

## Decision of Chief Executive

7 October 2020

**Present:** David Stevens – Chief Executive  
Surjit Tour – Director – Law and Governance and Monitoring Officer.

**Officers:** Elaine Newsome – Service Manager – Law and Governance

**The Health Protection (Coronavirus Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020 (SI.2020/988)1**

**The Health Protection (Coronavirus Collection of Contact Details etc. and Related Requirements) Regulations 2020 (SI2020/1005)2**

**The Health Protection (Coronavirus Restrictions)(Obligations of Undertakings) (England) Regulations 2020 (SI2020/1008)3**

The purpose of the report was to seek delegated authority to authorise officers to act in accordance with the following:

- Health Protection (Coronavirus Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020;
- Health Protection (Coronavirus, Collection of Contact Details etc. and related requirements) Regulations 2020;
- Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (SI.2020/1008);
- any Coronavirus related legislation that was already in force and was subsequently amended, or, any new Coronavirus related legislation that was introduced.

The above regulations came into force at various times throughout September 2020. The did not seek to revoke any previous Regulations associated with the Coronavirus pandemic but impose restrictions or requirements on businesses in relation to their premises and gives power to prosecute those who do not comply with the Regulations.



**Agreed that:**

- 1) the Director of Prevention and Protection be granted delegated authority to exercise the statutory provision of the
  - Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020, and any amendments;
  - Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020, and any amendments;
  - Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020, and any amendments; and
  - any Coronavirus related legislation that was already in force and was subsequently amended, or, any new Coronavirus related legislation that was introduced.
  
- 2) The Director of Law and Governance and the Monitoring Officer be granted delegated authority to commence any proceedings required in line with the above Regulations.

**Reason for Decision**

The above Regulations came into force at various times throughout September 2020 as part of the continued national response to COVID-19. These Regulations, as well as other Coronavirus related legislation that was currently in force, may be subject to amendments or revocation.

It was for the Council's Head of Paid Service to authorise officers to act in order that the Council would be compliant with its statutory provision.

**Signature**

A black rectangular redaction box covering the signature of David Stevens.


**David Stevens Chief Executive**

**Date Decision**

12/10/2020

## Delegated Decision Report

<b>Subject:</b>	<p>The Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020 (SI.2020/988)<sup>1</sup></p> <p>The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI.2020/1005)<sup>2</sup></p> <p>The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (SI.2020/1008)<sup>3</sup></p>
<b>Decision to be taken by:</b>	Chief Executive
<b>Lead Director</b>	Director of Prevention and Protection
<b>Date of Decision</b>	7 <sup>th</sup> October 2020

<b>Contribution towards Vision 2030:</b>	
<b>Key Decision</b>	No
<b>Reason for Urgency</b>	To ensure that the Council is able to act in compliance with the latest 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:

<sup>1</sup> <https://www.legislation.gov.uk/ukSI/2020/988/contents>

<sup>2</sup> <https://www.legislation.gov.uk/ukSI/2020/1005/contents>

<sup>3</sup> <https://www.legislation.gov.uk/ukSI/2020/1008/contents>

- Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020, and any amendments;
- Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020, and any amendments;
- Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020, and any amendments; and
- any Coronavirus related legislation that is already in force and is subsequently amended, or, any new Coronavirus related legislation that is introduced.

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 above Regulations.

## **1 REASONS FOR RECOMMENDATIONS**

The above Regulations came into force at various times throughout September 2020 as part of the continued national response to COVID-19. These Regulations, as well as other Coronavirus related legislation that is currently in force, may be subject to amendments or revocation.

It is for the Council's Head of Paid Service to authorise officers to act in order that the Council can be compliant with its 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 authorise officers to act in accordance with the following:

- Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020;
- Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020;

- Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (SI.2020/1008);
- any Coronavirus related legislation that is already in force and is subsequently amended, or, any new Coronavirus related legislation that is introduced.

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

None associated with this report.

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

The above Regulations came into force at various times throughout September 2020. They do not seek to revoke any previous Regulations associated with the Coronavirus pandemic but impose restrictions or requirements on businesses in relation to their premises and gives power to prosecute those who do not comply with the Regulations.

#### 6 **THE REGULATIONS**

##### Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020

The above Regulations came into force on 15<sup>th</sup> September 2020 to impose local restrictions within the Birmingham, Sandwell and Solihull areas in relation to gatherings of two or more persons both inside and outside a private dwelling.

At present, enforcement of the restrictions under these Regulations rests solely with the Police. It is possible that these Regulations could be amended in the future to confer powers on the Council.

