

## **Delegated Decision**

**17 September 2020**

## **COVID-19 Contain Framework and Local Lockdown Plans**



## **Key Decision No.**

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### **Report of Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change**

### **Councillor Lucy Hovvels, Cabinet Portfolio Holder for Adult and Health Services**

#### **Electoral division(s) affected:**

Countywide

#### **Purpose of the Report**

- 1 To authorise all members of the Corporate Management Team to issue a direction under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 ('the Regulations')

#### **Executive summary**

- 2 Lifting of many of the COVID-19 restrictions while the virus remains in community circulation inevitably means that there will be localised outbreaks. It is therefore critical that robust plans are in place locally to prevent widespread transmission of the virus.
- 3 The Government published guidance on 17 July 2020: COVID-19 contain framework: a guide for local decision-makers (<https://www.gov.uk/government/publications/containing-and-managing-local-coronavirus-covid-19-outbreaks/covid-19-contain-framework-a-guide-for-local-decision-makers>). It sets out how national and local partners will work with the public at a local level to prevent, contain and manage outbreaks. Empowering local decision makers to act at the

earliest stage for local incidents whilst ensuring that swift national support is accessible where needed.

- 4 Additional powers provided for local authorities through the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 ('the Regulations') came into force on 18 July 2020 and grant upper tier LAs in England new powers to respond to local outbreaks of coronavirus until 17 January 2021. These new powers include:
  - (a) restricting access to, or closing, individual premises;
  - (b) prohibiting certain events (or types of event) from taking place; and
  - (c) restricting access to, or closing, public outdoor places (or types of outdoor public places).
- 5 The local authority, through the governance of outbreak control, publication of the Outbreak Control Plan, development of Outbreak Control Teams, and scenario enactment, is already well prepared for any outbreaks that may occur in county, however the new powers laid out in the legislation and regulations needs to be aligned with local plans.

### **Recommendation**

- 6 It is recommended that the Corporate Director for Neighbourhoods and Climate Change:
  - (a) Delegates his authority under Part 3, Table 6, paragraphs 25 and 29 of the Constitution to all members of the Corporate Management Team to issue a direction under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 ('the Regulations'); and
  - (b) Requests that the the Decision Record set out at Appendix 7 is completed to demonstrate that the conditions required for a Direction have been met and to evidence authorisation.

## Background

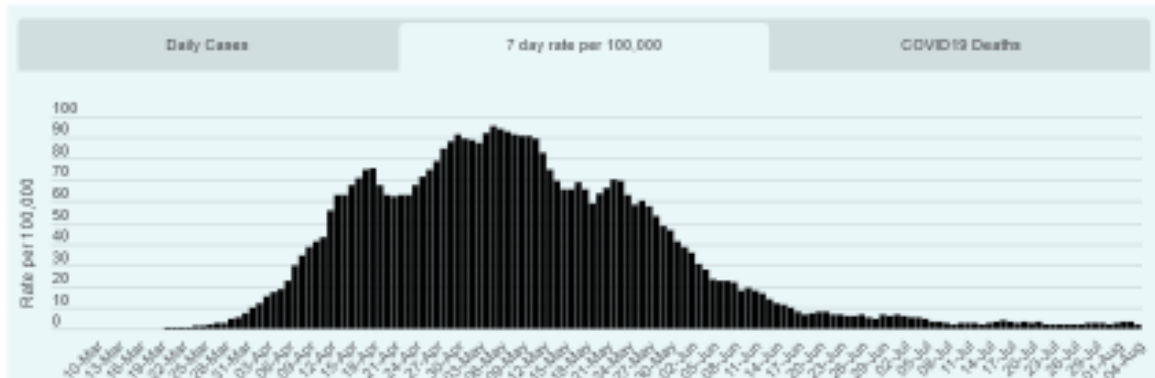
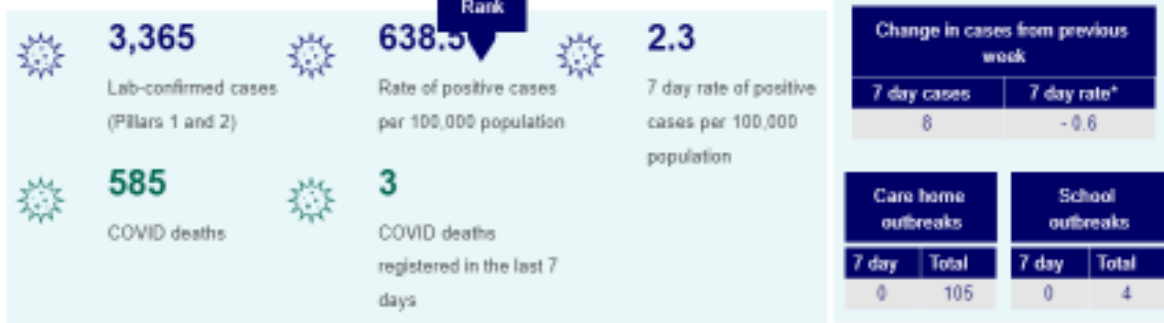
- 7 Nationally, many COVID-19 lockdown restrictions have begun to ease including, as of 1 August, a pause in shielding. As a result of the easing of lockdown measures, there is likely to be an increase in confirmed cases of COVID-19. It remains critical that robust measures for outbreak management are in place locally to prevent transmission of the virus.
- 8 In some areas, such as Leicester, local measures have not contained the virus and stronger measures have been taken to manage the situation. In order to prevent this happening more extensively, the government has issued a framework, which gives the local authority greater powers to act and enforce local decisions at an early stage.
- 9 The Government published guidance on 17 July 2020: COVID-19 contain framework: a guide for local decision-makers (<https://www.gov.uk/government/publications/containing-and-managing-local-coronavirus-covid-19-outbreaks/covid-19-contain-framework-a-guide-for-local-decision-makers>). It sets out how national and local partners will work with the public at a local level to prevent, contain and manage outbreaks, covering:
  - (a) Local outbreak plans and powers;
  - (b) Roles and responsibilities;
  - (c) Designation of local systems;
  - (d) Data and reporting.
- 10 The framework supports local authorities to take preventative action, which includes a range of additional powers that local leaders, in particular the Chief Executive of the local authority, the Director of Public Health (DPH) and the Head of Community Protection, have to enforce decision-making and stop local transmission of the virus.

## The current situation

- 11 As at 5 August 2020, there were 3,365 confirmed cases of COVID-19 in County Durham since the beginning of the pandemic. A rate of 638.5 per 100,000 population. The 7-day rate of positive cases in County Durham is 2.3 per 100,000 population (8 new confirmed cases) in comparison to the rate in the North West of 17.9 per 100,000 population where some restrictions have been reinstated.

# County Durham

\*\* County Durham deaths are data sourced from local registrars and not comparable to national figures at this stage.



## Local Outbreak plans and powers

- 12 Locally, the Director of Public Health (DPH) is accountable for controlling local outbreaks, working with Public Health England (PHE) and the local Health Protection Assurance Board.
- 13 Durham County Council approved the COVID-19 Outbreak Control Plan on 14 July 2020, which has the following key objectives:
  - (a) Protect the health of our local communities through:
    - (i) Provision of clear prevention messages in relation to COVID-19;
    - (ii) Rapid detection of COVID-19 outbreaks;
    - (iii) Controlling onward transmission;
    - (iv) Providing support to those who need to self-isolate building on our population health management approach to the pandemic;

- (v) Developing and applying intelligence, including the knowledge and insight provided by our local communities.

14 The new Health Protection (Coronavirus, Restrictions) (No.3) (England) Regulations 2020 (the Regulations) (Appendix 3) provide the local authority with powers to close individual premises, public outdoor places and prevent specific events. There will no longer be a requirement to make representation to a magistrate in order to close a premise.

### **Roles and responsibilities**

- 15 Established local and national arrangements for public health and emergency planning are the basis of all responses to COVID-19. NHS Test and Trace Support and Assurance Teams are an enhanced element of this response and have role to:
- (a) provide a crucial link between local and national government;
  - (b) represent the government working within local structures and provide a report back to ministers;
  - (c) offer advice about escalating critical issues;
  - (d) rapidly scale up responses.
- 16 Local authorities should alert NHS Test and Trace in instances where they are considering that the closure of a premise is necessary to manage local outbreaks.
- 17 NHS Test and Trace will provide advice as to whether that premise is of national significance and therefore whether the relevant government department needs to be consulted before action is taken. It is expected that most areas will be operating as 'business as usual'. However, at any one time, some local authorities will be designated (by the national command structure) in one of the following categories: area(s) of concern; area(s) of enhanced support; area(s) of intervention.

### **Designation of local systems**

- 18 In the contain framework, it is highlighted that any intervention is based on engagement and consent, and the use of any powers is to be avoided if possible.
- 19 There are three levels identified where extra support is required: areas of concern, of enhanced support and of intervention.

#### Areas of concern

- 20 In these areas the local authority will work with their partners, supported by regional PHE and NHS Test and Trace resource, to take additional actions to manage outbreaks and reduce community spread of the virus to more normal levels. Actions taken may include additional targeted testing at high risk areas or groups, enhanced communications around preventative measures, and more detailed epidemiological work to understand where clusters of the virus are occurring so that appropriate action can be taken.

