

## Decision of the Chief Executive

**Tuesday 24<sup>th</sup> March 2020**

**Present:** David Stevens – Chief Executive  
Director of Law and Governance & Monitoring Officer

**Officers:** Nicola Plant – Prevention and Protection Directorate

### Declarations of Interest

No declarations of interest were made

### Decision in relation to : The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 Appointment of Officers.

The Chief Executive, acting in accordance with his delegated authority **Agreed** that:-

1. That the Director of Prevention and Protection is granted delegated authority to exercise the statutory provisions of The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020.
2. That the Director of Law and Governance and Monitoring Officer be granted delegated authority to commence any proceedings required in line with the Regulations.

### Reason for Decision

The new powers came into force on 21st March 2020 as part of the national response to the COVID-19 Coronavirus. It is for the Councils Head of Paid Service to authorise officers to act in order that the Council can be compliant with any statutory provisions.

### Alternative Options considered and discounted

None, the Council is required to appoint in accordance with the legislation.

**Signature**  
Chief Executive


**REDACTED**

**Date of Decision: 24<sup>th</sup> March 2020**





## Delegated Decision Report

<b>Report Title:</b>	The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 Appointment of Officer
<b>Decision to be taken by</b>	Chief Executive
<b>Lead Director:</b>	Neil Cox – Director of Prevention and Protection
<b>Date of Decision</b>	24 <sup>th</sup> March 2020
<b>Contribution towards Vision 2030:</b>	
<b>Key Decision:</b>	No
<b>Reason for Urgency/Special Urgency:</b>	To ensure that the Council is able to act in compliance with the new Regulations
<b>Exempt Information Ref:</b>	
<b>Scrutiny Consultation</b>	Not required
<b>Lead Officer:</b>	Nicola Plant

### DECISION RECOMMENDATIONS

1. That the Director of Prevention and Protection is granted delegated authority to exercise the statutory provisions of The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020.
2. That the Director of Law and Governance and Monitoring Officer be granted delegated authority to commence any proceedings required in line with the Regulations.

#### 1 REASONS FOR THE RECOMMENDATIONS

These new powers came into force on 21<sup>st</sup> March 2020 as part of the national response to the COVID-19 Coronavirus. It is for the Councils Head of Paid Service to authorise officers to act in order that the Council can be compliant with any statutory provisions.

#### 2 ALTERNATIVE OPTIONS

None, the Council is required to appoint in accordance with the legislation.

### **3 PURPOSE OF THE REPORT**

To seek delegated authority to officers to act in accordance with the Health Protection (Coronavirus Business Closure) (England) Regulations 2020 that came into force on the 21<sup>st</sup> March 2020.

### **4 IMPLICATION FOR VISION 2030**

4.1 None associated with this report.

### **5 BACKGROUND AND MAIN CONSIDERATIONS**

5.1 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 came in to force on the 21<sup>st</sup> March 2020

5.2 These regulations require the closure of businesses selling food or drink for consumption on the premises and the business listed below:

- Restaurants, including restaurants and dining rooms in hotels or members clubs.
- Cafes, including workplace canteens, but not including—  
(a)cafes or canteens at a hospital, care home or school;  
(b)canteens at a prison or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;  
(c)services providing food or drink to the homeless.
- Bars, including bars in hotels or members' clubs.
- Public houses.
- Cinemas.
- Theatres.
- Nightclubs.
- Bingo halls.
- Concert halls.
- Museums and galleries.
- Casinos.
- Betting shops.
- Spas.
- Massage parlours.
- Indoor skating rinks.
- Indoor fitness studios, gyms, swimming pools or other indoor leisure centres.

- 5.3 These closures are to protect against the risks to public health arising from coronavirus. The closure lasts until a direction is given by the Secretary of State. The Secretary of State is required to keep the need for these regulations under review every 28 days.

### **THE REGULATIONS**

- 5.4 The regulations require a person responsible for carrying on such a business to close the premises or part of the premises which food or drink are sold for consumption on the premises and cease selling food and drink for consumption on the premises.
- 5.5 “Person responsible” is defined as the owner, proprietor and a manager of that business.
- 5.6 The regulations apply to ‘on sales’ only; takeaways are acceptable. Hotel/other accommodation room service can continue, but hotel bars and restaurants must close.
- 5.7 Two offences are created by the regulations:
- Contravention of the regulations, without reasonable excuse
  - Obstruction, without reasonable excuse, of any person carrying out a function under these regulations
- 5.8 Both offences are summary only and punishable by a fine. Both individuals and companies can be prosecuted.

### **ROLE OF THE LOCAL AUTHORITY**

- 5.9 The Secretary of State has designated ‘an officer appointed by a local authority’ to enforce the regulations and take such action as is necessary to enforce a closure or restriction. The Local Authority is also authorised to bring proceedings against those who commit relevant offences.
- 5.10 It states the following:  
“Environmental Health and Trading Standards officers will monitor compliance with these regulations, with police support provided if appropriate. Businesses that breach them will be subject to prohibition notices, and potentially unlimited fines. As a further measure, and if needed, businesses that fail to comply could also face the loss of their alcohol license.”
- 5.11 The Secretary of state has given the Local Authority powers to “take such action as is necessary to enforce a closure or restriction”. The Council can therefore consider enforcement options that are appropriate for Sandwell.

## **6 THE CURRENT POSITION**

- 6.1 Owing to the recent nature of the legislation, the Council does not currently have a designated officer with responsibility to act in accordance with these powers.

The Chief Executive, has delegated authority from Council to authorise, as Head of Paid Service, relevant officers to act to ensure that the Council is compliant with the regulations.

## **7 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

None required.

## **8 STRATEGIC RESOURCE IMPLICATIONS**

- 8.1 None associated with this report

## **9 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 9.1 As an operational issue, the officer(s) with delegated responsibility can authorise others to act to carry out the requirements of the regulations.

## **10 EQUALITY IMPACT ASSESSMENT**

- 10.1 The establishment of processes and procedures in accordance with the Regulations, will ensure the equitable application of all any associated powers.

## **11 DATA PROTECTION IMPACT ASSESSMENT**

- 11.1 None associated with this report.

## **12 CRIME AND DISORDER AND RISK ASSESSMENT**

- 12.1 None associated with this report.

## **13 SUSTAINABILITY OF PROPOSALS**

- 13.1 These measures are proposed to be implemented until the Secretary of State advises that the powers are no longer required.

**14 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

14.1 Non-compliance with all government guidance and legislation in relation to the coronavirus has significant damaging ramifications for the health and wellbeing of the local population. It is appropriate for the Council to act in the best interests of its citizens.

**15 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

15.1 None associated with this report.

**16 BACKGROUND PAPERS**

<https://www.legislation.gov.uk/ukxi/2020/327/contents/made>

**17 APPENDICES:**

None

