

Brighton and Hove City Council Covid-19 Response

Ethical & Prioritisation Framework for Personal Protective Equipment (PPE)

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1. Purpose & Context

1.1 Purpose & Scope

To provide an advisory ethical and prioritisation framework to guide the decision makers in Gold - Executive Leadership Team (ELT) and the Personal Protective Equipment (PPE) Cell in Brighton & Hove City Council when making strategic decisions in relation to allocation of PPE such as gloves, masks and aprons, and to ensure the health, safety and welfare of employees is protected in accordance with national guidance on the use of PPE with regard to Covid-19.

Following the emergence of the Covid-19 pandemic the Local Resilience Forum (LRF¹) determined on 19 March 2020 that emergency measures be put in place and a 'major incident' was called. That led to the establishment of a number of working groups including a PPE Cell to work with national government across the Sussex region.

This framework covers decision making around the distribution of PPE stocks that are held by the Council during the current Covid-19 pandemic. BHCC purchase PPE stock directly and receive PPE stock from the national emergency 'priority drops' facilitated via the LRF. The council have also received donations from business and other organisations in the city. These council held stocks can be accessed for the following services where PPE is needed:

- directly provided services and some services commissioned by the Council
- LRF stocks are to be distributed where there is clinical need in line with the latest government guidance
- LRF PPE is intended to support urgent need in vital services where service providers have explored their usual routes for PPE and there remains an urgent need for additional stock.
- This includes adult social care (including care homes, personal assistants, home care and supported living), services for vulnerable groups, hospices and palliative care. It may also include primary care providers such as GP's and pharmacists, residential special schools, children's homes, children's social care services, mental health community services, police, mortuary and funeral services and others.

¹ **The Sussex Resilience Forum** (SRF) is the LRF for all of Sussex. A Local Resilience Forum (LRF) is not a legal entity, nor does a Forum have powers to direct its members. Nevertheless, the CCA and the 2005 Regulations provide that responders, through the Forum, have a collective responsibility to plan, prepare and communicate in a multi-agency environment. A total of 42 LRFs have been established and serve communities defined by the boundaries of Police Areas across England and Wales.

- And other staff including support to those working from home where needed.

Where there are shortages of PPE in health and care services, BHCC has a legal responsibility to prioritise access to PPE as per national guidance.

This document is not intended to advise on the individual use of PPE (including in relation to the Council's role as an employer), which is outlined in operational guidance, but as a policy document that informs actions relating to allocation of PPE to services. The operational guidance is based on the national guidance for the use of PPE with regard to Covid-19 and outlines what PPE will be made available, subject to supply. In addition, and subject to supply, the council will also provide PPE as requested by staff and the operational guidance includes opportunity for requests that go beyond the minimum standards to be considered. Decisions about supply of PPE above minimum levels should be recorded on the Demand Management Plan, including where requests are not met. The intention is to ensure an ethical, fair, robust and transparent process so that BHCC decision makers can determine how resources should be prioritised and allocated, including if PPE supply is insufficient to meet demand.

This document is informed by current national and ethical frameworks and guidance which highlight the legal and ethical responsibility of employers to protect their staff.

This document will continue to be updated in light of government guidance, public health and infection control measures reflecting the need to adapt to changing circumstances.

1.2 Context

The Covid-19 pandemic is fast-moving, relatively unpredictable and of uncertain duration, and national PPE guidance² continues to be updated.

The Government has recently published its Covid-19 PPE Plan³ which includes three strands: guidance, delivery and future supply. This recognises the challenges provided by unprecedented global demand and constraints in national supply and manufacturing infrastructure.

In Brighton & Hove, delivery of PPE has been received via the national 'priority drops' distributed via the Sussex Resilience Forum. These have been intended for health and social care and for wider public services where there is identified local need (consistent with the Public Health England PPE guidance). PPE from this has been distributed to priority services according to need.

² <https://www.gov.uk/government/publications/wuhan-novel-coronavirus-infection-prevention-and-control>

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879221/Coronavirus_COVID-19_-_personal_protective_equipment_PPE_plan.pdf

In the first instance social care providers have been asked

- a. to obtain PPE through their usual supplier.
- b. If this is not successful the government has made arrangements with 7 wholesalers to supply PPE to the social care sector, and social care providers registered with the Care Quality Commission are to register with these suppliers to gain supplies if usual supply routes are not able to provide equipment needed.
- c. Following this if supplies are still needed social care providers can contact the Local Authority for LRF stocks. For emergency stocks the government has provided a National Supply Response System (NSRS) which operates a 24/7 helpline.

