

URGENT BUSINESS – AN OVERVIEW OF THE RECENT IMPLEMENTATION OF VARIOUS CORONAVIRUS REGULATIONS

In accordance with Section 100B (4) of the Local Government Act 1972, the Leader of the Council has ruled that the following item be dealt with as Urgent Business in order to ensure that the Council can act where necessary under new Coronavirus Regulations brought into force to control the spread of the coronavirus.

Executive Summary

Over recent weeks, the Government has made a series of announcements and implemented new regulations that seek to control of the spread of coronavirus. The success of these measures is critical to avoiding the need for tougher measures. Changes in this area are fast paced and further measures are expected in the coming days. This report provides an overview of the various Coronavirus Regulations, the related Local Authority enforcement tools and provision for the designation of officers. It should be noted that to ensure the effectiveness of the new measures there is an expectation that Local Authorities will take, proportionate, yet firm, action when breaches are found.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the Director of Neighbourhood Services and Environmental Health Manager be designated under the Coronavirus Regulations as an authorised person; and
- (ii) the Director of Legal and Democratic Services be authorised to make designations of authorised persons under the current Coronavirus Regulations and any further coronavirus regulations which may be enacted from time to time in response to the current pandemic.

Reasons for Decision

Reason: To ensure that the Council is informed of the provisions contained within the new Coronavirus Regulations and has designated officers to take necessary enforcement action to control the spread of the coronavirus.

The Executive has the authority to determine the recommendation(s) set out above.

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Background Papers: None.

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Date Published: 6 October 2020

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1.0 Introduction

- 1.1 Over recent weeks, the Government has made a series of announcements and implemented new regulations that seek to control of the spread of coronavirus. The success of these measures is critical to avoiding the need for tougher measures. Changes in this area are fast paced and further measures are expected in the coming days. A wide range of enforcement tools have been made available to the Council under various Coronavirus Regulations.
- 1.2 To date the following list of regulations have been brought into force. Unless otherwise stated in the report I shall refer to the below collectively as the Coronavirus Regulations.
- The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (as amended)
 - The Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 (SI 2020/684), as amended
 - The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (SI 2020/1008) (as amended)
 - The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020
 - The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI 2020/1005)
 - The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 (SI 2020/791), as amended
- 1.3 This report provides an overview of the Coronavirus Regulations and the related Local Authority enforcement tools, some of which will be familiar as they have been subject to extensive media coverage. It also requests the designation of officers within the Council to take such action under the Coronavirus Regulations as may be necessary from time to time. It should be noted that to ensure the effectiveness of the new measures there is an expectation that Local Authorities will take, proportionate, yet firm, action when breaches are found.

2.0 Coronavirus Restrictions

- 2.1 Appendix 1 to this report provides an overview of the new powers introduced by the Coronavirus Regulations. It is anticipated that further regulations will be brought into force as the response to the pandemic changes in the months to come. Central Government guidance and template Fixed Penalty Notices (FPN) have been produced to assist Local Authorities with these new enforcement tools. It should be noted that the level of fines stipulated on FPN's is fixed by the Coronavirus Regulations and as such is not discretionary. The details are outlined in Appendix 1 and increase on sliding scale for repeat offenders.

3.0 Conclusions

- 3.1 The report provides a high level overview of the new regulations and controls put in place to seek to control the spread of the coronavirus.
- 3.2 It is requested that the Director of Neighbourhood Services and Environmental Health Manager be designated as authorised persons whom can take necessary enforcement action under the Coronavirus Regulations.
- 3.3 A wide range of new restrictions have been introduced in very quick succession. These restrictions come with a range of enforcement powers and an expectation that they shall be used when necessary. Given the speed that the Coronavirus Regulations have been introduced it is requested that authority be delegated to the Director of Legal and Democratic

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Services to designate officers to act as an authorised person under any further regulations introduced during the pandemic. This will enable the Council to take steps as quickly as possible following the introduction of any further regulations. It is proposed that any further regulations and the implications thereof be reported to the CMG and Group Leaders meeting as and when they arise to ensure that Councillors are fully informed and engaged in this fast moving area.

4.0 Implications

Financial

- 4.1 It should be noted that payment of FPN's will result in some income for the Council. However, the costs of enforcement is likely to be more than any income received. In respect of the enforcement of regulations applicable to local lockdowns the receipt of payment of FPN's is currently centralised.
- 4.2 To date, the Council has not received any funding towards the enforcement of these provisions.

Human Resource/Training and Development

- 4.3 The Environmental Health Department is likely to find a further increase in workload.

Community Safety

- 4.4 The enforcement of the Coronavirus Regulations shall ensure the physical safety and wellbeing of the community.

Risk Management

- 4.5 None arising from this report.

Sustainability

- 4.6 None arising from this report.

Equalities

- 4.7 Those most vulnerable in society shall benefit from the effective use of enforcement tools introduced to reduce the spread of the virus.

Safeguarding

- 4.8 None arising from this report.

5.0 Consultations

- 5.1 None.

REPORT ENDS

Summary of new Coronavirus legal powers

Closure of businesses

Regulations: The Health Protection (Coronavirus Restrictions) (No.2) (England) Regulations 2020, as amended.
(Regulation 4)

Scope: The requirement applies to closure of certain businesses such as nightclubs, dance halls, discotheques etc and sexual entertainment venues and hostess bars

Detail: specified business types must remain closed to the public

Authority: The Secretary of State has enabled **all** local authorities in England (District, County and Unitary authorities) to enforce Regulation 4. The Secretary of State's designation letter is available at: www.gov.uk/government/publications/further-businesses-and-premises-to-close.