#### Areas of enhanced support

- 21 For areas at medium/high risk of intervention where there is a more detailed plan, there will be increased national support, capacity and oversight, including additional resources deployed to augment the local teams. Actions taken may include significant additional widespread testing deployed to the local authority, local restrictions put in place to manage outbreaks and detailed engagement with high risk groups and sectors to help increase the effectiveness of testing and tracing in these areas. Bradford and Sheffield are currently at this level of risk.

#### Areas of intervention

- 22 Areas where there is significant spread, with a detailed action plan in place, local resources will be augmented with national support in certain instances, and decision-making will be referred to the national level. This includes cases where intervention is requested, more resources are required, where an outbreak has national implications, or local capabilities and controls are exceeded. Leicester is currently at this level of risk, with government intervention.
- 23 A summary of the key roles for managing outbreaks within an individual setting, within a local authority area, and which cross regional boundaries can be found in Appendix 6.

#### **Data and reporting**

- 24 Ongoing monitoring both locally and nationally is critical to help prevent, identify, monitor and contain outbreaks. There have been some significant issues around the local authorities receiving the data that is necessary for understanding the epidemiology of the virus and taking appropriate action.
- 25 Locally, the DPH receives information on cases from a range of sources, including PHE, Test and Trace and local intelligence. This is fed into the Local Health Protection Assurance Board on a weekly basis, which is then reported to CMT as appropriate. A dashboard has been developed locally to enhance local surveillance. Local authorities

will also be able to draw on information and resources provided by the Joint Biosecurity Centre (JBC) and PHE.

### **Local work**

- 26 Locally, Outbreak Control Teams (OCTs) have been briefed on action to be taken should an outbreak occur, and they report to the Local Health Protection Assurance Board.
- 27 The OCTs are working closely with the Communication Team to ensure that preventative measures are being delivered to high risk groups. A COVID-19 Communication Toolkit has been developed to provide all the information for staff and others to refer to as appropriate.
- 28 To ensure OCTs are prepared in the event of an outbreak, scenarios have been developed locally to work through situations that may occur.
- 29 This will be enhanced by the action cards published by the Government on 24<sup>th</sup> July 2020 which explain to consumer and industrial workplaces; food and drink establishments; and recreation and leisure establishments how to:
  - (a) Identify an outbreak: where they are informed of more than one confirmed case;
  - (b) Report the outbreak local health protection team: for help and advice; and
  - (c) Respond: working with the PHE HPT to assess the risk and determine the action to be taken.

### **Escalation**

- 30 The Government's approach to managing local outbreaks is in 5 parts, which can be scaled up rapidly as needed:
  - (a) Monitoring: The Joint Biosecurity Centre (JBC) and PHE examine data on the on a daily basis and local information is shared with the DPH for monitoring purposes.
  - (b) Engagement and communication: if any problems arise at a local level, the JBC and PHE will engage the relevant local authority to understand the problem and develop solutions. Early and effective communication with the local community is crucial.
  - (c) Testing: there is increased testing capacity at a national level which can be targeted at local areas and mass testing at a local level, combined with contact tracing through NHS Test and Trace, can support control the virus.

- (d) Local restrictions: if the virus continues to spread, either a local authority or the government can restrict activities.
- (e) National intervention: if measures have failed, the government can introduce further measures, such as shutting businesses, closing schools, and asking people to stay at home or restrict their movement. These measures will be tailored to the circumstances of each outbreak and reviewed at least every 2 weeks.

### **Options for regional or local intervention**

- 31 Providing options for intervention will enable control of the virus to be targeted appropriately and reduces the wider impacts of full lockdown. Decisions will be based on local data.
- 32 Local restrictions will supersede any national regulations in the local area. The precise geographical area to which the restrictions apply will be known as the 'protected area' and will be agreed by the government, following advice from the Joint Biosecurity Centre (JBC), PHE and the local authority.
- 33 Restrictions are likely to affect the following activities and places:
  - (a) Restrictions on leaving the place where a person lives, overnight stays, gatherings
  - (b) Closures of premises and businesses, including non-essential retail, hospitality, places of worship, community centres, crematoria (except for funerals or burials), tourism/holiday accommodation
  - (c) Restrictions on entering or leaving the protected area
  - (d) Restrictions on travel within or through the protected area
  - (e) Mandating the use of face coverings in a wider range of public places
- 34 In the case of county-wide restrictions, County Durham is a unitary authority area, so there are no county-district boundary issues to manage. DCC has established relationships with the local town and parish councils which exist in the county.
- 35 Cross boundary issues relate to neighbouring authorities, which given the settlement pattern and travel to work areas, principally relate to Gateshead, Sunderland and Darlington. Darlington is also part of the County Durham & Darlington Local Resilience Forum (LRF) area. DCC



has close working relationships with neighbouring authorities through the DPHs and with Northumbria and Cleveland LRFs.

## **Readiness for local restrictions**

### Governance arrangements

- 36 Monitoring, intelligence and risk assessment would be undertaken by established COVID-19 Local Health Protection Assurance Board (LHPAB) and the Outbreak Control Team (OCT) working with PHE.
- 37 Multi-agency liaison would be via the LRF and the LHPAB.
- 38 It is considered that the Council's Officer Scheme of Delegations for the Director of Neighbourhoods and Climate Change under Part 3, Table 6 paragraphs 25 (formally paragraph 87) and 29 (formerly paragraph 91) of the Constitution provides authority to discharge the functions under the Regulations. These powers are also delegated to the Head of Community Protection.
- 39 In addition, the Chief Executive has the power to carry out any executive function which is delegated to a particular Chief Officer in consultation with the relevant Cabinet Portfolio Members. As such in the absence of the Corporate Director of Neighbourhoods and Climate Change the powers sit with the Chief Executive.
- 40 It is suggested that the powers are also delegated to the remainder of the Corporate Management Team so that the Corporate Directors of Adults and Health Services, Children and Young People's Services, Regeneration, Economy and Growth and Resources will also have the authority to act under the Regulations. It is considered that this can be done as a further onward delegation from the Corporate Director of Neighbourhoods and Climate Change. Giving the delegation to the whole of Corporate Management Team will ensure that there is always a decision maker available where it becomes necessary to make a declaration.
- 41 Consideration has been given to whether it is necessary to extend the delegation to the Director of Public Health however, given the advisory function of the Director of Public Health within the Contain Framework it is not deemed to be appropriate.

### Local intelligence

- 42 An Intelligence and data cell is well established including the development of a local GIS 'heat map' for the county, which maps cases, high-risk settings and areas where restrictions have been lifted and public service operations restored/resumed. A local population

health management database is in place which identifies vulnerable individuals in the county.

### Communications

- 43 Dedicated communications capacity built into LHPAB and OCTs with multi-agency communications coordinated via LRF multi-agency media cell. DCC has established multi-channel communications infrastructure.

### Community support

- 44 Community support hub and volunteer infrastructure is in place.

### Priorities identified from other areas experience increased cases (Leicester, Blackburn and Darwin)

- 45 Enhanced testing to identify both symptomatic and asymptomatic cases – exhaustive case finding (based on targeted communities), immediate testing and isolation, robust contact tracing and rigorous quarantine of contacts; ‘enhanced in-reach’, taking tests to people in areas of high incidence.
- 46 Communications/community engagement group to support individuals and communities; close partnership working with stakeholders, including community groups; protect vulnerable residents.
- 47 Businesses in and around the area needing support, including testing.

### Enforcement

- 48 It is anticipated that the above actions will lead to voluntary cooperation across an area requiring restrictions. However, if this were not to happen, enforcement of the agreed restrictions may be required. The local authority already has certain legal powers of enforcement (Appendix 2).
- 49 The Government has given added powers to local authorities to contain and prevent the spread of COVID-19 (Appendix 3). These are described in the Government guidelines and provide a framework to support local authorities to take preventative action, which includes a range of additional powers that local leaders have, in particular the Chief Executive of the local authority, the DPH and the Head of Community Protection, to enforce decision-making and stop local transmission of the virus.
- 50 The Regulations came into force on 18 July 2020 and grant upper tier LAs in England new powers to respond to local outbreaks of coronavirus until 17 January 2021. The Regulations include powers for LAs to:

- (a) restrict access to, or close, individual premises;
- (b) prohibit certain events (or types of event) from taking place; and
- (c) restrict access to, or close, public outdoor places (or types of outdoor public places).

51 According to the Act, the local authority needs to be satisfied that ‘three conditions are met:

- (a) it responds to a serious and imminent threat to public health in the LA’s area;
- (b) it is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the LA’s area of coronavirus; and
- (c) the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.’

52 As a last resort, the Government can enforce restrictions if the previous sanctions have failed.

53 As set out at paragraph 38 the Head of Community Protection has delegated powers to act under the Regulations which would include enforcement where necessary.

### **Next Steps**

54 To ensure that we are fully prepared for an outbreak the new powers will need to be aligned with local plans for clarity of at what stage the local authority will trigger the restrictions and seek additional support nationally. The development of an escalation procedure for outbreaks will provide the guidance for decision-making, in line with the scheme of delegation, in the event of an outbreak detailing who makes the decision the issue a Direction and what level of officer will exercise what powers.

55 Enforcement powers only will be delegated to other officers (not just CMT members) e.g. EHOs. The Head of Community Protection already has the delegated authority to authorise ‘other’ officers.

### **Conclusion**

56 Lifting of many of the COVID-19 restrictions while the virus remains in community circulation inevitably means that there will be localised outbreaks. It is therefore critical that robust plans are in place locally to prevent widespread transmission of the virus.