A parallel national supply chain for PPE is being established run by Clipper that social care providers will also be able to access. The volume of supply and timescale is uncertain and it is not expected before May.

However, until this is established if services are unable to access PPE via the means above social care services and others are able to access PPE via stocks from the 'priority drops' received by the Council. This is placing significant pressures on the local availability of local stocks.

Overall the robustness of the national supply chain is not yet at a level that provides confidence that there will be enough PPE, particularly in the short term, to meet the local need in accordance with the national guidance.

If there are unforeseen circumstances outside of the control of BHCC it is important for the Council to be prepared for the scenario whereby there isn't enough PPE to fulfil the requirements of the national guidance.

This policy is aligned with the BHCC response programme governance document. As part of the BHCC response to Covid-19 a BHCC led PPE Cell has established a system to monitor and manage supply and demand locally. The system and processes established by the Cell are described further in the Appendix.

2. Ethical framework

2.1 Background to the framework

Four national ethical frameworks/guidance have been considered. These are:

- Pandemic Flu Ethical Framework, UK Government⁴
- Covid-19 – Ethical Issues, A Guidance Note, British Medical Association⁵
- Responding to Covid-19: The ethical framework for adult social care, UK Government⁶
- Royal College of Physicians Ethical dimensions of Covid-19 for frontline staff⁷

This document draws mainly on the Covid-19 ethical framework for adult social care as the most relevant framework to be used for ongoing response planning and decision-making. The framework highlights that the principles can be applied more widely than social care.

Recognising the constraints around demand and supply, it might become necessary to make difficult decisions on how to redirect resources where they are most needed. This framework intends to serve as a guide for these types of decisions and reinforce that consideration of any potential harm that might be suffered, as a result of such decisions, and the needs of all individuals, are always central to decision-making.

The framework can be used as a checklist to ensure ethical considerations are taken into account, however, the values and principles are not exhaustive.

In all instances, respect and reasonableness should be used as the fundamental, underpinning principles which guide planning and support judgements. The value of “Equal concern and respect” is the fundamental principle that underpins the ethical framework for an influenza pandemic (revised in 2017), and means that:

- everyone matters equally – but this does not mean that everyone is treated the same
- the interests of each person are the concern of all of us, and of society
- the harm that might be suffered by every person matters, and so minimising the harm that a pandemic might cause is a central concern

2.2 The values and principles

The Covid-19 ethical framework for adult social care includes eight ethical values and principles, and associated actions and best practice when considering and

⁴ <https://www.gov.uk/guidance/pandemic-flu>

⁵ <https://www.bma.org.uk/media/2226/bma-Covid-19-ethics-guidance.pdf>

⁶ <https://www.gov.uk/government/publications/Covid-19-ethical-framework-for-adult-social-care>

⁷ <https://www.rcpe.ac.uk/college/Covid-19-ethical-guidance-frontline-staff>

applying them. These should be considered alongside professional codes of conduct and the current national guidance and legislation where these apply. The principles are numbered for ease of reference but are not ranked in order of significance or exhaustive. There are no absolute answers to making the correct or most ethical decisions.

Where resources are constrained and there are surges in demand, it may not be feasible to consider all the principles or the actions below them. Each principle must be considered to the extent possible in the context of each circumstance with appropriate risk management and considerations of individual wellbeing, overall public good and available information and resources.

The principles of the ethical framework are as follows:

1. **Respect** – recognising that every person and their human rights, personal choices, safety and dignity matters
2. **Reasonableness** - decisions are rational, fair, practical, and grounded in appropriate processes, available evidence and a clear justification.
3. **Minimising harm** - striving to reduce the amount of physical, psychological, social and economic harm that the outbreak might cause to individuals and communities. In turn, this involves ensuring that individual organisations and society as a whole cope with and recover from it to their best ability.
4. **Inclusiveness** - ensuring that people are given a fair opportunity to understand situations, be included in decisions that affect them, and offer their views and challenge. In turn, decisions and actions should aim to minimise inequalities as much as possible.
5. **Accountability** - holding people, and ourselves, to account for how and which decisions are made. In turn, this requires being transparent about why decisions are made and who is responsible for making and communicating them.
6. **Flexibility** - being responsive, able, and willing to adapt when faced with changed or new circumstances. It is vital that this principle is applied to the health and care workforce and wider sector, to facilitate agile and collaborative working.
7. **Proportionality** - support that is proportional to needs and abilities of people, communities and staff, and the benefits and risks that are identified through decision-making processes.
8. **Community** - a commitment to get through the outbreak together by supporting one another and strengthening our communities to the best of our ability.

