

# NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

## CABINET

21 December 2020

### Report of the Head of Legal Services – Mr C Griffiths

#### Matter for Decision

**Wards Affected:** All

#### Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020

#### Purpose of Report

- 1 That Members authorise:
  - (a) the Chief Executive, Corporate Directors and any officers so designated by them to take any decision pursuant to the Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020 (as amended), 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.5) (Wales) Regulations 2020 (as may be amended)

#### Executive Summary

- 2 The Health Protection (Coronavirus Restrictions) (No. 5) (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 20th December 2020, when these Regulations come into force.

## **Background**

- 3 The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 impose restrictions and requirements necessary to protect against the risks to public health arising from coronavirus, and revoke the current Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020.
- 4 The Regulations, here after referred to as the “No. 5 Regulations” are 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) which causes the disease known as COVID-19 or “coronavirus”.
- 5 The current Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 put in place the restrictions and requirements necessary after the firebreak between 23 October and 8 November. The No. 5 Regulations will revoke the current Regulations and will:
  - (a) set out restrictions and requirements which will apply to four different Alert Levels with the determination of applicable Alert Levels as set out in the updated Coronavirus Control Plan;
  - (b) move Wales into Alert Level Four on Christmas Day in view of the high prevalence of Covid-19 in Wales
  - (c) provide for a temporary amendment to the Regulations for Christmas Day but restrict the numbers of households who may form an extended household during this period to two (plus one single adult household);
  - (d) increase the initial Fixed Penalty Notice for those organising events such as house parties where more than 15 people gather indoors or 30 outdoors, from £200 to £500.

- 6 The Regulations also provide for the enforcement of these requirements and restrictions.
- 7 The Regulations set out restrictions and requirements applicable under four different Alert Levels, aligned with the measures the Government is putting in place to control the spread of the virus and protect people's health, depending on the state of coronavirus across Wales and other key indicators. The Welsh Government Coronavirus Control Plan<sup>1</sup> sets out how and when there will be movement between these Alert Levels for Wales or areas within Wales as the case may be. This approach is aimed at providing greater certainty for people and businesses across Wales about what legal restrictions are in place, depending on the level of risk, helping them to plan for the future.
- 8 The Welsh Government Chief Medical Officer recommends that an appropriate response to the public health situation is that Wales move to Alert Level 4 and reduce the number of households that can agree to form an extended household over the Christmas period.
- 9 In recognition of this, the Welsh Ministers have decided that Wales should move to Alert Level 4 at 12:01 on Sunday 20<sup>th</sup> December 2020 and limit the number of households that can meet on Christmas Day to two (plus a single person).
- 10 The Regulations contain a number of provisions(similar to previous regulations):
  - (a)Part 1 of the Regulations provides that the new provisions come into force at the beginning of Sunday 20<sup>th</sup> December 2020 (with the exception of Part 6 (provision of school education). As with the earlier Coronavirus Restrictions Regulations, there is a statutory requirement to review the Regulations, under which they must be reviewed by 7 January 2021 and at least every 21 days after that. The Regulations will expire at the end of the day on 31 March 2021 unless they are revoked before then.
  - (b)Part 2 of the Regulations makes provision for the different restrictions that apply in relation to people gathering or travelling,

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<sup>1</sup> <https://gov.wales/sites/default/files/publications/2020-12/coronavirus-control-plan-alert-levels-in-wales.pdf>

organising events and the use of premises ordinarily open to the public depending on the “Alert Level” that applies. These levels are based on what the Welsh Ministers consider to be the appropriate and proportionate response to the incidence and spread of coronavirus. The restrictions and requirements specific to Alert Levels 1 to 4 are set out in Schedules 1 to 4 respectively. Part 2 and Schedule 5 also sets out which Alert Level applies to an area. An “area” may be part of Wales or the whole of Wales, meaning that the same grade of restrictions may apply across Wales or they may differ on a regional or local basis. When the strictest Alert Level 4 restrictions apply to an area:

- a. here is an overarching requirement to stay at home and not to travel;
- b. most premises ordinarily open to the public are required to be closed.

As an exception, Part 2 and Schedule 6 make specific provision modifying the restrictions relating to extended households (and travelling to meet members of an extended household) for the Christmas Day (25<sup>th</sup> December 2020). This will allow two households to come together to form an exclusive bubble.

Parts 3 to 5 impose further restrictions and requirements which generally apply at all Alert Levels and which maintain the previous provisions on face coverings and on reasonable measures. These restrictions and requirements are applicable irrespective of the Alert Level in force at any given time.

- (c) Part 3 imposes requirements on people who have tested positive for coronavirus and those notified by contact tracers that they have been in close contact with someone with coronavirus to self-isolate.
- (d) Part 4 retains the requirement for those responsible for regulated premises and for work undertaken in premises to take all reasonable measures for the purpose of minimising risk of exposure to, or spread of, coronavirus.
- (e) Part 5 provides that face coverings must be worn on public transport, including taxis, and in certain indoor places, subject to listed exemptions and exceptions.

- (f) Part 6 provides for local authorities to ensure the provision of school education to vulnerable children and the children of key workers when schools are closed
  - (g) Part 7 relates to the enforcement of the restrictions and requirements.
  - (h) Part 8 makes provision about offences and penalties.
  - (i) Part 9 contains defined terms (regulation 57), revokes previous Regulations and makes a consequential amendment.
- 11 Of particular relevance to Local Authorities are the powers of enforcement set out in Part 7 relates to the enforcement of the restrictions. Regulation 25 makes provision about those who can take enforcement action, regulation 26 makes further provision (in Schedules 8 and 9) about enforcing the need to take preventative measures under regulation 16, regulation 27 relates to compliance notices, and regulation 28 to powers of removal and dispersal. Regulations 29 to 32 relate specifically to enforcing the requirements in relation to travelling, isolation, events, and wearing a face covering; and regulation 33 relates to the requirements' application to children. Regulation 34 contains a power to enter premises, regulation 35 relates to police powers to conduct road checks and regulation 36 makes supplemental provision about the exercise of powers by enforcement powers.

### 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) (No5) 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, 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.5) (Wales) Regulations 2020 (as may be amended), 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.5) (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) (No5) 2020 (as amended).

### **Implementation of Decision**

- 22 The decision is proposed for implementation immediately.

### **Reason for Urgency**

To ensure the Council has the ability to enforce the provisions in a timely manner.

### **Appendices**

- 23 None

### **List of Background Papers**

- 24 None.

### **Officer Contact**

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