpaid leave should be taken.
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5.4 Following government guidance changes around shielding as of 1 August, additional risk assessments have been produced, these are to be read in conjunction with the COVID-19 building compliant survey.

5.5 Over 200 staff have been redeployed (which includes staff trained in Adult Social Care awaiting redeployment opportunities). As an example:

- The 2 mayor's drivers have been redeployed as crematorium operators and onsite training has been completed.
- 6 library staff were redeployed to CABS to assist with answering calls/admin.
- 23 staff from sport, leisure, tourism and heritage have undergone training to assist with adult social care.
- 3 staff from Business Change and Community Safety have been redeployed to Adult Social Care Partnership Commissioning to coordinate PPE requests from Care Homes.
- 5 staff have been identified that can be redeployed to run the Emergency Coordination Room if/when it opens.
- Internal Audit & Counter Fraud have redeployed 11 staff (2 to finance, 4.5 to Revs & Bens Medway, 4.5 to Revs & Bens Gravesham).
- 89 staff from Sport, Leisure, Tourism and Heritage are supporting vulnerable people with shopping for groceries.
- 4 Road Safety staff are being trained to process Revs & Bens indexing this week for immediate redeployment to assist with the increased demand of Universal Credit claims.
- 3.5 FTE Libraries staff to assist with the processing of discretionary business grants.
- 1 Finance Officer from SEN will be partially redeployed to work on financial reconciliation within the theatres as a result of cancelled/exchanged shows and events
- 6 staff are being trained this week (w/c 8/6) to register births and work through the backlog.

6. Financial and legal implications

6.1 There are no direct financial or legal implications from this report; the financial implications of actions detailed throughout have been assessed through the

Covid-19 governance process with any significant impacts reported through the round 1 budget monitoring report to Cabinet in August.

7. Risk Management

- 7.1 The risk implications arising from this report are captured in a full risk register as part of Response to COVID -19 (Appendix 13).

8. Recommendation

- 8.1 The Committee is asked to note the content of this report and share any feedback or concerns to help design our back to better position.

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Appendices

Appendix 1 – Virtual Hearing guidance
Appendix 2 – Return to work check list
Appendix 3 – Risk assessment
Appendix 4 – Example Risk assessment
Appendix 5 – Hot topic list
Appendix 6 – FAQ for Managers
Appendix 7 – FAQ for colleagues
Appendix 8 – Policy changes
Appendix 9 – Supporting job aids
Appendix 10 – Disability Impact Assessment
Appendix 11 – In-touch topic list
Appendix 12 – Trade Union email
Appendix 13 – Risk Register

Background papers

None