

Report to Portfolio Holder for Public Protection

Subject: Enforcement of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

Date: 27 March 2020

Author: Legal Advisor

Wards Affected

All

Purpose

The Purpose of this report is:

- 1) To inform the portfolio holder of the change in legislation and the powers given to local authorities to control the spread of COVID-19 by the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
- 2) To delegate authority to the Director of Health and Community Wellbeing to exercise all functions under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
- 3) To approve the level for fixed penalty notice for offences under the regulations.

Key Decision

This is not a key decision

Recommendation(s)

THAT:

- 1) The Portfolio holder notes the contents of this report and the powers given to Local Authorities by the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
- 2) Exercise of all functions under Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 be delegated to the Director of

Health and Community Wellbeing

- 3) The Portfolio holder approves the setting of the amount of fixed penalty notices for offences under the Regulations at £60.00 for a first offence discounted to £30.00 if paid within 14 days. £120.00 for a second offence, £240.00 for a third offence, £480.00 for fourth offence and £960 for a fifth offence.

- 1.1 On 26 March 2020 the government once again stepped up measures to prevent the spread of coronavirus (COVID-19) by introducing the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (“the Regulations”). The Regulations are set to last for six months from 26 March.
- 1.2 The Regulations repealed and replaced the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020. The Regulations provide more clarity around the closure of businesses as well as providing an updated list of businesses to be closed. The Regulations require listed businesses to close premises and/or cease selling food or drink for consumption on the premise. The Regulations provide a list of exempt businesses which can remain open and also allow business to continue trading where it is possible for business to be conducted online, over the phone or by post.
- 1.3 The Regulations also place restrictions on gatherings of more than two people and restrictions on movement of individuals and provides 13 circumstances where individuals are able to leave the place where they live.
- 1.4 Any person who without reasonable excuse fails to comply with the regulations commits an offence. A relevant person may take such action as is necessary to enforce the requirements imposed by regulation. The Regulations define a ‘relevant person’ as a constable, a police community support officer, a person designated by a local authority and a person designated by the Secretary of State.
- 1.5 A person designated by a local authority is only permitted to enforce regulation 4 and regulation 5 relating to the closure of businesses. The Regulations give a ‘relevant person’ the power to serve a prohibition notice on any person who they have reasonable belief is contravening a requirement of the regulations and that it is necessary and proportionate to give the notice to prevent that person from continuing to contravene.
- 1.6 In addition to prohibition notices the Regulations also provide the power for an ‘authorised person’ to issue a fixed penalty notice to anyone over

the age of 18 who they reasonably believe has committed an offence under the Regulations. A fixed penalty notice gives the individual the opportunity to discharge liability for a conviction for an offence under the regulations if paid within 28 days of the penalty being issued.

- 1.7 The regulations define an 'authorised person' as a constable, a police community support officer, a person designated by the Secretary of State or a person designated by a local authority. Again a person designated by a local authority can only issue a fixed penalty notice in relation to closure of businesses. A fixed penalty notice can only be issued within the local authority area.
- 1.8 The Regulations set the fixed penalty amount at £60.00 and where the fixed penalty is paid within 14 days the lower amount of £30.00. A person who has already received a fixed penalty but then further contravenes the Regulations can be issued with a second fixed penalty. The Regulations set the amount of the second fixed penalty at £120.00. Further fixed penalty notices can be issued to people who continue to contravene the Regulations each time a fixed penalty is issued the amount payable is double the last amount to a maximum of £960.00. There are no early payment discounts available for repeat offenders and the full fixed penalty amount is payable.
- 1.9 If a fixed penalty is unpaid after 28 days or under the circumstances the issuing of a fixed penalty is not appropriate the Council have the ability to prosecute individuals. All offences under the Regulations are punishable on summary conviction to an unlimited fine.

2 Proposal

- 2.1 It is proposed that the contents of the report and the new powers given to local authorities are noted.
- 2.2 It is proposed that in order to ensure appropriate operational measures can be put in place to manage enforcement, authority is delegated to the Director of Health and Community Wellbeing to exercise all functions contained within the Regulations. This will enable the Director to delegate certain operational tasks and put in place appropriate enforcement arrangements to manage enforcement powers under the Regulations.
- 2.3 It is proposed that the fixed penalty amount for offences under the Regulations is set at £60.00 for a first offence discounted to £30.00 if paid within 14 days. £120.00 for a second offence, £240.00 for a third offence, £480.00 for a fourth offence and £960 for a fifth offence.

3 Alternative Options

- 3.1 An alternative to the proposal would be to report each contravention of the Regulations and prosecution to the Portfolio Holder for Public Protection for his determination. This would place an unnecessary burden on the Executive and potentially cause delays in the ability to enforce the Regulations. It would also mean that officers are unable to give on the spot fixed penalty notices to those not complying with the Regulations.

4 Financial Implications

- 4.1 It is envisaged that the costs of enforcing the Regulations will be met by current budgets and there will be no financial implications on the service.
- 4.2 A small amount of income may be generated from the issuing of fixed penalty notices.

5 Appendices

- 5.1 None

6 Background Papers

- 6.1 Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

6 Reasons for Recommendations

- 6.1 To allow to Council to take prompt action against businesses that refuse to comply with the Regulations in an effort to prevent the spread of Coronavirus.