

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

22nd October 2020

Report of the Head of Planning and Public Protection – Mr C Morris and Head of Legal Services – Mr C Griffiths

Matter for Decision

Wards Affected: All

Enforcement under the Health Protection (Coronavirus Restrictions) (No.3) (Wales) Regulations 2020

Purpose of Report

- 1 That Members authorise the Director of Environment and Regeneration and Director of Finance and Corporate Services, Head of Planning and Public Protection, Head of Legal Services and any officers so designated by them to serve any notice and undertake any enforcement action so listed in the Health Protection (Coronavirus Restrictions) (No.3) (Wales) Regulations 2020 (as may be amended)

Executive Summary

- 2 The Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 have been made “in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales”. Enforcement officers from local authorities can require certain (specified) measures to be taken in relation to premises, and they can if necessary close them. Closure can be required either because specified measures aren’t subsequently taken or because the breach of the requirements is sufficiently serious to justify closing a premises immediately or with only very limited notice.

Background

- 3 The Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 have been made “in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales”. The appropriate use of powers to enforce these restrictions and requirements imposed by the Regulations is important to:
 - promote and maintain sustained compliance as a preventative measure to help contain the coronavirus;

- ensure action is taken immediately to deal with situations in which there is a risk of coronavirus spreading;
 - ensure that those who fail to comply are held to account.
- 4 Part 2 of the Regulations imposes limits on movement and travel. Regulation 3 requires people living in Wales to stay at home, unless they have a reasonable excuse not to. In addition, in the limited circumstances where people can leave home, there is a restriction in regulation 4 on people gathering with anyone who is not part of their household. The overall effect of these provisions is to restrict movement of people within Wales. Consistent with that, regulation 5 provides that people who live outside Wales need a reasonable excuse to travel into Wales. Regulations 6 and 7 limit the circumstances in which a pupil or student has a reasonable excuse to attend the premises of a school or further education institution. Regulation 9 makes further provision making it an offence (punished by a higher penalty) for organising large scale music events that encourage people to gather illegally.
- 5 Part 3 of the Regulations relates to business and services whose premises are ordinarily open to the public, requiring many to close. Part 1 of Schedule 1 lists those businesses and services whose premises must be closed to the public (though regulation 11 makes clear that this does not prevent certain activities from taking place on the premises). Part 2 of Schedule 1 lists businesses and premises whose premises must be closed but to which access may be allowed on a limited basis. These are categorised as premises selling food and drink; premises offering hotel or holiday accommodation and others. Regulation 15 provides for an exception to the requirement to close in limited circumstances/ Regulation 16 makes clear that where more than one type of business or service is provided at the same premises, those prohibited by regulation 11 may not continue.
- 6 Part 4 of the Regulations makes provisions for the purpose of minimising risk of exposure to coronavirus. Regulation 17 applies to “regulated premises” (any place which is open to the public or where work is carried out) and requires: (1) all reasonable measures to be taken to ensure that a distance of 2 metres is maintained between persons on the premises; (2) any other reasonable measures to be taken, for example to limit close face to face interaction and maintain hygiene; and (3) information to be provided to those entering or working at premises about how to minimise risk of exposure to coronavirus. It also specifies that not carrying out an activity, closing part of a premises, allowing staff to isolate and collecting contact information from those on the premises may be reasonable measures. Regulations 18 and 19 provide that face coverings must be worn on public transport, including taxis, and in certain indoor places, subject to listed exemptions and exceptions. Regulation 20 provides for guidance to be issued about the practical application of the requirements imposed by this Part, and those to whom the requirements apply must have regard to that guidance.
- 7 Part 5 of the Regulations relates to the enforcement of the restrictions and requirements. Regulation 21 makes provision about those who can take enforcement action, regulation 22 makes further provision about enforcing the need to take preventative measures under regulation 17, regulation 23 relates

to compliance notices, and regulation 24 to powers of removal and dispersal. Regulation 25 relates specifically to enforcing the requirement to wear a face covering and regulation 26 to children. Regulation 27 contains a power to enter premises and regulation 28 allows reasonable force to be used in certain circumstances.

- 8 Part 6 of the Regulations makes provision about offences and penalties. Regulation 29 provides that a person who, without a reasonable excuse, contravenes (listed) requirements in these Regulations commits an offence. That offence is punishable by an unlimited fine. Regulation 30 relates to offences by bodies corporate. Regulation 31 allows for offences to be punished by way of fixed penalty notices and regulation 32 relates to prosecutions of offences under the regulations. Regulation 33 also makes provision which modifies the numerous restrictions on individuals in the Regulations which limit interaction with anyone who is not a member of their household. This allows a person who lives alone or only with children to agree to form an extended household with another household, which means that members of both households can interact with each other as if they were members of one household.

Enforcement

9. Guidance has been produced by the Welsh Government on the use of these enforcement powers which should be read in conjunction with the Enforcement Strategy agreed by Cabinet in April 2020. The following principles should be applied when exercising powers:
- proportionality in application
 - targeting of enforcement action;
 - consistency in approach;
 - transparency about how enforcement officers operate and what can be expected, and
 - accountability for actions taken.

Financial Impact

- 10 None

Integrated Impact Assessment

- 11 An integrated impact assessment is not required for this decision as it merely establishes a protocol to follow. Consideration to all such impacts will be had when measures are considered for enforcement.

Workforce Impact

- 12 None.

Legal Impact

- 13 Requirement must be had at all times with the Health Protection (Coronavirus Restrictions) (Wales) (No3) 2020 (as may be amended).

Crime and Disorder Impact

- 14 Section 17 of the Crime and Disorder Act 1998 places a duty on the Council in the exercise of its functions to have “due regard to the likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This report and policy is consistent with these obligations as it sets out how the Council will work with its partners and the community at large to enforce the measures set out in the Regulations and to ensure steps are taken to ensure compliance with the aforementioned Regulations.

Risk Management

- 15 None.

Consultation

- 16 There is no requirement under the Constitution for external consultation on this item.

Recommendation(s)

- 17 That Members authorise the Director of Environment and Regeneration and Director of Finance and Corporate Services, Head of Planning and Public Protection, Head of Legal Services and any officers so designated by them the delegated authority to issue any notice that the local authority is able to issue under the Health Protection (Coronavirus Restrictions) (No.3) (Wales) Regulations 2020 and implement the powers of enforcement listed under the same legislation (as amended).

Reason for Proposed Decision(s)

- 15 To ensure that appropriate authority is in place for officer to implement the powers under the Health Protection (Coronavirus Restrictions) (Wales) (No3) 2020 (as amended).

Implementation of Decision

- 16 The decision is proposed for implementation immediately.

Appendices

- 17 None

List of Background Papers

- 18 None.

Officer Contact

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