- 57 The Government published guidance on 17 July 2020: COVID-19 contain framework: a guide for local decision-makers. It sets out how national and local partners will work with the public at a local level to prevent, contain and manage outbreaks.
- 58 Additional powers provided for local authorities through the Regulations came into force on 18 July 2020 and grant upper tier LAs in England new powers to respond to local outbreaks of coronavirus until 17 January 2021.
- 59 The local authority, through the governance of outbreak control; publication of the Outbreak Control Plan; development of Outbreak Control Teams; and scenario enactment is already well prepared for any outbreaks that may occur in county, however the new powers laid out in the legislation and regulations needs to be aligned with local plans.

### **Background papers**

- County Durham COVID-19 Local Outbreak Control Plan 14/07/20

### **Other useful documents**

None

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## **Appendix 1: Implications**

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### **Legal Implications**

The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 give new powers to respond to a public health threat caused by the incidence or spread of COVID-19. Local restrictions, when applied, will supersede whatever equivalent national restrictions may be in force in the relevant area. The local authority must notify the Secretary of State as soon as practical after the direction is given.

There is also existing legislation which can be used to manage outbreaks including Public Health (Control of Disease Act) 1984 [sections 45G, 45H and 45I]; Food Safety Act 1990 [section 12]; Food Safety and Hygiene (England) Regulations 2013 (SI 2013/2996) [Regulation 8]; The Health Protection (Local Authority Powers) Regulations 2010 (SI 2010/657) [Regulation 8]; Health and Safety at Work etc Act 1974.

### **Finance**

COVID-19 funding has been allocated to each local authority. The local authority is, through the Outbreak Control Plan, is responsible for the provision of support for those who need to self-isolate. The implementation of local restrictions will draw on this funding to ensure that the most vulnerable people are properly supported.

### **Consultation**

Any intervention and actions to address outbreaks of COVID-19 will be undertaken in partnership with local communities and based on engagement and informed consent, and the use of powers is to be avoided if possible.

### **Equality and Diversity / Public Sector Equality Duty**

The guidance and plans within this report enable the local authority to respond to a serious and imminent threat to public health and manage the effects of a coronavirus pandemic at a local level. The guidance and plans set out temporary measures designed at mitigating the spread of infection.

The impacts of implementing the guidance and plans are justified and a proportionate means of achieving the legitimate aim of protecting the general public from a coronavirus pandemic.

### **Climate Change**

None

## **Human Rights**

The implementation of any local restrictions may have an impact on Human Rights namely:

Article 8: Respect for private and family life, home and correspondence

Article 11: Freedom of assembly and association

Article 12: Right to marry and start a family

Protocol 1, Article 2: Right to Education

The impacts of implementing the guidance and plans are justified and a proportionate means of achieving the legitimate aim of protecting the general public from a coronavirus pandemic.

## **Crime and Disorder**

Implementation of any local restrictions may impact both positively and negatively on crime and disorder.

## **Staffing**

Outbreak Control Teams will manage and coordinate any outbreaks within the county.

## **Accommodation**

None

## **Risk**

Being able to act quickly to implement any necessary restrictions is imperative to protect the health of our local communities

## **Procurement**

None

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## **Appendix 2: Existing Powers to impose restrictions on settings and members of the public**

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Local leaders can draw on the existing powers set out below to enforce decision making. This list is intended as a guide, and not an exhaustive catalogue. Local authority legal departments will be best placed to advise on the use of such powers:

- Public Health (Control of Disease Act) 1984 [sections 45G, 45H and 45I]: local authorities can make an application to a Justice of the Peace in the Magistrates' Court to impose restrictions or requirements to close contaminated premises; close public spaces in the area of the local authority; detain a conveyance or movable structure; disinfect or decontaminate premises; or order that a building, conveyance or structure be destroyed.
- Food Safety Act 1990 [section 12]: the emergency powers in section 12 allow a local authority to close a food business if there is an imminent risk of injury to health (ie the 'health risk condition' as set out in the legislation is fulfilled).
- Food Safety and Hygiene (England) Regulations 2013 (SI 2013/2996) [Regulation 8]: local authorities in England could use the power to close a business by way of a Hygiene Emergency Prohibition Notice but only if the Regulations have not been followed and this in itself creates an imminent risk of injury to health
- The Health Protection (Local Authority Powers) Regulations 2010 (SI 2010/657) [Regulation 8]: local authorities have a limited power to request persons or groups of persons to do or refrain from doing anything by serving a notice for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to public health

In addition to the above powers, local authorities may also seek support from ministers to use powers under the Coronavirus Act 2020 to close schools or limit schools to set year groups attendance, to cancel or place restrictions on organised events or gatherings, or to close premises.

(the above information is taken from the Annex 2 of the Government's contain framework guide for local decision makers document

<https://www.gov.uk/government/publications/containing-and-managing-local-coronavirus-covid-19-outbreaks/covid-19-contain-framework-a-guide-for-local-decision-makers>)

In addition to the above powers cited in the Government guidance the Head of Community Protection Services highlights that the main focus of the Government in relation to COVID-19 compliance has been under the Health and Safety at Work etc Act 1974 (the 'HSAWA') as this covers all workplaces.

Depending on the enforcing authority as set out within the Health & Safety (Enforcing Authority) Regulations 1998 the Health & Safety Executive or the Community Protection service may be able to input to the risk assessment when a Health Protection Team is considering a cluster or a declared outbreak and will assist the Director of Public Health to understand whether the workplace is likely to be a source of infection transmission or whether they should be looking for other possible connections between the cases.

When dealing with social distancing and other measures to control the risk of the most common action taken is to give verbal advice to a business or to write a formal enforcement letter. This is in line with the proportionate application of the law; especially noting that, in terms of the personal health outcome for an infected worker, the consequence of infection is not normally serious and that none of the many guidelines on covid risk controls in the workplace have a statutory status.

Whilst under the HASWA, both the HSE and Local Authority have powers to stop activities which involve a risk of serious personal injury (Prohibition Notice) and to require improvements to risk control where there is a breach of the law (Improvement Notice). The minimum statutory period for compliance with an Improvement Notice is 21 days. Both enforcement agencies would be acting outside of the law if it used those powers to act on public health matters which are outside the purpose of HSWA.

In addition, for the sake of completeness, the powers under Sec 47 of the National Assistance Act 1948 can be utilised. Whilst this power is seldom used, given that there may be outbreaks within community settings it does offer the Local Authority power to remove to suitable premises any persons in need of care or attention.





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## **Appendix 3: The Health Protection (Coronavirus, Restrictions) (No.3) (England) Regulations 2020**

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The Health Protection (Coronavirus, Restrictions) (No.3) (England) Regulations 2020 came into force on 18 July 2020:

<https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

The Regulations give new powers to local authorities in England to respond to a public health threat caused by the incidence or spread of COVID-19.

The new regulations are additional to the Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 (the Restrictions Regulations), which remain in force (at the date of writing this document 28/07/20). These Regulations provide the basis for the lockdown as it still exists in England.

In general terms, the new regulations give local authorities in England new powers to do three things:

1. Regulation 4 (1) - Closing, or imposing restrictions on, specified premises

A local authority cannot give this direction in relation to premises or vessels listed in Regulation 4(3), which include “premises which include part of essential infrastructure”(see page 4 of the following document for a list of examples which would form part of essential infrastructure:

<https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

and “premises consisting of vehicles, trains, vessels or aircraft used for public transport or the carriage or haulage of goods.”

Before making this direction, a local authority “must have regard to the need to ensure that members of the public have access to essential public services and goods” (Regulation 4(4)).

Directions made under this regulation can impose restrictions on the number of people in the premises or the purposes for which a person is in the premises (Regulation 4(6)). Reasonable steps must be taken to give advance notice to the person carrying on business from those premises (Regulation 4(8)).

## 2. Regulation 5(1) - Prohibiting or restricting the holding of events in its area

Events include specified events (e.g. a specific concert) or events of a specified description (e.g. all concerts) (Regulation 5(2)). This form of direction can impose restrictions or requirements on both the owner or occupier of the premises for an event to which the direction relates and the organiser of the event itself (Regulation 5(3)).

As with premises, the local authority must take reasonable steps to give advance notice to the organiser of the event and, if different, the person who owns or occupies the premises for the event (Regulation 5(8)).

## 3. Regulation 6 (1) - Prohibiting or restricting access to public outdoor places

Similarly to Regulation 5(1), this power can be used to prohibit or restrict access to one place or a category of places. The local authority must clearly define the place or places (Regulation 6(3)) and take reasonable steps to give notice to anyone carrying on business from premises within that place or places (Regulation 6(4)(a)) and to those who own, occupy or are responsible for premises in that place or places (Regulation 6(4)(b)).

Regulation 7(3) creates an offence of entering a public outdoor place that has been the subject of a direction under regulation 6(1) without “reasonable excuse.” Reasonable excuse is defined in Regulation 7(4) in a similar way to definitions of the same phrase in previous Restrictions Regulations. “Reasonable excuse” includes entering the public outdoor place or places for work purposes or to gain access to premises or your home if it’s located on the place or places.

### Conditions on the use of powers

The powers described above are subject to the conditions in Regulation 2, including the following:

- Local authorities cannot make a direction under Regulations 4 to 6 unless they are satisfied that the following 3 conditions are met;

- The direction responds to a serious and imminent threat to public health in the Local Authority's area
  - The direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the Local Authority's area and
  - The prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose (Regulation 2(1))
- The restrictions must be reviewed every seven days and terminated if they no longer meet the necessary or proportionate requirements.
  - The local authority must have regard to "any advice" given by its director of public health (Regulation 2 (4)).

