

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Executive Member for Policy and Resources and Leader of the County Council
<b>Date:</b>	15 December 2020
<b>Title:</b>	Designation of Appropriate Officers under the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020
<b>Report From:</b>	Chief Executive

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#### Purpose of this Report

1. The purpose of this Report is to delegate the necessary authority and to designate functions to appropriate officers to enable the County Council to effectively exercise its powers under the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020.

#### Recommendation(s)

2. That all County Council officers holding the qualification of Consultant in Public Health are designated as Local Authority Designated Officers for the purposes of the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020.
3. That the Head of Law and Governance and Monitoring Officer (including in her absence the Head of Legal Services and Deputy Monitoring Officer) be designated the County Council's Designated Officer for the purposes of issuing fixed penalty notices and conducting prosecutions under the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020.

## Executive Summary

4. This Report seeks to put in place the necessary designations and delegations to enable the County Council to exercise its powers under the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020.
5. These powers are in addition to the County Council's Powers to issue directions under the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020.

### **The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement powers and Amendment) (England) Regulations 2020 ('the Regulations)**

6. The Regulations came into force on 2 December.
7. Regulation 3 enables a local authority designated officer to issue a Coronavirus Improvement Notice, requiring a person who is breaching, or has breached, a relevant provision to end that breach and ensure it will not be repeated. Such a notice is not to be issued in relation to essential infrastructure. The regulation lists what the notice must include and provides for review of the notice which may lead to withdrawal of the notice or the issue of a further notice under the Regulations.
8. Regulation 4 enables a local authority designated officer to issue a Coronavirus Immediate Restriction Notice to a person the officer believes is breaching, or has breached, a relevant statutory provision and there is a future risk of exposure to coronavirus. Such a notice is not to be issued in relation to essential infrastructure. The notice is to require either closure or part-closure of the premises and/or the breach to be stopped. Any requirement must be necessary and proportionate for the purpose of minimising the risk of exposure to Coronavirus. The notice has effect for 48 hours. The regulation lists what the notice must include and provides for review of the notice which may lead to amendment or withdrawal of the notice or the issue of a further notice under the Regulations.
9. Regulation 5 enables a local authority designated officer to issue a Coronavirus Restriction Notice to a person the officer believes has not complied with a Coronavirus Improvement Notice and that non-compliance involves a risk of exposure to coronavirus. Such a notice is not to be issued in relation to essential infrastructure. The notice is to require either closure or part-closure of the premises and/or the breach to be stopped. Any requirement must be necessary and proportionate for the purpose of minimising the risk of exposure to Coronavirus. The notice has effect for 7 days. The regulation lists what the notice must include and provides for

review of the notice which may lead to amendment or withdrawal of the notice or the issue of a further notice under these Regulations.

10. Regulation 6 provides that it is an offence, punishable on summary conviction by a fine, to contravene a notice under the Regulations without reasonable excuse. It provides that a company and officer of the company can be found guilty of an offence.
11. Regulation 7 provides that prosecutions of an offence under Part 2 may be brought by a local authority, the Crown Prosecution Service and any person designated by the Secretary of State.
12. Regulation 8 provides that a local authority designated officer may issue a fixed penalty notice to a person the officer reasonably believes has committed an offence under regulation 6. Payment of that fixed penalty discharges liability to conviction for the offence. It provides that proceedings for the offence cannot be brought until 28 days after the date of the notice. It lists the details that such a notice must include and how payment can be made.
13. Regulation 9 provides that an appeal against a Coronavirus Improvement Notice, Coronavirus Immediate Restriction Notice or a Coronavirus Restriction Notice issued under these Regulations, or a review of such a notice, can be made to a magistrates' court within 28 days of the notice being issued or the review decisions being notified to the person to whom the notice was issued. It provides that the provisions of the Magistrates' Court Act 1980 (c 43) apply to that appeal.

## **Conclusion**

14. While these powers will mostly be used by District Council Environment Health Officers who have day to day contact with businesses in their area it is important that the County Council is also able to exercise these powers if necessary.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	yes
<b>People in Hampshire live safe, healthy and independent lives:</b>	yes
<b>People in Hampshire enjoy a rich and diverse environment:</b>	yes
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	yes

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment:**

There are no equality impacts arising from the Recommendations in this Report.