The Royal College of Physicians *Ethical dimensions of COVID-19 for frontline staff*⁸ includes caring for Covid-19 and non Covid-19 patients, noting that decision-making should not be disease specific, so the presence or absence of Covid-19 should not be a limiting factor in treatment decisions. Where care between a

⁸ <https://www.rcplondon.ac.uk/news/ethical-guidance-published-frontline-staff-dealing-pandemic>

Covid-19 patient and another patient in need of care is in question, care should be prioritised based on national guidance.

2.3 Record keeping

Records will be kept of decisions taken and the justification for them. This matters for accountability, but such records can also help people learn from experience in order to respond to further pandemic waves, or to a different pandemic in the future. Records include the risk assessment documents services use as well as notes and minutes of meeting where decisions are made.

2.4 Legal implications

Decisions will need to be made in accordance with the law and official guidance issued and applicable at the time, and while meeting statutory duties and professional responsibilities.

Decisions will be required to have regard to the Equalities Act 2010, the Human Rights Act 1998, the Care Act and the Health & Safety at Work Act 1974 in relation to any decision on both the policy and operational manner of service delivery and evidenced on a case by case basis.

Changes introduced by the Coronavirus Act 2020 to the Care Act⁹ for local authorities' responsibilities are also relevant to consider as they reduce requirements on local authorities to carry out detailed assessments of people's care and support needs, financial assessments and prepare or review care and support plans. The Act replaces the duties to meet eligible care and support needs, or the support needs of a carer with a power to meet needs. It should be noted that any easements to the Care Act should only be agreed when there is no alternative and all other options have been exhausted. Local Authorities will remain under a duty to meet needs where failure to do so would breach an individual's human rights under the European Convention on Human Rights.

Under current employment legislation, staff cannot be required to provide care or services where insufficient or inadequate Health & Safety (H&S) protections (including PPE) are in place to deliver those services. The level of PPE required in response to Covid-19 is outlined in the national guidance.

It should also be understood that failure to provide adequate H&S provision, even in the case of emergency or where informed consent has been given to undertaking duties by the employee, can subsequently give rise to a claim for negligence at common law and the law does not recognise any arrangements which seek to restrict or limit liability of personal injury or death in the event of an employer's negligent act.

⁹ <https://www.gov.uk/government/publications/coronavirus-Covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>

2.5 Decision Making

Transparent and accountable decision-making processes are required and these need to include explicit discussion of the ethical principles and reasoning upon which decisions are made.

All decisions concerning resource allocation must be:

- reasonable in the circumstances
- based on the best evidence available at the time
- based on coherent ethical principles and reasoning
- made in accordance with any legal requirements and relevant government or NHS guidance
- agreed on in advance where practicable, while recognising that decisions may need to be made rapidly
- made as collaboratively as possible
- communicated openly and transparently
- subject to modification and review as the situation develops.

3. Prioritisation framework for the allocation of personal protective equipment

3.1 Purpose of this framework

To provide a prioritisation framework that can be used to guide the corporate decision makers in Gold - Executive Leadership Team (ELT) and the Personal Protective Equipment (PPE) Cell in Brighton & Hove City Council when making strategic decisions around the allocation of PPE.

The purpose of this framework is to ensure a robust and transparent process can be applied to determine how PPE resources should be prioritised, and subsequently allocated, if PPE supply is insufficient to meet demand.

It is recognised that prioritising PPE involves more than merely choosing who will receive available supply.

3.2 Key Principles of the Prioritisation Framework

Design services to keep staff and service users safe and minimise the need for PPE

Service delivery should be underpinned by good hygiene, preventive measures and social distancing measures to prevent Covid-19 transmission. These include frequent handwashing with soap and water (or hand sanitiser with an alcohol concentration above 60% where soap and water is not available), avoiding touching one's face, and maintaining physical distance from others of at least 2 metres wherever possible.

For staff working remotely and from home guidance published by BHCC should be followed.