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

The above Regulations came into force on 18<sup>th</sup> and 24<sup>th</sup> September 2020 respectively to impose a number of obligations on relevant persons<sup>4</sup> who operate/occupy relevant premises<sup>5</sup> in order to protect against the risks

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<sup>4</sup> "Relevant person" means a company, partnership, charity, corporation, unincorporated association, sole trader or other organisation having legal personality, or a person who has overall responsibility for the provision of a service or activity set out in the Schedule to the Regulations.

<sup>5</sup> "Relevant premises" means premises, whether indoors or outdoors, that are operated for the purpose of providing a service or activity listed in the Schedule directly to an individual who wishes to access that service or activity.

arising from coronavirus. These include, but are not limited to, the relevant person being required to:

- display and make available a QR code for individuals to scan using a smartphone when entering premises;
- request contact details from individuals and groups seeking to enter premises where a QR code has not been scanned;
- record additional details in relation to individual customer who are likely to only be in contact with one member of staff
- retain details that have been recorded by them for a period of 21 days and to destroy such details after the period has past;
- disclose, on request from the Secretary of State or Public Health Officers, any details that have been recorded by them;
- take all reasonable steps to prevent entry to the premises where they are aware that an individual or no member of a group have provided contact details after being requested to do so.

Offences under these Regulations are summary only and punishable by a fine. Defendants can include companies and their officers<sup>6</sup> in person. Prosecution of offences under these Regulations may be brought by a Local Authority or the Crown Prosecution Service.

An authorised person<sup>7</sup> who reasonably believes that a person over the age of 18 has committed an offence may issue a fixed penalty notice as an alternative to prosecution.

Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 came into force on 18<sup>th</sup> September 2020 and require certain businesses within the hospitality industry to take measures to ensure that their customers follow rules on social distancing. These include, but are not limited, to the responsible person carrying on a business:

- to take reasonable measures to ensure no bookings are accepted for a group of 6 or more people and no persons are admitted to the premises in a group of more than 6 people;
- in relation to a pub, café, restaurant or similar business providing food or drink for consumption on the premises, to take reasonable measure to ensure an appropriate distance is maintained between tables occupied by different groups of customers;
- in relation to a pub, café, restaurant or bar, to take reasonable measures to stop singing on the premises by customers in groups of more than 6 people, dancing on the premises by customers unless they are newlyweds and to ensure that no music is played on the premises which exceeds 85db(A);

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<sup>6</sup> Company officers would include a director, manager, secretary or other similar officer.

<sup>7</sup> Authorised person includes a constable, Police Community Support Officer, person designated by the Secretary of State or by a Local Authority.



- to take display a notice in a conspicuous location or take other measures to inform people of their legal obligation to wear a face-covering, unless they are exempt;
- not to prevent, or try to prevent, a person wearing a face-covering while in a relevant area<sup>8</sup> when they are required to do so.

Offences under these Regulations are summary only and punishable by a fine. Defendants can include companies and their officers<sup>9</sup> in person. Prosecution of offences under these Regulations may be brought the Crown Prosecution Service, the Council has not powers to prosecute.

An authorised person<sup>10</sup> who reasonably believes that a person over the age of 18 has committed an offence may issue a fixed penalty notice as an alternative to prosecution.

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

On the 18<sup>th</sup> March 2020, the Emergency Committee Council Function enabled the Chief Executive in consultation with the Chair of the Emergency Committee (or nominees in their absence) to amend the scheme of delegation to officers in response to the Coronavirus Pandemic. In response, delegations as outlined above were made on 2<sup>nd</sup> April by the Chief Executive under delegated powers. It is recommended those same delegations remain for The Health Protection (Coronavirus, Restrictions) (England) (No.2) Regulations and (No.3) Regulations. The authority is centrally involved in implementation of the latest Regulations.

### **RECOMMENDATION**

It is recommended that authority be given to authorise officers to act in accordance with the above detailed legislation, any Coronavirus related legislation that is already in force and is subsequently amended as well as any new Coronavirus related legislation that is introduced.

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

None required.

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<sup>8</sup> "relevant area" means any place where a person is required to wear a face covering under the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) Regulations 2020 (SI.2020/791)

<sup>9</sup> See footnote <sup>6</sup> above.

<sup>10</sup> See footnote <sup>7</sup> above.

## **9 STRATEGIC RESOURCE IMPLIATIONS**

None associated with this report.

## **10 LEGAL AND GOVERNANCE CONSIDERATIONS**

There was concern as to whether the designations issued under the earlier related Regulations 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 these Regulations.

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 such time that the Regulations are revoked.

## **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/ukxi/2020/988/contents>  
<https://www.legislation.gov.uk/ukxi/2020/1005/contents>  
<https://www.legislation.gov.uk/ukxi/2020/1008/contents>

**18 APPENDICES**

None.

**Director Name          Neil Cox**

**Director Title          Prevention and Protection**