

FULL COUNCIL - 20 OCTOBER 2020

PART I

4. DELEGATION OF ENFORCEMENT POWERS UNDER THE HEALTH PROTECTION (CORONAVIRUS) REGULATIONS (DCES)

1 Summary

1.1 This report proposes that the Scheme of Delegation to Officers contained within Part 3 the Council's Constitution be amended to add officers authorised to carry out Enforcement under The Health Protection (Coronavirus) Regulations.

2 Details

2.1 Central Government has introduced a number of Health Protection (Coronavirus) Regulations which impose restrictions and requirements upon individuals and businesses. The Regulations include:

2.1.1 *The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020*, SI 2020/684, which came into force on 4th July 2020 and require the closure of certain businesses.

2.1.2 *The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020*, SI 2020/1005, which came into force on 24 September 2020 and require persons occupying certain premises to display a QR code and request contact details of individuals and groups seeking to enter those premises, and refuse entry to individuals refusing to provide such details.

2.1.3 *The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020*, SI 2020/1008, which came into force on 18 September 2020 and require certain undertakings to take measures to ensure that their customers follow the rules on social distancing.

2.1.4 *The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020*, SI 2020/1045, which came into force on 28 September 2020 and require individuals who have been notified of a positive test for coronavirus, and close contacts of such people, to self-isolate.

2.2 Enforcement of the Health Protection (Coronavirus) Regulations is principally by means of issuing notices (including fixed penalty notices) and, in appropriate cases, prosecution.

2.3 Persons authorised to carry out enforcement under the Regulations include constables, police community support officers and **officers designated by the local authority** in whose area an offence under the Regulations is alleged to have been committed.

2.4 For the purposes of carrying out enforcement functions under those Regulations, the following amendments to the Scheme of Delegation to Officers contained within Part 3 of the Council's Constitution are recommended.

- 2.4.1 To amend clause 11.26.11(a) to insert reference to the Health Protection (Notification) Regulations 2010, as follows:

“11.26.11(a) In consultation with the Proper Officer in relation to Infectious Disease and Food Poisoning, action under the Public Health (infectious Diseases) Regulations 1988, the Health Protection (Notification) Regulations 2010, the Health Protection (Local Authority Powers) Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010.

- 2.4.1 To insert a new clause 11.33, as follows:

“11.33 The Health Protection (Coronavirus) Regulations

11.33.1 *In relation to:*

- i. The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 No. 684*
- ii. The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 No. 1005*
- iii. The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 No. 1008*
- iv. The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 No. 1045*
- v. And any other such Regulations made under the Public Health (Control of Disease) Act 1984*

The officers named below are designated as authorised persons to enforce the provisions of the regulations and to issue penalty charge notices to the extent set out in the regulations. This designation includes any amendment or addition to the regulations, any regulations of similar or wider effect and any regulations that replace SI 2020/684, SI 2020/1005, SI 2020/1008 or SI 2020/1045 (with or without re-enactments). Officers of Watford Borough Council act as officers of Three Rivers District Council pursuant to the Shared Services Lead Authority Agreement and for the purposes of discharging the relevant functions of Three Rivers District Council.

List of appointed officers

*Group Head of Community & Environmental Services, Watford Borough Council
Head of Regulatory Services, Three Rivers District Council
Head of Community Partnerships, Three Rivers District Council
Officers appointed by one of the above Heads of Service to act as an Authorised Person for the purposes of the Regulations”*

3 Reasons for Recommendation

- 3.1 Without the appropriate designation, Council Officers cannot lawfully enforce the provisions of the Health Protection (Coronavirus) Regulations.

4 Policy/Budget Reference and Implications

- 4.1 The recommendations in this report are within the Council’s agreed policy and budgets.

5 Environmental, Community Safety, Customer Services Centre, Communications & Website

5.1 None specific.

6 Financial Implications

6.1 The additional enforcement responsibilities are expected to be contained within current resources with no anticipated increase in costs of the SLA with WBC. However, resources will be monitored as the situation evolves and any increase in resources will be identified through the appropriate budget monitoring procedures.

7 Equal Opportunities Implications

7.1 Relevance Test

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	Not applicable

8 Legal Implications

8.1 Enforcement action by Council Officers under the Health Protection (Coronavirus) Regulations will only be lawful if those officers have been appropriately designated.

9 Staffing Implications

9.1 It is anticipated that Environmental Health Officers will take the lead in carrying out enforcement action under the Health Protection (Coronavirus) Regulations, supported by Licensing, Planning and Community Safety Officers as necessary and appropriate.

9.2 Where Officers of Watford Borough Council (i.e. Environmental Health Officers) discharge relevant functions within the District of Three Rivers District Council, they act as Officers of Three Rivers District Council for those purposes.

10 Public Health implications

10.1 The restrictions and requirements introduced by the Public Health (Coronavirus) Regulations are intended to protect against the risks to public health arising from coronavirus.

11 Risk and Health & Safety Implications

11.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

11.2 The subject of this report is covered by the Regulatory Services Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
An increase in the coronavirus rate of infection within Three Rivers.	Increase in infection rate. Increase in mortality rate. Introduction of a local lockdown.	Effective enforcement of the Public Health (Coronavirus) Regulations	Tolerate	6

11.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	Impact			
	Low ----- Unacceptable			

Impact Score

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

Likelihood Score

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

11.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore

operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

12 Recommendation

- 12.1 That the Scheme of Delegation to Officers contained within Part 3 of the Council's Constitution be amended in accordance with Paragraph 2.4 above.

Report prepared by: Kimberley Rowley, Head of Regulatory Services

Data Quality

Data sources: legislation.gov.uk

Data checked by: Jayne LaGrua, Principal Lawyer (Criminal Law)

Data rating:

1	Poor	
2	Sufficient	
3	High	x