In scenarios where staff are unable to maintain the social distancing guidelines, managers should review the service delivery model (seeking advice of Health and Safety where appropriate) to identify whether there is a workforce solution, e.g. staff travelling in separate vehicles rather than sharing a vehicle, before looking at PPE solutions.

Co-ordinate and control PPE supply chain management¹⁰

The PPE Cell / Senior Responsible Officer will provide oversight of the supply and distribution of PPE stock including:

- Forecasting PPE requirements
- Providing a centralised request management approach, to avoid stock duplication and to ensure adherence to stock management rules.
- Monitoring supply and demand

¹⁰ See Appendix for more details

- Avoid inappropriate stockpiling.

Communication is open and transparent

- It is essential to communicate to those affected if supply of PPE is running low, and that prioritisation will become necessary.
- Decisions should be made as collaboratively as possible and mutually agreed with members and unions where reasonably practicable, and the rationale behind decisions, should be communicated openly and transparently.
- Planning should involve elected members and unions. All relevant views expressed should be taken into consideration, with no particular groups excluded.
- Communication should be in a manner that all can reasonably access and understand.

Ensure ethical principles inform decision-making

- The ethical framework should be used to inform decision making.
- The principle of horizontal equity implies that individuals or services with equal need (in terms of PPE) will be treated equally. This might mean, for example, that each service with equal need receives the same quantity of a particular type of PPE.
- The principle of vertical equity implies that individuals or services with unequal need (in terms of PPE) are treated unequally (but equitably). Services with the greatest need should be prioritised.
- No one should be discriminated against in the allocation of PPE because of a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation)
- Those making decisions should be prepared to be flexible, responding and adapting to changes as they occur.
- Every life is equally worth saving.

3.4 Record keeping

Formal records should be kept of decisions taken and the justification for them. Records should include the decisions taken, by whom, when, the circumstances at the time, and how the decision was informed by and reflected the agreed Prioritisation Framework. This is important for ensuring tracking of decision-making and accountability. As a public body we need to ensure accountability to

our residents, via elected politicians and public scrutiny. Such records can also support learning to inform the response to further pandemic waves, or to a different pandemic in the future.

3.5 Review

The Prioritisation Framework will be reviewed when updated national PPE guidance becomes available, or at the request of Executive Leadership Team Gold command.

If a national or regional Prioritisation Framework becomes available, they should supersede this BHCC Prioritisation Framework, unless Gold Command requests otherwise.

3.6 Appropriate Use

At all times ensure that use of PPE is appropriate.

Use of PPE should be based on the risk of exposure. In practice this means not using more PPE than the PHE guidance indicates is necessary.

National guidance¹¹ is available setting out the recommended usage including

- [primary, outpatient and community and social care](#) and
- [additional consideration for any settings.](#)

3.7 Activation of Prioritisation Framework

This framework should only be triggered as a decision-making tool to support the BHCC Covid-19 response when the following criteria are met:

- The availability of some or all PPE items required has reached critically low levels;
- All attempts at procuring additional PPE have been exhausted, and there is no clear route to or prospect of timely procurement.

¹¹ <https://www.gov.uk/government/publications/wuhan-novel-coronavirus-infection-prevention-and-control>

3.8 Actions

In practice the actions outlined below can (and are likely to be) be undertaken concurrently.

	Actions	Decision Maker
A	Recalling of PPE from non-critical services and reallocation to critical services	PPE Senior Responsible Owner (SRO) and relevant Head of Service Consult with Executive Director as required
B	Conservation of PPE by minimising its use	PPE SRO and relevant Head of Service
C	Implementation of emergency measures	ELT Gold Command Only

Action A

Immediate recall of PPE from non-critical services, in addition to the pooling of PPE resource currently being done.

In the event of scarce PPE resources, the recall of PPE from non-critical services (with reference to business continuity plans) would ensure that PPE was prioritised for use for health and social care staff and those maintaining critical services only. If PPE is required to maintain a non-critical service, the service must be halted (or revised/reduced as necessary) until such time that appropriate and sufficient PPE is available. Managers should consult with their Executive Director as appropriate in taking these decisions.

Action B

Conservation of PPE by minimising its use

PPE use should be minimised by restricting its use to essential care performed by the minimum number of staff. This includes the following:

- Consider whether an episode of care, or visit, has to occur at all (following locally agreed process i.e. can it be safely postponed, or the frequency be safely reduced?)
- If the interaction has to occur, can it safely take place remotely? (e.g. by telephone, or at a distance of greater than 2 metres).

