

Decision of the Chief Executive

Friday 3rd April 2020

Present: David Stevens - Chief Executive
Surjit Tour – Director of Legal and Governance and Monitoring Officer

Officers: Nicola Plant – Service Manager Regulated Services and Transformation

Declarations of Interest

No declaration of interest were made.

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 Appointment of Officer

Decision:

1. That the Director of Prevention and Protection is granted delegated authority to exercise the statutory provisions of The Health Protection (Coronavirus, Restrictions) (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

These new powers came into force on 26th March 2020 as part of the national response to the COVID-19 Coronavirus. It was for the Council's Head of Paid Service to authorise officers to act in order than the Council can be compliant with any statutory provisions.

Alternatives considered and discounted

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




Signature

Chief Executive

Date Decision 3rd April 2020



Delegated Decision Report

Report Title:	The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 Appointment of Officer
Decision to be taken by	Chief Executive
Lead Director:	Neil Cox – Director - Prevention and Protection
Date of Decision	2 nd April 2020
Contribution towards Vision 2030:	
Key Decision:	No
Reason for Urgency/Special Urgency:	To ensure that the Council is able to act in compliance with the new Regulations
Exempt Information Ref:	
Scrutiny Consultation	Not required
Lead Officer:	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, Restrictions) (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 26th 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, Restrictions) (England) Regulations 2020 that came into force on the 26th 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 21.3.2020 at 2pm.

5.2 Further measures were taken by the Government who instructed more businesses to close; this has resulted in a new set of regulations The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 which came in to force on the 26.3.2020 at 1pm, revoking the regulations made on the 21.3.2020.

5.3 The regulations require the closure of all retailers that sell non-essential goods and other non-essential premises where there may be gatherings of people.

6 THE REGULATIONS

6.1 There are three types of premises which are subject to these regulations:

- These Regulations require the closure of businesses selling food or drink for consumption on the premises. Anyone carrying out such a business, is required to close it completely, or if applicable, close 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. The regulations apply to 'on sales' only; takeaways are acceptable. Hotel/other accommodation room service can continue, but hotel bars and restaurants must close.
- The Regulations require businesses listed in Part 2 of Schedule 2 to cease to carry on that business or to provide their service. However, it does not prevent the use of the premises to broadcast a performance to

people outside the premises (internet, TV. Radio) or prevent it from being used for blood donation sessions.

Cinemas.	Theatres.	Nightclubs.
Bingo halls.	Casinos.	Concert halls.
Museums and galleries.	Nail, beauty, hair salons and barbers.	Betting shops.
Spas.	Massage parlours	Indoor fitness studios, gyms, swimming pools, bowling alleys, amusement arcades or soft play areas or other indoor leisure centres or facilities.
Tattoo and piercing parlours.	Skating rinks.	Funfairs (whether outdoors or indoors).
Playgrounds, sports courts and outdoor gyms.	Outdoor markets (except for stalls selling food).	Auction Houses
Car showrooms		

- Restrictions are imposed on businesses listed in Part 3 of Schedule 2, which are permitted to remain open. Any other business, not listed in that schedule which offers goods for sale or for hire in a shop, or providing library services must, during the emergency period close the business except if they make deliveries or otherwise provide services in response to orders received online, by phone or text, or by post. They must not allow people on to their premises when they are not required to carry out that business.

Food retailers, including food markets, supermarkets, convenience stores and corner shops.	Off licenses and licensed shops selling alcohol (including breweries).	Pharmacies (including non-dispensing pharmacies) and chemists.
Newsagents.	Homeware, building supplies and hardware stores.	Petrol stations.
Car repair and MOT services.	Bicycle shops.	Taxi or vehicle hire businesses.
Banks, building societies, credit unions, short term loan providers and cash points.	Post offices.	Funeral directors.
Laundrettes and dry cleaners.	Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services,	Veterinary surgeons and pet shops

	including services relating to mental health.	
Agricultural supplies shop	Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this Part.	Car parks.
Public toilets.		

- 6.2 Business consisting of the provision of holiday accommodation, whether in a hotel, hostel, bed and breakfast accommodation, holiday apartment, home, cottage or bungalow, campsite, caravan park or boarding house, must cease to carry on that business during the emergency period. There are several exceptions to this, accommodation can continue to be provided when the person is
- (i) is unable to return to their main residence;
 - (ii) uses that accommodation as their main residence;
 - (iii) needs accommodation while moving house;
 - (iv) needs accommodation to attend a funeral;
- Or when the business is provided to:
- (b) to provide accommodation or support services for the homeless,
 - (c) to host blood donation sessions, or
 - (d) for any purpose requested by the Secretary of State, or a local authority
- 6.3 Places of worship must close, and the person responsible for that place of worship must ensure its closure. Except for it to be used for funerals, to broadcast an act of worship or to provide essential voluntary services or urgent public support services.
- 6.4 Community centres must be closed except to provide essential voluntary services or urgent public support services.
- 6.5 Crematoriums must remain closed to members of the public, except for funerals and burials.
- 6.6 The Regulations also prohibit anyone leaving the place where they live without reasonable excuse and ban public gatherings of more than two people; these powers are enforceable by the Police only. However, the police can issue fixed penalty notices for these offences and the notices are payable to the Local Authority.
- 6.7 Two offences are created by the regulations, applicable to the Local Authority:

- Contravention of the regulations (regulation 4 and/or 5), without reasonable excuse
- Obstruction, without reasonable excuse, of any person carrying out a function under these regulations

6.8 Both offences are summary only and punishable by a fine. Both individuals and companies can be prosecuted.

6.9 Fixed Penalty Notices can also be issued (by the Local Authority or the Police) to those persons who fail to comply with the regulations.

ROLE OF THE LOCAL AUTHORITY

6.10 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.

6.11 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."

Other types of license are not referred to in the guidance.

6.12 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.

6.13 This designation was completed on the 24th March 2020 under The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 and is still applicable under the new regulations but not in relation to the issue of fixed penalty notices.

7 THE CURRENT POSITION

7.1 Owing to the recent nature of the legislation, the Council does not currently have a designated officer with responsibility to act in accordance with the powers to issue a fixed penalty notice.

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.

8 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

None required.

9 STRATEGIC RESOURCE IMPLICATIONS

9.1 None associated with this report

10 LEGAL AND GOVERNANCE CONSIDERATIONS

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

11 EQUALITY IMPACT ASSESSMENT

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

12 DATA PROTECTION IMPACT ASSESSMENT

12.1 None associated with this report.

13 CRIME AND DISORDER AND RISK ASSESSMENT

13.1 None associated with this report.

14 SUSTAINABILITY OF PROPOSALS

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

15 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

15.1 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.

16 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

None associated with this report.

17 **BACKGROUND PAPERS**

<https://www.legislation.gov.uk/uksi/2020/350/made>

18 **APPENDICES:**

None

