

Decision of the Chief Executive

Wednesday 22 July 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, Restrictions) (No 2) (England) Regulations 2020

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 Health Protection (Coronavirus, Restrictions) (No.2) (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 the 4th July 2020 as part of the continued 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 the statutory provisions.

Alternative Options considered and discounted

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

Signature




Chief Executive

Date of Decision: 22 July 2020



DELEGATED DECISION REPORT

Date of Decision 22 July 2020

Subject:	The Health Protection (Coronavirus, Restrictions) (No 2) (England) Regulations 2020
Decision to be taken by	David Stevens - Chief Executive
Lead Director:	Neil Cox - Director - Prevention and Protection
Date of Decision	22 July 2020
Contribution towards Vision 2030:	
Contact Officer(s):	Nicola Plant – Service Manager – Regulated Services and Transformation Nicola_Plant@sandwell.gov.uk
Key Decision	No
Reason for Urgency	To ensure that the Council is able to act in compliance with the latest new regulations
Exempt Information Ref:	N/A
Scrutiny Consultation	Not required
Lead Officer	Nicola Plant – Service Manager – Regulated Services and Transformation.

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) (No.2) (England) Regulations 2020
2. That the Director of Law and Governance and the Monitoring Officer be granted delegated authority to commence any proceedings required in line with the Regulations

1 REASONS FOR RECOMMENDATIONS

The new powers came into force on the 4th July 2020 as part of the continued 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 the 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) (No 2) (England) Regulations 2020 which came into force on the 4th July 2020.

4 IMPLICATION FOR VISION 2020

None associated with this report.

5 BACKGROUND AND MAIN CONSIDERATIONS

Regulations 1,3,4,8 to 12 of, and paragraphs 3,4 and 23A of Schedule 2 to those Regulations came into force at 6.00am on the 4th July 2020. All other provisions of these Regulations came into force at 00.01am on the 4th July 2020. Regulations 4 and 5 do not apply in relation to those areas which form the "protected area" under the Health Protection (Coronavirus Restrictions) (Leicester) Regulations 2020.

They revoked the following preceding regulations:-

- (i) The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 except for regulation 2 (the creation of offences);
- (ii) The Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020;
- (iii) The Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No 2) Regulations 2020;
- (iv) The Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No 3) Regulations 2020;

- (v) The Health Protection (Coronavirus, Restrictions) (Amendment) (No 4) Regulations 2020;

Regulation 2 in (i) above remains in force and is not revoked so that any offence committed under the first Restriction Regulations remains enforceable.

There was doubt expressed as to whether the Government Designations issued under the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 by the Secretary of State for Health and Care on the 16th June 2020 covered Metropolitan Borough Councils. It has been established that legally these bodies were created as "Metropolitan District Councils" under the Local Government Act 1972 and legally remain "District Councils" (Metropolitan ones) and are unitary by virtue of the abolition of West Midlands County Council in 1985. Like Borough Councils (also "District Councils") they became "Boroughs" by Royal Charter. In summary therefore, there is no doubt that the Council has the power to enforce the relevant parts of the regulations that it is authorised to enforce.

6 THE REGULATIONS

- 6.1 The following businesses are to remain closed -Nightclubs, Dance halls, Discotheques, Sexual Entertainment Venues, Casinos, Nail Bars and Salons, Tanning Booths and Salons, Massage Parlours, Tattoo Parlours, Body and Skin Piercing Services, Indoor Skating Rinks, indoor and outdoor swimming pools including water parks, indoor play areas, indoor fitness and dance studios, indoor Gyms, Sports Courts and facilities and Bowling Alleys-(See Regulation 4 and Schedule 2)
- 6.2 No gathering of more than 30 persons can take place indoors or outdoors other than for certain specified exceptions-(See Regulation 5)
- 6.3 Access to public outdoor land can be restricted in the interests of public health by the Secretary of State (Regulation 6)
- 6.4 Council Officers can enforce Regulation 4 (closure of listed businesses) by Issuing a Prohibition Notice (see below) or a Fixed Penalty Notice
- 6.5 A Fixed Penalty Notice can be issued by the Council in respect of Regulation 4 (listed businesses failing to close) or for the offence of obstruction of another enforcement officer seeking to enforce for breaches of other restrictions under Regulation 7.
- 6.6 Fixed Penalty notices should be certified by the chief finance officer; they should start at £100 payable in 28 days and reduced to £50 if paid in 14 days. If previous fixed penalties have been issued under the coronavirus legislation against a person the fines are increased to £200, £400, £600, £1600 and £3200 depending on previous fixed penalties issued from 2-6.
- 6.7 The Council is an authorised prosecution authority by virtue of Regulation 2 (3), in relation to the regulations it is empowered to enforce with reference to the designation letter written by the Secretary of State for Health and Social Care dated 16th June 2020.

7 ROLE OF THE LOCAL AUTHORITY

On the 2nd April 2020 the Chief Executive under delegated powers decided that the Director of Prevention and Protection be granted delegated authority to exercise the statutory provisions of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and that the Director of Law and Governance and Monitoring Officer be granted delegated authority to commence any proceedings required in line with the Regulations.

It is proposed that identical authority be given in relation to these regulations to facilitate enforcement and for such authority to cover future substantially similar regulations should these regulations too, be revoked.

8 CONSUTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

None required

9 STRATEGIC RESOURCE IMPLIATIONS

None associated with this report

10 LEGAL AND GOVERNANCE CONSIDERATIONS

As an operational issue the officer(s) with delegated authority can authorise others to carry out the requirements of the regulations

11 EQUALITY IMPACT ASSESSMENT

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

None associated with this report

13 CRIME AND DISORDER RISK ASSESSMENT

None associated with this report

14 SUSTAINABILITY OF PROPOSALS

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)

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/2020/684/made>

18. APPENDICES

None

Neil Cox
Director – Prevention and Protection.