Regulations 4 to 6 also provide for a right of appeal to a Magistrates' Court against a direction by a local authority.

### Requirements for Local Authority Directions

#### **Public notice of directions**

When a direction is issued or revoked to a person specified by name the Local Authority must;

- Take reasonable steps to give advance notice of the direction.
- Issue the direction in the form of a written letter and/or email clearly stating the reason for invoking or revoking the direction. The date and time on which the prohibitions, requirement or restriction comes into effect and the date and time on which it will end.
- If the direction is made on the direction of the Secretary of State this should also be stated.
- Details of the right of appeal to a Magistrates court must also be given along with the time limit for any appeal.
- Where a restriction, prohibition or requirement will also impact upon other persons, the local authority should also publish in such a manner it considers appropriate, to bring it to the attention of those who may be affected by it.
- The direction must be published on the website and in any other manner that the Local Authority considers appropriate to bring it to the attention of those who may be affected.
- Any direction given by a local authority under these Regulations must specify the power under which the direction is given.

## **Notification of Direction to Secretary of State**

- When a direction is issued the Secretary of State must be notified as soon as possible and it is advised no longer than 24 hours after issuing. This should be done via test and trace.

## **Powers for the secretary of state**

Regulation 3 gives the secretary of state the power to direct a local authority to use its powers under Regulations 4(1), 5(1) and 6(1) if the secretary considers that the conditions in regulations 2(1) are met: that it is a necessary and proportionate response to a serious and imminent threat to public health.

The secretary of state must consult the chief medical officer, or one of their deputies, before making this direction. This contrasts with the lesser requirement on local authorities to only “have regard to any advice given to it by its director of public health.”

## **Enforcement**

A Local Authority designated officer may issue a prohibition notice to a person who contravenes a direction. The Regulations define a ‘Local Authority designated officer’ as ‘a person designated by a local authority for the purposes of this regulation’ (Regulation 12(9)(b)).

## **Offence**

Contravening a direction made by a local authority is an offence punishable by a fine, as is failure by an owner or occupier to take steps to prevent or restrict public access to their land in a public outdoor place or places subject to a local authority direction made under Regulation 6(1). A local authority designated officer may issue a Fixed Penalty Notice Regulation 14(12)(a). The FPN will be £100 for the first offence (reduced to £50 if paid within 14 days) up to a maximum of £3,200.

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## Appendix 4: Draft Options for Regional or Local Interventions

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The draft Regulations and explanatory note were published on 24 July 2020. The draft Regulations are intended to show example of the measures/restrictions that that could be implemented as and when needed if a serious and imminent threat to health exists relating to coronavirus transmission. The exact approach to regulating will vary from place to place subject to the specific circumstances in the area. Ministers also have the power to close outdoor public places when there is an imminent threat under the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020.

The draft Regulations set out a menu of options available to ministers which could be deployed in the circumstances. The intention is that the powers should be used to enable targeted local and regional action but would still allow restrictions to be imposed nationally if that became necessary.

The draft Regulations can be found here:

<https://www.gov.uk/government/publications/draft-options-for-regional-or-local-coronavirus-interventions>

Local restrictions, when applied, will supersede whatever equivalent national restrictions may be in force in the relevant area.

The non-exhaustive list of options includes;

- Restrictions on leaving the place where the person lives
- Restrictions on overnight stays
- Restrictions on gatherings
- Closures of premises and businesses
- Closures of non-essential retail
- Closures of hospitality
- Closures of places of worship
- Closures of community centres
- Closures of crematoria expect for funerals or burials where only those permitted should attend
- Closure of businesses providing holiday accommodation
- Restrictions on entering or leaving the protected area
- Restrictions on travel within or through the protected area
- Mandating the use of face coverings in a wider range of public places

The draft Regulations retain the enforcement powers that have been included in national and local Regulations to date. These include powers to direct, disperse and remove as well as the creation of an offence, punishable by a fine, for those who contravene a requirement in the regulations without a reasonable excuse, or who contravene a direction, reasonable instruction or prohibition notice given by police or other designated officers, or who obstruct an person carrying out a function under the regulations without reasonable excuse.

Next steps are noted as follows;

‘The government recognises the key role of Parliament in scrutinising and approving the government’s legislative response to the coronavirus pandemic. Owing to the nature of the pandemic, the government has had to act urgently and at pace. This has necessitated the use of the ‘made affirmative’ emergency procedure when making regulations on many occasions to date, so that they take immediate or near-immediate effect (prior to Parliamentary scrutiny of the detail of the regulations).

Publishing these regulations in draft should facilitate Parliamentary scrutiny, and give others the opportunity to consider how we may legislate in response to local outbreaks. The draft options may be amended over time as it becomes clear which potential interventions are most effective, any new measures that may be employed, and any further non-pharmaceutical interventions devised to respond to the virus.

In order to control the virus effectively, it is imperative that we are able to move at pace to impose the necessary restrictions as quickly as possible. Therefore, we expect that we may again need to make use of emergency procedures when making regulations, but would do so only where the situation demands it. Parliament would then scrutinise and approve those regulations in the usual way, under the requirements and approved processes of the 1984 Act.’

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## Appendix 5: Key Roles for Managing Outbreaks within an individual setting, within a local authority area, and which cross regional boundaries

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Level	Decision-maker(s)	Coordination, advice and engagement
Individual setting (for example restaurant, school, factory)	Setting owner – with appropriate support.	
May vary depending if the setting is deemed a setting of national significance.	PHE (local health protection teams) Director of Public Health NHS Test and Trace and PHE setting specific action cards	
Within a local authority area	Decisions may be taken by the chief executive, Director of Public Health or Head of Environmental Health	COVID-19 Health Protection Board (including NHS, faith, community partners, PHE)  Local Strategic Co-ordination Group  Local Outbreak Control Board or other political oversight bodies
Regional (cross-boundary)	N/A – agreed cross-boundary decisions will be implemented at local authority level	Local resilience forums (LRFs)  Mayoral and combined authorities  Integrated care systems  Regional health directors (PHE and NHS)

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## **Appendix 6: Government Enforcement of Restrictions**

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To address more serious and wider-spread cases, ministers will be able to use their existing powers (under the Public Health (Control of Disease) Act 1984) to implement more substantial restrictions (regulations would be produced – and approved by Parliament – on a case-by-case basis) which could include:

- closing businesses and venues in whole sectors (such as food production or non-essential retail), or within defined geographical areas (such as towns or counties)
- imposing general restrictions on movement of people (including requirements to 'stay at home', or to prevent people staying away from home overnight stays, or restrictions on entering or leaving a defined area)
- imposing restrictions on gatherings – limiting how many people can meet and whether they can travel in and out of an area to do so
- restricting local or national transport systems – closing them entirely, or introducing capacity limits or geographical restrictions
- mandating use of face coverings in a wider range of public places.

## **Appendix 7: Proposed Application Form and Decision Record for Directions under the Health Protection (Coronavirus, Restrictions)(England) (No.3) Regulations 2020**

### **Application Form and Decision Record for Directions under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020**

This document is to be used as an Application for and subsequent decision record for directions required under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 (“the Regulations”) which can be found here;

<https://www.legislation.gov.uk/uksi/2020/750/contents>

The purpose of the Regulations is to grant Local Authorities powers to respond to a serious and imminent threat to public health and to prevent COVID-19 (“coronavirus”) transmission in a Local Authority’s area where it is necessary and proportionate to manage spread of coronavirus in the Local Authority’s area. The Government’s statutory guidance document can be found here;

<https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

### **PART A**

Public Authority		Reference No.	
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Name of Applicant		Department	
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**Detail of Direction/s being sought**

*Describe the circumstances and evidence which justify making this Direction, e.g. due to a cluster of cases linked to it/ the number of people who may otherwise visit it, etc. if this is clear and easy to frame. This is intended to provide evidence of and justification for the decision-making*

Include detail of what the Direction requires. Include full details of geographical location, full address, premises name and greater detail where relevant. Refer to pages 4 to 10 of the statutory guidance for detail.

**a. Regulation 4 (1) - Closing, or imposing restrictions on, specified premises**

Include detail of what the Direction requires;

- i. closure of premises
- ii. restricted access (explain nature of restriction provide detail so as to exclude purpose if appropriate and/or class or number of people)
- iii. restrictions in relation to the location of persons in the premises as follows;
  - identify nature of restrictions and whether relevant to only a class of people as opposed to everyone and
  - list as many as required.

The Regulations prohibit the Local Authority to make Directions in relation to premises which form part of essential infrastructure – see page 5 & 6 of the statutory guidance for a list of examples of essential infrastructure. The list is none exhaustive and Local Authority’s should use discretion to consider whether premises could be considered essential local or national infrastructure before issuing a Direction.

Include detail of proposed timing and duration of Direction.

