

Division(s): All

## **CABINET – 15 SEPTEMBER 2020**

# **OXFORDSHIRE COUNTY COUNCIL RESPONSIBILITIES UNDER THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTION) (ENGLAND) (NO.3) REGULATIONS 2020**

**Joint Report by the  
Head of Legal Services & Deputy Monitoring Officer  
Director of Public Health**

## **RECOMMENDATION**

**The Cabinet is RECOMMENDED to:**

- 1. Assume responsibilities granted under The Health Protection (Coronavirus, Restriction) (England) (No.3) Regulations 2020 giving local authorities powers relating to the control and prevention of coronavirus and;**
- 2. Delegate powers to the City and District Councils in accordance with the above regulations.**

## **Executive Summary**

- 3. This paper recommends that Oxfordshire County Council assumes responsibilities under The Health Protection (Coronavirus, Restriction) (England) (No.3) Regulations 2020 in order to ensure that any serious and imminent threat to public health in Oxfordshire is necessarily and proportionately addressed.**

## **Introduction**

- 4. Prior to July 2020, local authorities had a specific and distinct range of legal powers under public health, environmental health or health and safety laws which allowed them to temporarily close individual settings for a specific reason and period. These powers apply under a patchwork of triggers or, in some cases, require an application to a magistrate.**
- 5. These powers were not sufficient to enable local authorities to fully implement the measures potentially needed to prevent, protect against, delay or otherwise control the incidence or spread of coronavirus in their area.**
- 6. In July 2020 the government introduced new powers for local authorities to support local outbreak management. The Health Protection (Coronavirus, Restriction) (England) (No.3) Regulations 2020 give local authorities powers relating to the control and prevention of coronavirus. The regulations will expire on 17<sup>th</sup> January 2021.**

## Key Issues

7. The powers under the Health Protection (Coronavirus, Restriction) (England) (No.3) can be exercised if there is a serious and imminent threat to public health. Any direction issued must be necessary and proportionate to prevent, protect against, control or provide a public health response to the incidence or spread of coronavirus in a local authority's area. The regulations define the designation of powers to the local authority in the Oxfordshire context as the County Council.
8. Before using the powers, local authorities must:
  - gather sufficient evidence to demonstrate that these tests have been met,
  - consult with the Director of Public Health and the police (if the direction prohibits, requires or restricts access to a premise, event or public outdoor place),
  - have due regard to the Public Sector Equality Duty (s.149 of the Equality Act 2010) and consider carrying out an equalities impact assessment to determine whether the measure may disproportionately affect people with protected characteristics,
  - have regard to the need to ensure the public has access to essential public services,
  - be clear about why they are taking directive action and communicate this clearly to the Secretary of State, the persons to whom the direction applies and, where appropriate, those impacted by the direction.
9. The local authority must have regard to advice given by its Director of Public Health before determining whether to give a direction as set under the regulations.

### *Powers under the act*

10. The act provides the following powers to the local authority to:
  - Closure of or limiting access to individual premises. Under this regulation a local authority may impose prohibitions, requirements or restrictions in relation to entry and exit from or location of people within, specified premises
    - The LA cannot give this direction to any business or premises that forms part of essential infrastructure, vehicles used for public transport or the carriage or haulage of goods.
  - Impose prohibitions, requirements or restrictions in relation to the holding of a specified event or events of a specified description.
    - The direction can be given to; the owner or occupier of the premises for an event; the organiser of such an event; any person involved in holding such an event.
    - A direction may impose requirements about informing persons who may be planning to attend an event of any prohibitions, requirements or restrictions imposed in relation to the holding of it.

- Closure of public outdoor places or prohibit or restrict access to public outdoor places at specified times.
    - Where the public outdoor place forms part of Crown land, the local authority cannot give a direction in relation to that place without the agreement of the appropriate authority.
11. The local authority must also review the need for any direction at least once every 7 days, to assess whether the conditions for issuing a direction (relating to a threat to public health and a direction being a necessary and proportionate means of preventing, protecting against, controlling or providing a public health response to the incidence or spread of coronavirus in the local authority's area), are still met.
  12. If these conditions are not met, the direction must be revoked.
  13. If the threat still remains but the measures in the direction are found to be no longer necessary or proportionate, the local authority must either revoke without replacement, or revoke and replace the direction with one containing measures that are necessary and proportionate.

### *Notification*

14. If a local authority decides to give a direction under these powers to a person specified in the direction by name, the direction must be given in writing to that person. Where a local authority decides to revoke such a direction, a notice of revocation must similarly be given to that person in writing. All other directions must be published on the website of the local authority. It does not need to be in any particular prescribed format. The local authority may also publish any direction in such other manner as the local authority considers appropriate to bring it to the attention of any person who may be affected by it.
15. Local authorities giving directions ("initiating authorities") are required to notify any local authority whose areas in adjacent to the initiating authority's area when they give or revoke a direction under the Regulations.

### *Enforcement*

16. The instrument includes provision that a person who contravenes certain provisions of these Regulations, or directions made under these Regulations, commits an offence, punishable by a fine. It also includes provision that a local authority designated officer or a constable (including a police community support officer) may take such action as is necessary to enforce a direction made under the Regulations.
17. A local authority designated officer will be able to issue a prohibition notice requiring a person not to continue to contravene a direction under the regulation.

18. In relation to contraventions of a direction relating to an event, or relating to public outdoor places, a constable (including a police community support officer) may direct a person to leave the event or place, or may remove a person from the event or place, and in relation to an event, may direct the event to stop.
19. Businesses or individuals that are in breach of such a direction can be subject to prohibition notices and fines.

### *Delegation of powers*

20. It is intended that the County Council will delegate all powers and performance of all duties under and in accordance with the regulations to the City and District Councils in the County (a draft of the delegations of powers agreement is shown as Appendix A). This will be done under a section 101 agreement.
  - Environmental Health Officers will be delegated powers under the regulations acting as agents of the County Council.
21. The County Council will still retain the power to issue directions and enforce under the regulations.
  - The Director of Public Health and Consultants in Public Health will be delegated to raise directions under the regulations.
  - Trading standard officers will be delegated to enforce any directions issued by the County Council.

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