- Can a physical barrier be used? (e.g. can communication take place through a window or by telephone/video conference?)
- Safely restrict the number of staff involved in an interaction. Only essential staff, involved in direct patient care, should participate.
- Bundle or schedule care activities to safely minimise the number of times a room is entered (for example, check vital signs during medication administration, or deliver food whilst performing other care). Ensure that services are planning which activities will be performed before entering.
- Cohort or relocate patients or residents (as possible) with suspected or confirmed Covid-19. Allocate a specific group of staff to caring for such cohorts.
- Cease all non-essential education and training activities requiring the use of PPE (this excludes training on the use of PPE).
- Use soap and water wherever possible for handwashing, in order to conserve hand sanitiser.

Action C

Implementation of emergency measures because inappropriate or no PPE is available.

This would be a fall-back position because all reasonable actions to source PPE and meet PPE needs through actions A and B have been exhausted.

Approval must be gained from ELT Gold Command at this stage.

The following should be considered:

- Every conceivable effort should be made to obtain any amount of PPE, however limited
- An assessment of risk if critical services and/or care were not provided, and the potential risk of harm
- Identify measures that would be feasible and acceptable, consulting with staff, unions and elected members as appropriate
- As an employer we will not expect staff to provide care or services without the minimum level of PPE as assessed in accordance with national guidance on the use of PPE. In addition, we will not accept staff volunteering to work without PPE.

Appendix: BHCC PPE Supply Chain Management

Management of the local supply chain will adhere to the legal duties associated with the Covid-19 response and decisions will be made in line with the ethical framework, prioritisation framework and the BHCC Covid-19 governance framework.

a. The Team

The team will be led by a senior responsible officer to work across all services. This will enable a streamlined approach for PPE operations. The functions required of the team as follows:

- Triage
- Stock maintenance
- Distribution
- Situation report
- Risk register
- Record keeping

b. Governance & reporting

The Team will report to the PPE Cell, which in turn reports to the Covid-19 Response Group (Silver). Risks will be escalated as appropriate to ELT Gold Command. In an urgent situation escalation should be directly to ELT Gold Command.

c. Responsibilities

- **Maintaining the Risk register and mitigation measures**
This specific risk register will outline in detail the key risks, be dynamic and flexible to respond to the changing circumstances and facilitate decision-making regarding priorities.
- **Monitor and manage supply**
A named lead for each service (provided or commissioned) that uses PPE will be required to monitor and manage PPE stocks and usage. Each service in the council that is undertaking frontline services requiring PPE will be required to complete a '**PPE Demand Management Plan**' in line with the councils '**Rationale for the use of PPE**' document which has been developed based on the most recent PHE national guidance. This process will allow managers to adapt generic scenarios to specific activities in their service.

The PPE Demand Management Plan will:

- outline the requirements for their service
- outline the impact in the event of inadequate PPE
- be used to maintain an overview of PPE usage
- be used to inform the management of stocks of PPE.

The PPE Demand Management Plan will be used by managers to record the impact of PPE being unavailable and any alternative measures or ways of working that can be introduced to ensure staff safety.

Whilst the 'PPE Demand Management Plan' will be shared with staff, an additional '**PPE List**' document will be completed based on the content of the management plan and communicated to staff and displayed where possible in the workplace to provide a clear list of the PPE required for each activity.

Staff require the correct PPE for key tasks and if it is not available, managers need to ensure that they will not be put at risk. Where there is an issue with the availability of PPE and no alternative measures can be identified, a '**PPE Risk Assessment Outcome Document**' will be completed by a Manager.

Service managers are responsible for identifying the risk for changes to services including suspension. Managers should engage with their Executive Directors before taking these decisions and ensure that the PPE Cell and PPE Senior Responsible Owner (SRO) are informed if any services have been suspended temporarily due to lack of availability of PPE.

Executive Directors are responsible for escalating to Executive Leadership Team (ELT) Gold and consulting with elected members and unions as appropriate.

ELT Gold are responsible for agreeing actions under Action C: **emergency measures because inappropriate or no PPE is available.**

d. PPE stock situation reports

Regular stock reports across the system will be produced to ensure adequate stocks and planning and inform risk management.

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