Confirmation that the premises is not considered part of essential infrastructure

**b. Regulation 5(1) - Prohibiting or restricting the holding of events in its area**

**Include detail of what the Direction requires;**

- i. Prohibits the Event/s. Identify if this is limited: whether being held at all/ at a particular venue/ in a particular manner, etc and**
- ii. Restricts entry/access to the Event[s] in relation to: [the number of people, areas, type of people where cross-references to bullet point above, provide further detail if required]; [and]**
- iii. Secure restrictions for the Event[s] in relation to: [place, (detail where cross references with above and where there is linkage with premises/business/spaces.**

**Include detail of proposed timing and duration of Direction.**

**c. Regulation 6 (1) – Prohibiting or restricting access to public outdoor spaces**

**Include detail of what the Direction requires;**

- i. Prohibits the use/entry of the Place(s) [*delete as appropriate*] [*for - identify a particular purpose if relevant*]; [and]**
- ii. Prohibits or restricts the entry/access to the Place(s) in relation to: [*describe restrictions e.g. in relation to specific areas, people*]; [and]**
- iii. Secures restrictions in relation to the Place(s): [*provide detail as to any specific restrictions – e.g. in relation to number of persons*].**

**Include detail of proposed timing and duration of Direction.**

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<b>Evidence to demonstrate that the 3-stage test has been met</b>
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<b>In order to make a Direction under the Regulations the Local Authority must be satisfied that the following 3 conditions have been met. Such evidence may come from a range of sources including the Local Resilience Forum, NHS Test and Trace (including the Joint Biosecurity Centre), Public Health England and other sources. Set out detail of how each test has been met along with supporting evidence where necessary.</b>
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- |  |
|--|
| <b>1. The Direction responds to a serious and imminent threat to public health in the Local Authority's area</b> |
|--|

**2. The Direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the Local Authority's area of coronavirus**

**3. The prohibitions, requirements or restrictions imposed by the Direction are a proportionate means of achieving that purpose**



--

<b>Consultation with the Director of Public Health</b>
<b>A Local Authority <u>must</u> consult with the Director of Public Health and assess whether the conditions for taking action have been met, regard must be given to any advice given prior to a Direction being issued.</b>
Has consultation with the Director of Public Health taken place <input type="checkbox"/> yes <input type="checkbox"/> no
If yes, date on which consultation took place .....
<b>Details of advice given by the Director of Public Health including description of how regard has been given to the advice</b>

**Consultation with Police**

**A Local Authority should also consult with the police prior to issuing a Direction and any neighbouring police forces if the Direction prohibits, requires or restricts access to a premise, event or public outdoor space that is situated against a Local Resilience Forum boundary.**

Has consultation with the police taken place  yes  no

If yes, date on which consultation took place .....

If no, reason why consultation not deemed appropriate or necessary;

**Details of any relevant information or advice provided by the police.**

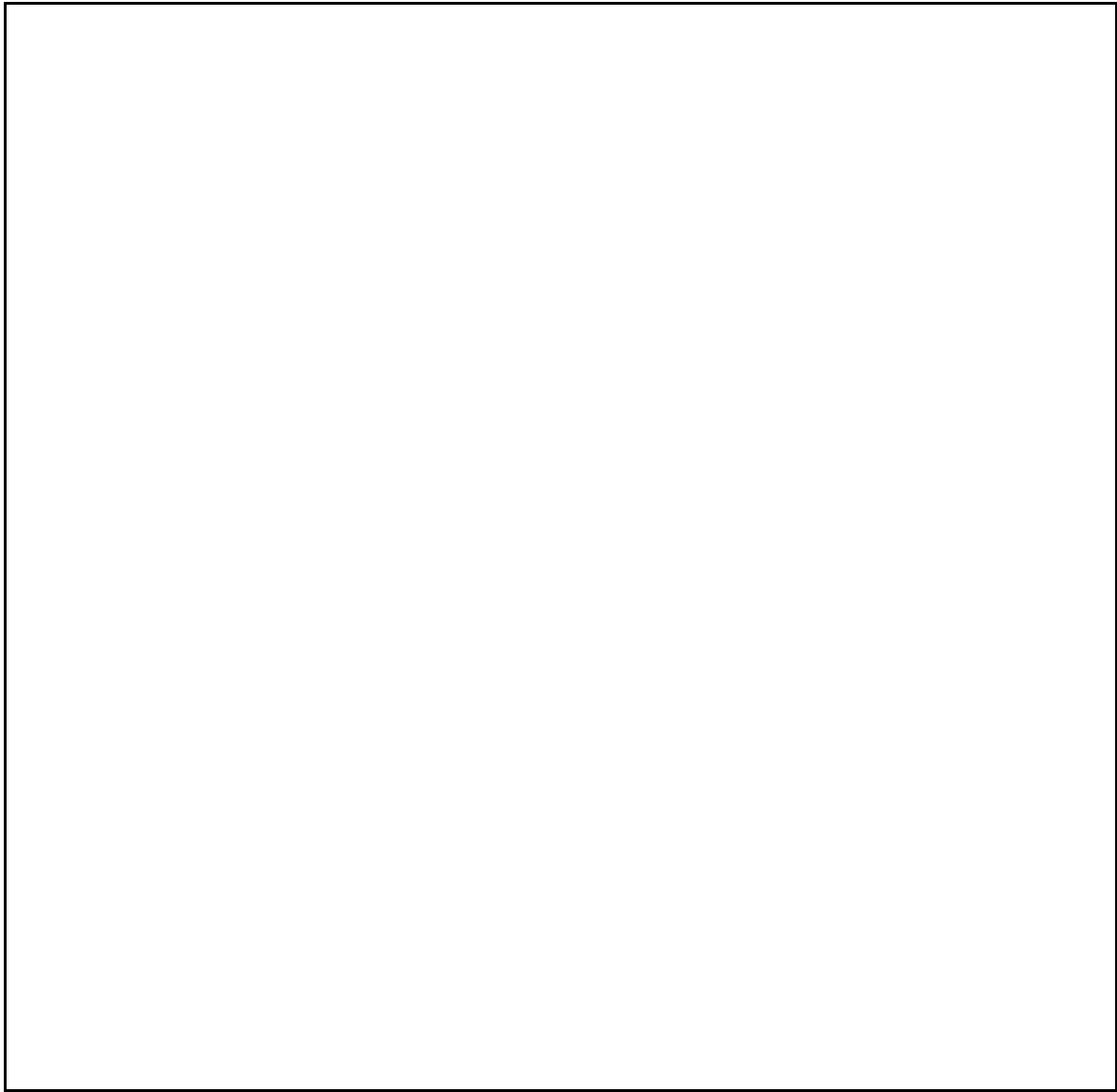
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**Public Sector Equality Duty**

**Prior to issuing a Direction, Local Authority's must have regard to the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. A determination must be made as to whether the proposed measure/s may disproportionality affect people with protected characteristics.**

**Provide details of consideration given to the PSED including details of the equalities impact assessment.**

--



Signature of Applicant .....

Date of Application .....

Date of consideration by Chief Officer .....

Signature of Chief Officer .....

**This document once signed by the Chief Officer will serve as the decision record for the making of any Direction/s under the Regulations. Once authority has been given for the making of the Direction Part B of the form must be completed.**

**Application Form and Decision Record for Directions under the  
Health Protection (Coronavirus, Restrictions) (England) (No.3)  
Regulations 2020**

**PART B**

**Issuing the Direction**

**Under the Regulations the Direction must contain the following information;**

**The date and time on which the prohibition, requirement or restriction comes into effect.**

**The date and time on which it will end**

**The basis on which the three conditions are met and why a specific prohibition, requirement or restriction is necessary**

**Template Directions for Directions made under Regulation 4(1) 5(1) and 6(1) can be found in the attached appendices.**

Detail of the Direction/s made (attach copy of the Direction issued)

Date on which Direction/s is issued

.....

**Notification and publication Requirements**

The statutory guidance sets out detail of the notification and publication requirements upon making a Direction. There are template letters/notifications to be used to provide the notifications set out below.

a. **Secretary of State**

Where a Direction is issued the Local Authority should notify the Secretary of State via NHS Test and Trace as soon as possible after making the Direction and this should be done no longer than 24 hours after issue. Notifications should be emailed to [directonnotification@dhsc.gov.uk](mailto:directonnotification@dhsc.gov.uk) marked for the attention of the appropriate regional team.

Date of notification to Secretary of State

.....

Confirmation that the notification was given no longer than 24 hours after issue

**b. Notifications for specific Directions**

**Provide detail of notifications provided for Directions specified below.**

**Where a Direction is issued to a person specified by name notification must be provided in writing to that person and the Local Authority should take reasonable steps to give advance notice of the Direction.**

**All notifications must set out the rights of appeal (see template letters/notifications).**

**Directions concerning premises Regulation 4(1)**

**Notification must be given to both a person carrying on a business from the premises to which the direction relates and any person who owns or occupies the premises. Include details of all notifications given including dates.**



Was advance notice given of the issue of the Direction

yes

no

If no, detail of why it was not possible to give advance notice

**Directions concerning events Regulation 5(1)**

**Notification must be given to both the organiser of the event and any person who owns or occupies the premises for the event if different. Include details of all notifications given including dates.**

Was advance notice given of the issue of the Direction

yes

no

If no, detail of why it was not possible to give advance notice

**Directions concerning public outdoor spaces Regulation 6 (1)**

**Notification must be published on the Council's website and further measures should be considered as appropriate including notices at or near the area being closed, social media posts, press notices and notices on arterial roads. Include details of all notifications including dates published.**

**c. Neighbouring Local Authorities**

**Notification must be given to neighbouring Local Authorities that may be impacted as a result of the Direction.**

Details of neighbouring Local Authorities that may be impacted by the Direction/s

Date of notification to Neighbouring Authorities impacted by the Direction/s

.....