Enforcement tools: The regulations provide for prohibition notices, fixed penalty notices, criminal proceedings. In addition, there is a broad power to take such action as is necessary to enforce any requirement.

Fixed Penalty Fine: If paid within 14 days £50, otherwise £100. For a 2nd – 6th offences, sums are specified from £200 - £3200.

Opening Times

Regulations: The Health Protection (Coronavirus Restrictions) (No.2) (England) Regulations 2020, as amended.
(Regulation 4A)

Scope: The requirement applies to:
Restaurants, cafes, bars, pubs, social clubs and casinos.

Businesses providing takeaway food or drink, other than supermarkets, convenience stores, corner shops, newsagents, pharmacist and chemists, petrol stations.

Bowling alleys, cinemas, theatres, bingo halls and concert halls.

Amusement arcades or other indoor leisure centres or facilities.

Funfairs (indoors or outdoors), theme parks and adventure parks and activities.

Detail: A person must not carry on a restricted business or provide a restricted service between the hours of 22.00 and 05.00 other than for delivery and drive-thru service of takeaway food or drink and in the case of a cinema, theatre or concert hall, concluding a performance that began before 22.00; or at a motorway service area.

Authority: The Secretary of State has enabled **all** local authorities in England (District, County and Unitary authorities) to enforce Regulation 4A. As above.

Enforcement tools: The regulations provide for prohibition notices, fixed penalty notices, criminal proceedings. In addition, there is a broad power to take such action as is necessary to enforce any requirement.

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Fixed Penalty Fine: If paid within 14 days £50, otherwise £100. For a 2nd – 6th offences, sums are specified from £200 - £3200.

Table Service

Regulations: The Health Protection (Coronavirus Restrictions) (No.2) (England) Regulations 2020, as amended.
(Regulation 4B)

Scope: The requirement applies to; restaurants, cafes, bars, pubs, social clubs and casinos (All licensed premises).

Detail: In the case of a business that serves alcohol for consumption on the premises (both indoor and outdoor), food and drink may be sold for consumption on the premises only if:

- The food and drink is ordered by and served to a customer who is seated on the premises; and
- The business must take all reasonable steps to ensure that the customer remains seated while consuming the food or drink on the premises.

Authority: The Secretary of State has enabled **all** local authorities in England (District, County and Unitary authorities) to enforce Regulation 4B. As above.

Enforcement tools: The regulations provide for prohibition notices, fixed penalty notices, criminal proceedings. In addition, there is a broad power to take such action as is necessary to enforce any requirement.

Fixed Penalty Fine: If paid within 14 days £50, otherwise £100. For a 2nd – 6th offences, sums are specified from £200 - £3200.

Rule of 6 and social distancing in hospitality settings

Regulations: The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020

Scope: The requirements apply to: pubs, cafes, restaurants and other businesses that provide food or drink for consumption on the premises.

Detail: A business must take all reasonable measures to ensure that:

- no bookings for a table are accepted for a group of more than six persons unless one of the exemptions in the Coronavirus Restrictions Regulations (Regulation 5) applies;
- no persons are admitted to the premises in a group of more than six, unless one of the exemptions in the Coronavirus Restrictions Regulations (Regulation 5) applies; and
- there is no mingling between groups other than where permitted by the Coronavirus Restrictions Regulations (Regulation 5).

In addition, the business must take all reasonable measures to ensure that an appropriate distance is maintained between tables occupied by different qualifying groups. An appropriate distance is at least two metres; or at least one metre if one or more additional measures are taken to limit the risk of transmission of the coronavirus between people sitting at different tables, eg, screens

Authority: Local authorities and local authority officers designated in respect of the Coronavirus Restrictions Regulations are considered to be designated for the purposes of these regulations. See reference to Secretary of State letter as above.

Enforcement tools: The regulations provide for fixed penalty notices and criminal proceedings.

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Fixed Penalty Fine: If paid within 14 days £500, otherwise £1000. For a 2nd offence £2000, for a 3rd or subsequent offence £4000.

Self Isolation

Regulations: The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020

Scope: The requirements apply to persons told they must self isolate and employers who have employees that have been told to self isolate.

Detail: An adult must self isolate if tested positive or a close contact of someone who has tested positive (other than via the NHS App) and ensure their child does the same. The legislation sets out how they must self isolate and for what period.

Authority: Local authorities and local authority officers designated in respect of the Coronavirus Restrictions Regulations are considered to be designated for the purposes of these regulations. See reference to Secretary of State letter as above.

Enforcement tools: The regulations provide for fixed penalty notices and criminal proceedings.

Fixed Penalty Fine: Fines range from £1000 - £10,000 depending on number of offences.

Display of QR Codes

Regulations: The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020

Scope: A relevant person must in an appropriate place display and make available a QR Code at relevant premises with a view to enable any person entering and has a smartphone in their possession to scan the QR code.

Detail: As well as displaying a QR Code, there must be further means to collate relevant information should a person not have a smartphone.

Authority: Local authorities and local authority officers are considered to be designated for the purposes of these regulations.

Enforcement tools: The regulations provide for fixed penalty notices and criminal proceedings.

Fixed Penalty Fine: 1st offence £500 if paid within 14 days, otherwise £1000. 2nd Offence - £2000, 3rd offence - £3000, 4th offence - £4000.