

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET
5 November 2020

Report of the Head of Legal Services – Mr C Griffiths

Matter for Decision

Wards Affected: All

Health Protection (Coronavirus Restrictions) (No.4) (Wales) Regulations 2020

Purpose of Report

- 1 That Members authorise:
 - (a) the Chief Executive, Assistant Chief Executive and Chief Digital Officers, Corporate Directors and any officers so designated by them to take any decision pursuant to the Health Protection (Coronavirus Restrictions) (No.4) (Wales) Regulations 2020, in consultation with the Leader and relevant Cabinet Member;
 - (b) 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 power to serve any notice and undertake any enforcement action so listed in the Health Protection (Coronavirus Restrictions) (No.4) (Wales) Regulations 2020 (as may be amended)

Executive Summary

- 2 The Health Protection (Coronavirus Restrictions) (No. 4) (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.

An urgency action is necessary to ensure that the requisite delegations are in place for the 9th November 2020, when these Regulations come into force.

Background

- 3 The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the Regulations”) 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 1 provides that these Regulations come into force on 9 November 2020 and must be reviewed by 19 November, at least once in the period from 20 November to 3 December, at least once in the period from 4 December to 17 December, and at least every 21 days after that. It also provides that unless the Regulations are revoked or amended before then, they expire on 19 February 2021.
- 5 Part 2 imposes limits on meeting other people (referred to as participating in gatherings) and on events. Regulation 4 limits gatherings in people’s homes (including their gardens) to those who form part of an extended household (or “bubble”) only. Regulation 5 provides that an extended household may be formed by all of the adults in a maximum of 2 households agreeing to be treated as 1 household for the purpose of meeting in people’s homes or for meeting outdoors (other than in regulated premises). Regulation 6 contains a restriction on meeting away from people’s homes. In that case, gatherings are limited to 4 people, not including children under 11. However, this does not apply to holiday or travel accommodation where the gathering is limited to people who are members of the same household. The limitations in regulations 4 and 6 both apply subject to certain listed exceptions, and subject to situations where it may be reasonably necessary to gather and there is no reasonably practicable alternative. More than 4 people may gather if they are all part of the same household, or if they meet outdoors (other than in regulated premises) if they are all part of the same extended household. Exceptions include certain “organised” activities involving up to 15 people meeting indoors and 30 people outdoors. All reasonable measures must be taken to minimise the risk of the spread of coronavirus during organised activities and they must not take place in people’s homes. Regulations 7 and 8 make further provision about events that encourage people to gather illegally.
- 6 Part 3 relates to travel. Regulation 9 prohibits people from entering or leaving Wales. This is again subject to certain listed exceptions, and subject to situations where it may be reasonably necessary to travel and there is no reasonably practicable alternative. There is no prohibition on travel within Wales.

- 7 Part 4 imposes requirements on people who have tested positive for coronavirus and their close contacts. Regulations 11 and 12 provide that adults and children who have tested positive for coronavirus must not leave the place they are living until the end of the last day of their isolation (except in the circumstances provided for by regulation 15). The last day of their isolation is calculated in accordance with regulations 11 and 12. Regulations 13 and 14 provide that people who have had “close contact” with someone who has tested positive for coronavirus must not leave the place they are living until the end of the last day of their isolation (except in the circumstances provided for by regulation 15). The last day of their isolation is calculated in accordance with regulations 13 and 14. Regulation 16 relates to obligations of adults in respect of children required to isolate, regulation 17 enables notices given under this Part by contact tracers to be withdrawn and regulation 18 makes provision about the use of information held by contact tracers.
- 8 Part 5 relates to business and services whose premises are ordinarily open to the public. Regulation 19 provides that the premises of businesses and services listed in Schedule 1 must be closed to the public (though this does not prevent certain activities from taking place on the premises). Regulation 20 imposes restrictions on businesses whose premises are licensed for the sale of alcohol. These prohibit alcohol from being sold after 10.00 p.m. and require the premises to be closed by no later than 10.20 p.m.
- 9 Part 6 makes provision for the purpose of minimising risk of exposure to coronavirus in places where people come together. Regulation 21 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 stopping an activity, closing part of a premises, allowing staff to isolate and collecting contact information from those on the premises may be reasonable measures. Specific measures also apply to hospitality settings. Regulations 22 and 23 provide that face coverings must be worn on public transport, including taxis, and in certain indoor places, subject to listed exemptions and exceptions. Regulation 24 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.
- 10 Part 7 relates to the enforcement of the restrictions and requirements. Regulation 25 makes provision about those who can take enforcement action, regulation 26 makes further provision (in Schedules 3 and 4) about enforcing the need to take preventative measures under regulation 21, regulation 27 relates to compliance notices, and regulation 28 to powers of removal and dispersal. Regulation 29 makes provision about enforcing the prohibition of certain events. Regulation 30 relates specifically to enforcing the requirement to wear a face covering and regulation 31 to children. Regulation 32 contains

a power to enter premises, regulation 33 is about police road checks and regulation 34 makes additional provision about enforcement including allowing reasonable force to be used in certain circumstances.

- 11 Part 8 makes provision about offences and penalties. Regulation 35 provides that a person who without a reasonable excuse, contravenes (listed) requirements in these Regulations commits an offence. It also provides that holding a larger gathering in a private home is an offence, as is providing false or misleading information to a contact tracer. Those offences are punishable by an unlimited fine. Regulation 36 relates to offences by bodies corporate. Regulation 37 allows for offences to be punished by way of fixed penalty notices, regulations 38 to 42 relate to the amount of the penalty and regulations 43 and 44 make further provision about administration of the penalties. Regulation 45 relates to self-incrimination and regulation 46 relates to prosecutions of offences under the Regulations.

Enforcement

- 12 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

- 13 None

Integrated Impact Assessment

- 14 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

- 15 None.

Legal Impact

- 16 Requirement must be had at all times with the Health Protection (Coronavirus Restrictions) (Wales) (No4) 2020 (as may be amended).

Crime and Disorder Impact

- 17 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

- 18 None.

Consultation

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

Recommendation(s)

- 20 It is recommended that
- (a) the Chief Executive, Assistant Chief Executive and Chief Digital Officers, Corporate Directors and any officers so designated by them be granted delegated authority to take any decision pursuant to the Health Protection (Coronavirus Restrictions) (No.4) (Wales) Regulations 2020, in consultation with the Leader and relevant Cabinet Member
 - (b) 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 be granted delegated authority to issue any notice that the local authority is able to issue under the Health Protection (Coronavirus Restrictions) (No.4) (Wales) Regulations 2020 and implement the powers of enforcement listed under the same legislation (as amended).

Reason for Proposed Decision(s)

- 21 To ensure that appropriate authority is in place for officer to implement the powers under the Health Protection (Coronavirus Restrictions) (Wales) (No4) 2020 (as amended).

Implementation of Decision

- 22 The decision is proposed for implementation immediately.

Reason for Urgency

To ensure that officers have the necessary authority in place to implement and enforce the obligations set out in the new Welsh Government Regulations which take effect on Monday.

Appendices

23 None

List of Background Papers

24 None.

Officer Contact

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