**d. Impact on other persons**

**Where a restriction, prohibition or requirement will also impact upon other persons, the Local Authority should also publish the Direction in such a manner it considers appropriate to bring it to the attention of those who may be affected by it.**

Date of notification to person/s impacted by the Direction

.....

Manner of notification to person/s impacted by the Direction

.....

**e. Publication on the website**

**Where a Direction has not specified a person by name it must be published on the Council's website and may be published in such manner as the Local Authority considers appropriate to bring to the attention of those who may be affected by it.**

Date of publication of the Direction on the Council's website

.....

Details of additional publication including emails sent, social media posts, press notices or notices on arterial roads (note that such publication must be reasonable and proportionate)

**Review requirements**

**Once issued a Local Authority must review a Direction/s at least every seven days and determine whether the three conditions for making the Direction continue to be met.**

**Review 1**

Date .....

Details of review

Does the Direction/s continue to be necessary and proportionate  yes  no

**Review 2**

Date .....

Details of review

Does the Direction/s continue to be necessary and proportionate  yes  no

**Review 4**

Date .....

Details of review

Does the Direction/s continue to be necessary and proportionate  yes  no

### **Revocation**

**Where it is determined that the threshold for restrictions is no longer met the Direction should be immediately revoked or replaced with a direction which meets the threshold. Consultation with the Director of Public Health must take place before any Direction is revoked.**

**Details of review resulting in decision to revoke or amend the Direction.**

Has consultation with the Director of Public Health taken place  yes  no

If yes, date on which consultation took place .....

**Details of advice given by the Director of Public Health including description of how regard has been given to the advice**

<b>Date of revocation of Direction</b>  .....

**Appendix one**

**[HEADER AS APPROPRIATE INDICATING WHICH COUNCIL/ADDRESS]**

Ref: *[insert]*

Date: *[insert]*

**DIRECTION (INDIVIDUAL PREMISES)**

**THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750)[\[1\]](#), REGULATION 4(1)**



*[insert number if this is not the first Direction given to the addressee and make it clear if it replaces a previous Direction what number Direction that is.]*

1. *[insert name of LOCAL AUTHORITY]* (“the Authority”), in exercise of the powers conferred by regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020<sup>[2]</sup> (“the No. 3 Regulations”), gives the following direction.
  - a. this direction responds to a serious and imminent threat to public health;
  - b. this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
  - c. the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose.<sup>[3]</sup>
  
2. **[OPTION 1 – use paragraphs 2 and 3 where the Authority has not been directed to make this direction by the Secretary of State under regulation 3(1)]**The Authority considers that the following conditions are met—
  - a. any advice given to it by its [[Director of Public Health]/[Interim/Acting Director of Public Health] *delete as appropriate*]; and
  - b. the need to ensure that members of the public have access to essential public services and goods (including whether the individual premises forms part of essential infrastructure).
  
3. Before giving this Direction, the Authority has had regard to—
  - a. any advice given to it by its [[Director of Public Health]/[Interim/Acting Director of Public Health] *delete as appropriate*]; and
  - b. the need to ensure that members of the public have access to essential public services and goods (including whether the individual premises forms part of essential infrastructure).
  
4. **[Option 2 – delete paragraphs 2 and 3 and retain this paragraph where the Authority is being directed by the Secretary of State to make this direction under regulation 3(1) of the No 3 Regulations, but otherwise delete]** The Authority has been directed by the Secretary of State under regulation 3(1) of the No 3 Regulations to give this direction.<sup>[4]</sup>
  
5. The Authority has taken reasonable steps to give advance notice of this direction to *[delete as appropriate/ specify who the authority has tried to give notice to - a person carrying on/managing a business from the premises to*

which the direction relates / [if different] any person who owns or occupies the premises].

## DIRECTION

### Person and premises

6. This Direction is given to [*insert name of person and address*] who is [the owner or any occupier of the premises to which the direction relates / any other person involved in managing entry into, or departure from, the premises or location of persons in the premises – *provide detail and delete as appropriate.*]
  
7. This Direction is given in respect of [*identify the individual premises subject to the direction, including full street address or greater detail where relevant*] (“the Premises”).

### Directed actions

8. This Direction requires the following:[*delete following options as appropriate*]<sup>[5]</sup>
  - a. Closure of the Premises;
  - b. Restricted entry to the Premises [*explain nature of restriction, provide detail so as to exclude purpose if appropriate, and/or class or number of people*]; [and/or]
  - c. Restrictions in relation to the location of persons in the Premises as follows:
    - i. [*identify nature of restrictions and whether relevant to only a class of people as opposed to everyone*]; [and<sup>[6]</sup> - *delete this footnote*]
    - ii. [*list as many as required*].

### Timing and duration of direction

9. Any actions required to put into effect the restrictions set out in paragraph 6 must be undertaken by [*insert **date and time***] when the [*prohibition, requirement or restriction*] come(s) into effect. The restrictions set out in paragraph 6 have effect until [*insert **date and time on which it will end***].
  
10. In accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this Direction at least once every seven days. If the Authority considers that one or more of the conditions in regulation 2(1) are no longer

met in relation to the Direction, it will either be revoked without replacement or revoked and replaced with another direction.

### **[Optional] Grounds for Direction**

11. This Direction is given on the basis that: *[Describe the circumstances and evidence which justify making this Direction, e.g. due to a cluster of cases linked to it/ the number of people who may otherwise visit it, etc. if this is clear and easy to frame. This is intended to provide evidence of and justification for the decision-making.]*.

### **Consequences of not meeting the requirements of the Direction**

12. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice<sup>[7]</sup> or Fixed Penalty Notice<sup>[8]</sup> against you or may commence criminal proceedings against you.

13. A person commits an offence if, without reasonable excuse, the person:<sup>[9]</sup>
  - contravenes a direction under regulation 4(1); or
  - obstructs a person carrying out a function under the No. 3 Regulations, including any local authority designated officer under regulation 12 or a constable.

Such an offence is punishable on summary conviction by an unlimited fine.

### **Appeal/representations**

14. If you believe that this Direction should not have been issued, and/or it contains incorrect information, please inform the specified point of contact set out below, setting out your reason(s).

15. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.<sup>[10]</sup> There is a time limit of **up to six months from the date of issue of this Direction to appeal to the Magistrates' Court**. However, bear in mind that this Direction will be reviewed by the Authority at least every seven days and it will decide whether to revoke this Direction or revoke and replace it with another direction.<sup>[11]</sup>

16. You also have the right to make representations to the Secretary of State about this Direction.<sup>[12]</sup> The Secretary of State must consider any such

representations as soon as is reasonably practicable, and decide whether it would be appropriate to exercise the Secretary of State's powers set out in regulation 3 of the No. 3 Regulations. The Secretary of State may direct the Authority to revoke this Direction, or revoke and replace this Direction. The Secretary of State must provide written reasons for the decision to the person who made the representations and to the Authority.

17. In making any representations to the Secretary of State about this Direction, the recipient of the Direction should do this via NHS Test and Trace, with representations emailed to [directionnotification@dhsc.gov.uk](mailto:directionnotification@dhsc.gov.uk). This should include:
- a. The name of the Authority;
  - b. The reference [code/number] listed at the top of this Direction;
  - c. The link to this Direction as noted in paragraph [20 – *remove if not required*] below;
  - d. An explanation as to how you have been impacted by the Direction and their relationship to the premises, such as whether you are the owner, occupier or involved in managing entry into, or departure from, the Premises, as set out in Regulation 4(5) of the No.3 Regulations;
  - e. An explanation of the basis upon which the Direction should not have been made and was or is not appropriate, with reference to the conditions set out in Regulation 2(1) / paragraph 2 of this Direction;
  - f. Any evidence which supports this contention; and
  - g. What action you would like to be taken.

**18. You are still required to comply with this direction pending the outcome of any appeal to the magistrates' court or the Secretary of State.**

19. You may wish to obtain independent legal advice should you seek to pursue an appeal.

### **Additional powers and requirements that accompany this Direction**

#### **Publication**

20. [Use this paragraph if this Direction has not specified a person by name] This Direction (and notice of revocation of this direction) is published on the

Authority's website as required by the No. 3 Regulations [*optional: you could provide a link to your website*].[\[13\]](#)

21. This Direction may also be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it. [*optional: describe how the Authority is doing this*]

#### Notification

22. The Authority is required to notify any [*local authority, district council, area of a council in Scotland or county borough council in Wales – delete as appropriate*] whose area is adjacent to the initiating authority's area [*if the Authority is a London borough council: and every other London borough council*] of this Direction (and any revocation of the Direction) by the No. 3 Regulations[\[14\]](#). [*Optional: note any LAs which have been contacted in complying with this.*]

23. The Authority is required to notify the Secretary of State as soon as reasonably practicable after the Direction is given.

[insert name]

[insert position]

[insert team]

**As authorised by** [Name of person, job title and the name of the local authority]



**Appendix two**

***[HEADER AS APPROPRIATE INDICATING  
WHICH COUNCIL/ADDRESS]***

Ref: *[insert]*

Date: *[insert]*

## DIRECTION (EVENTS)

### THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750)[\[15\]](#), REGULATION 5(1)

*[insert number if this is not the first Direction given to the addressee and make it clear if it replaces a previous Direction what number Direction that is.]*

24. *[insert name of LOCAL AUTHORITY]* (“the Authority”), in exercise of the powers conferred by regulation 5(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020[\[16\]](#) (“the No. 3 Regulations”), gives the following Direction in relation to events.
25. **[OPTION 1 – use paragraphs 2 and 3 where the Authority has not been directed to make this direction by the Secretary of State under regulation] 3(1)**The Authority considers that the following conditions are met—
- d. this direction responds to a serious and imminent threat to public health;
  - e. this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
  - f. the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose.[\[17\]](#)
26. Before giving this Direction, the Authority has had regard to—
- c. any advice given to it by its *[[Director of Public Health]/[Interim/Acting Director of Public Health] delete as appropriate]*; and
  - d. the need to ensure that members of the public have access to essential public services and goods (including whether the individual premises forms part of essential infrastructure).



27. [Option 2 – delete paragraphs 2 and 3 and retain this paragraph where the Authority is being directed by the Secretary of State to make this direction under regulation 3(1) of the No 3 Regulations, but otherwise delete] The Authority has been directed by the Secretary of State under regulation 3(1) of the No 3 Regulations to give this direction.[\[18\]](#)

28. The Authority has taken reasonable steps to give advance notice of this direction to [*delete as appropriate / specify who the authority has tried to give notice to* - a person who is (a) the organiser of the event; and (b) if different, any person who owns or occupies the premises for the event to which the direction relates], further to regulation 5(8) of the No.3 Regulations.

## DIRECTION

### Person and event

29. This Direction is given to [*insert name of person and address*] who is [the owner or any occupier of premises for an event to which the direction relates / the organiser of such an event, and/or any other person involved in holding such an event – *provide detail and delete as appropriate.*]

30. This Direction is given in respect of [a specified event/events of a specified description – *please describe the event*] (“the Event” or “the Events” – *delete as appropriate*).[\[19\]](#)

### Directed actions

31. This Direction requires the following [*delete following options as appropriate*]:

- a. Prohibits the Event[s] [*identify if this is limited: whether being held at all/ at a particular venue/ in a particular manner, etc.*] [and]
- b. Restricts entry/access to the Event[s] in relation to: [*the number of people, areas, type of people where cross-references to bullet point above, provide further detail if required*]; [and]
- c. Secure restrictions for the Event[s] in relation to: [*place, (detail where cross references with above and where there is linkage with premises/business/spaces*]; [and[\[20\]](#) - *delete this footnote*]
- d. [*optional*: Requires you to inform persons who may be planning to attend the Event(s) of any prohibitions, requirements or restrictions imposed in relation to the holding of it [*provide details of those requirements if applicable*].][\[21\]](#)

### **Timing and duration of direction**

32. Any actions required to put into effect the restrictions set out in paragraph 6 must be undertaken by *[insert **date and time**] when the prohibition, requirement or restriction comes into effect*. The restrictions set out in paragraph 2 have effect until *[insert **date and time on which it will end**]*.

33. In accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this Direction at least once every seven days. If the Authority considers one or more criteria in regulation 2(1) no longer apply in relation to the Direction, it will either be revoked without replacement or revoked and replaced with another direction.

### **[Optional] Grounds for Direction**

34. This Direction is given on the basis that: *[Describe the circumstances and evidence which justify making this Direction, e.g. due to a cluster of cases linked to it/ the number of people who may otherwise visit it, etc. if this is clear and easy to frame. This is intended to provide evidence of and justification for the decision-making.]*.

### **Consequences of not meeting the requirements of the Direction**

35. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice<sup>[22]</sup> or Fixed Penalty Notice<sup>[23]</sup> against you or may commence criminal proceedings against you.

36. A person commits an offence if, without reasonable excuse, the person:<sup>[24]</sup>

- contravenes a direction under regulation 5(1); or
- obstructs a person carrying out a function under the No. 3 Regulations, including any local authority designated officer under regulation 12 or a constable.

Such an offence is punishable on summary conviction by an unlimited fine.

### **Appeal/representations**

37. If you believe that this Direction should not have been issued, and/or it contains incorrect information, please inform the specified point of contact set out below, setting out your reason(s).

38. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.[\[25\]](#) There is a time limit of **up to six months from the date of issue of this Direction to appeal to the Magistrates' Court**. However, bear in mind that this Direction will be reviewed by the Authority at least every seven days and it will decide whether to revoke this Direction or revoke and replace it with another direction.[\[26\]](#)
39. You also have the right to make representations to the Secretary of State about this Direction.[\[27\]](#) The Secretary of State must consider any such representations as soon as is reasonably practicable, and decide whether it would be appropriate to exercise the Secretary of State's powers set out in regulation 3 of the No. 3 Regulations. The Secretary of State may direct the Authority to revoke this Direction, or revoke and replace this Direction. The Secretary of State must provide written reasons for the decision to the person who made the representations and to the Authority.
40. In making any representations to the Secretary of State about this Direction, the recipient of the Direction should do this via NHS Test and Trace, with representations emailed to [directionnotification@dhsc.gov.uk](mailto:directionnotification@dhsc.gov.uk). This should include:
- h. The name of the Authority;
  - i. The reference [code/number] listed at the top of this Direction;
  - j. The link to this Direction as noted in paragraph [20 – *remove if not required*] below;
  - k. An explanation as to how you have been impacted by the Direction and their relationship to the Event[s], such as whether you are the owner or occupier of premises for the Event[s], the organiser of the Event[s] or any other persons involved in holding such the Event[s], as set out in Regulation 5(3) of the No.3 Regulations;
  - l. An explanation of the basis upon which the Direction should not have been made and was or is not appropriate, with reference to the conditions set out in Regulation 2(1);
  - m. Any evidence which supports this contention; and
  - n. What action you would like to be taken.
- 41. You are still required to comply with this direction pending the outcome of any appeal to the magistrates' court or the Secretary of State.**
42. You may wish to obtain independent legal advice should you seek to pursue an appeal.

## **Additional powers and requirements that accompany this Direction**

### Publication

43. *[Use this paragraph if this Direction has not specified a person by name]* This Direction (and notice of revocation of this direction) is published on the Authority's website as required by the No. 3 Regulations *[optional: you could provide a link to your website]*.[\[28\]](#)

44. This Direction may also be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it. *[Optional: describe how the Authority is doing this]*

### Notification

45. The Authority is required to notify any *[local authority, district council, area of a council in Scotland or county borough council in Wales – delete as appropriate]* whose area is adjacent to the initiating authority's area *[if the Authority is a London borough council: and every other London borough council]* of this Direction (and any revocation of the Direction) by the No. 3 Regulations[\[29\]](#). *[Optional: note any LAs which have been contacted in complying with this.]*

46. The Authority is required to notify the Secretary of State as soon as reasonably practicable after the Direction is given.

[insert name]

[insert position]

[insert team]

**As authorised by** [Name of person, job title and the name of the local authority]



## **Appendix three**

**[HEADER AS APPROPRIATE INDICATING  
WHICH COUNCIL/ADDRESS]**

Ref: *[insert]*

Date: *[insert]*

## **DIRECTION (PUBLIC OUTDOOR PLACES)**

**THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND)  
(NO. 3) REGULATIONS 2020 (No.2020/750)[\[30\]](#)&[\[31\]](#), REGULATION 6(1)**

*[insert number if this is not the first Direction given to the addressee and make it clear if it replaces a previous Direction what number Direction that is.]*

47. *[insert name of LOCAL AUTHORITY]* (“the Authority”), in exercise of the powers conferred by regulation 6(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020[\[32\]](#) (“the No. 3 Regulations”), gives the following direction in relation to public outdoor places.

**48. [OPTION 1 – use paragraphs 2 and 3 where the Authority has not been directed to make this direction by the Secretary of State under regulation 3(1)]**The Authority considers that the following conditions are met—

- g. this direction responds to a serious and imminent threat to public health;
- h. this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
- i. the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose.[\[33\]](#)

49. Before giving this Direction, the Authority has had regard to—
- e. any advice given to it by its [[Director of Public Health]/[Interim/Acting Director of Public Health] *delete as appropriate*]; and
  - f. the need to ensure that members of the public have access to essential public services and goods (including whether the individual premises forms part of essential infrastructure).

**50. [Option 2 – delete paragraphs 2 and 3 and retain this paragraph where the Authority is being directed by the Secretary of State to make this direction under regulation 3(1) of the No 3 Regulations, but otherwise delete]** The Authority has been directed by the Secretary of State under regulation 3(1) of the No 3 Regulations to give this direction.[\[34\]](#)

51. The Authority has taken reasonable steps to give advance notice of this direction to [*delete as appropriate / specify who the authority has tried to give notice to: a person carrying on a business from the premises within a public outdoor space to which the direction relates / if different, any person who owns, occupies or who is responsible for any land or premises in a public outdoor space to which the direction relates*], further to Regulation 6(4) of the No.3 Regulations.

## DIRECTION

### Person and public outdoor place

52. This Direction is given in respect of [identify public outdoor place(s)] “the Place” or “the Places”). [\[35\]](#) - *delete this footnote* [You must describe the public outdoor place or places to which the direction relates in sufficient detail to enable the boundaries of the place or places to be determined.]

### Directed actions

53. This Direction [*delete as appropriate*]:
- a. Prohibits the use/entry of the Place(s) [*delete as appropriate*] [for - *identify a particular purpose if relevant*]; [and]
  - b. Prohibits or restricts the entry/access to the Place(s) in relation to: [*describe restrictions e.g. in relation to specific areas, people*]; [and[\[36\]](#)]



- c. Secures restrictions in relation to the Place(s): *[provide detail as to any specific restrictions – e.g. in relation to number of persons in the ]*.

### **Timing and duration of direction**

54. Any actions required to put into effect the restrictions set out in paragraph 6 must be undertaken by *[insert **date and time**] when the prohibition, requirement or restriction comes into effect*. The restrictions set out in paragraph 6 have effect until *[insert **date and time on which it will end**]*.

55. In accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this Direction at least once every seven days. If the Authority consider one or more criteria in regulation 2(1) no longer apply in relation to the Direction, it will either be revoked without replacement or revoked and replaced with another direction.

### **[Optional] Grounds for Direction**

56. This Direction is given on the basis that: *[Describe the circumstances and evidence which justify making this Direction, e.g. due to a cluster of cases linked to it/ the number of people who may otherwise visit it, etc. if this is clear and easy to frame. This is intended to provide evidence of and justification for the decision-making.]*.

### **Consequences of not meeting the requirements of the Direction**

57. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice<sup>[37]</sup> or Fixed Penalty Notice<sup>[38]</sup> against you or may commence criminal proceedings against you.

58. A person commits an offence if, without reasonable excuse, the person:<sup>[39]</sup>

- Being a person who owns, occupies or is responsible for land in the Place[s] contravenes a direction under regulation 6(1); or
- obstructs a person carrying out a function under the No. 3 Regulations, including any local authority designated officer under regulation 12 or a constable.

Such an offence is punishable on summary conviction by an unlimited fine.

### **Appeal/representations**

59. If you believe that this Direction should not have been issued, and/or it contains incorrect information, please inform the specified point of contact set out below, setting out your reason(s).
60. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.[\[40\]](#) There is a time limit of **up to six months from the date of issue of this Direction to appeal to the Magistrates' Court**. However, bear in mind that this Direction will be reviewed by the Authority at least every seven days and it will decide whether to revoke this Direction or revoke and replace it with another direction.[\[41\]](#)
61. You also have the right to make representations to the Secretary of State about this Direction.[\[42\]](#) The Secretary of State must consider any such representations as soon as is reasonably practicable, and decide whether it would be appropriate to exercise the Secretary of State's powers set out in regulation 3 of the No. 3 Regulations. The Secretary of State may direct the Authority to revoke this Direction, or revoke and replace this Direction. The Secretary of State must provide written reasons for the decision to the person who made the representations and to the Authority.
62. In making any representations to the Secretary of State about this Direction, the recipient of the Direction should do this via NHS Test and Trace, with representations emailed to [directionnotification@dhsc.gov.uk](mailto:directionnotification@dhsc.gov.uk). This should include:
- o. The name of the Authority;
  - p. The reference [code/number] listed at the top of this Direction;
  - q. The link to this Direction as noted in paragraph *[19 – remove if note required]* below;
  - r. An explanation as to how you have been impacted by the Direction and their relationship to the Place[s], such as whether you are the owner, occupier or is responsible for land or premises in the Place[s];
  - s. An explanation of the basis upon which the Direction should not have been made and was or is not appropriate, with reference to the conditions set out in Regulation 2(1);
  - t. Any evidence which supports this contention; and
  - u. What action you would like to be taken.
63. **You are still required to comply with this direction pending the outcome of any appeal to the magistrates' court or the Secretary of State.**

64. You may wish to obtain independent legal advice should you seek to pursue an appeal.

### **Additional powers and requirements that accompany this Direction**

#### **Publication**

65. *[Use if this Direction has not specified a person by name]* This Direction (and notice of revocation of this direction) is published on the Authority's website as required by the No. 3 Regulations *[optional: you could provide a link to your website]*.[\[43\]](#)

66. This Direction may also be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it. *[Optional: describe how the Authority is doing this]*

#### **Notification**

67. The Authority is required to notify any *[local authority, district council, area of a council in Scotland or county borough council in Wales – delete as appropriate]* whose area is adjacent to the initiating authority's area *[if the Authority is a London borough council: and every other London borough council]* of this Direction (and any revocation of the Direction) by the No. 3 Regulations[\[44\]](#). *[Optional: note any LAs which have been contacted in complying with this.]*

68. The Authority is required to notify the Secretary of State as soon as reasonably practicable after the Direction is given.

[insert name]

[insert position]

[insert team]

**As authorised by** [Name of person, job title and the name of the local authority]

[1] SI 2020/750 accessed at <https://www.legislation.gov.uk/ukxi/2020/750/contents/made>; guidance on local authority powers at: <https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

[2] In this Direction, any reference to a regulation is a reference to a regulation of the Health Protection (Coronavirus Restriction) (No. 3) (England) 2020 (S.I. 2020/750).

[3] See regulation 2(1).

[4] As per regulation 3(1) of the No 3 Regulations, the Secretary of State has the power to require the Authority to give a direction under regulation 4(1) if the Secretary of State considers that the conditions in regulation 2(1) would be met in relation to the local authority direction. The Secretary of State must consult the Chief Medical Office or one of the Deputy Chief Medical Officers of the Department of Health and Social Care before making such a direction.

[5] As per regulation 4(2), a direction may only be given for the purposes of (a) closing the premises; (b) restricting entry into the premises; or (c)

securing restrictions in relation to the location of persons in the premises.

[6] For final one in list.

[7] See regulation 12(2) of the No. 3 Regulations.

[8] See regulation 14(1) of the No. 3 Regulations

[9] See regulation 13(1) of the No. 3 Regulations.

[10] See regulation 4(9)(a) of the No. 3 Regulations.

[11] If this direction was made pursuant to a direction of the Secretary of State under regulation 3 of the No 3 Regulations, a summons is to be issued to both the Secretary of State and the local authority.

[12] See regulation 4(9)(b) of the No. 3 Regulations.

[13] See Regulation 10(2)(a) of the No. 3 Regulations.

[14] See Regulation 11(1)(a) – (d) of the No. 3 Regulations

[15] SI 2020/750 accessed at

<https://www.legislation.gov.uk/ukxi/2020/750/contents/made>; guidance on local authority powers at:

<https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

[16] In this Direction, any reference to a regulation is a reference to a regulation of the Health Protection (Coronavirus Restriction) (No. 3) (England) 2020 (S.I. 2020/750).

[17] See regulation 2(1).

[18] As per regulation 3(1) of the No 3 Regulations, the Secretary of State has the power to require the Authority to give a direction under regulation 4(1) if the Secretary of State considers that the conditions in regulation 2(1) would be met in relation to the local authority direction. The Secretary of State must consult the Chief Medical Office or one of the Deputy Chief Medical Officers of the Department of Health and Social Care before making such a direction.

[19] As per regulation 5(5) of the No. 3 Regulations, events may be described by reference to a number of people attending the event, by reference to a requirement for medical or emergency services to attend the event, or in any other way.

[20] For final one in list.

[21] See Regulation 5(4) of the No 3 Regulations.

[22] See regulation 12(2) of the No. 3 Regulations.

[23] See regulation 14(1) of the No. 3 Regulations.

[24] See regulation 13(1) of the No. 3 Regulations.

[25] See regulation 5(9)(a) of the No. 3 Regulations.

[26] If this direction was made pursuant to a direction of the Secretary of State under regulation 3 of the No 3 Regulations, a summons is to be issued to both the Secretary of State and the local authority.

[27] See regulation 5(9)(b) of the No. 3 Regulations.

[28] See Regulation 10(2)(a) of the No. 3 Regulations.

[29] See Regulation 11(1)(a) – (d) of the No. 3 Regulations

[30] SI 2020/750 accessed at

<https://www.legislation.gov.uk/uksi/2020/750/contents/made>; guidance on local authority powers at:

<https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

[31] Should you require a hardcopy of this legislation, it can be obtained via [address/telephone to contact someone or list office and address where a copy will be accessible]

[32] In this Direction, any reference to a regulation is a reference to a regulation of the Health Protection (Coronavirus Restriction) (No. 3) (England) 2020 (S.I. 2020/750).

[33] See regulation 2(1).

[34] As per regulation 3(1) of the No 3 Regulations, the Secretary of State has the power to require the Authority to give a direction under regulation 4(1) if the Secretary of State considers that the conditions in regulation 2(1) would be met in relation to the local authority direction. The Secretary of State must consult the Chief Medical Office or one of the Deputy Chief Medical Officers of the Department of Health and Social Care before making such a direction.

[35] A direction under regulation 6(1) can be given for the purposes of imposing a) prohibitions, b) requirements, or c) restrictions in relation to access to a specified public outdoor place in its area or public outdoor places in its area of a specified description. While not absolute regarding which legal person such a direction can be imposed on, the person who owns, occupies or is responsible for the land or premises within the land, or who operates a business within the public outdoor place(s) to which the direction applies, can have the direction made to have application to them.

[36] Delete as appropriate.

[37] See regulation 12(2) of the No. 3 Regulations.

[38] See regulation 14(1) of the No. 3 Regulations.

[39] See regulation 13(1) of the No. 3 Regulations.

[40] See regulation 6(5)(a) of the No. 3 Regulations.

[41] If this direction was made pursuant to a direction of the Secretary of State under regulation 3 of the No 3 Regulations, a summons is to be issued to both the Secretary of State and the local authority.

[42] See regulation 6(5)(b) of the No. 3 Regulations.

[43] See Regulation 10(2)(a) of the No. 3 Regulations.

[44] See Regulation 11(1)(a) – (d) of the No. 3 Regulations.

