

	<u>Agenda Item: 7</u>
Report to:	Local COVID Outbreak Engagement Board
Date:	14th December 2020
TITLE:	ENFORCEMENT UPDATE
Organisation	West Midlands Police
Presenting Officer	Chief Superintendent Steven Graham

Report Type:	Information
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1. Purpose:	
1.1	To receive an enforcement update from West Midlands Police relating to Covid-19.

2. Recommendation	
2.1	The Board is asked to note the contents of this report

3. Report Body	
	<p><u>Introduction</u></p> <p>3.1 This report on WMP's enforcement covers the period partly from when the country was in what was commonly known as Lockdown 2 and the City's emergence into the Tier 3 restrictions. From a policing perspective, there have now been over 200 variations to the guidance or the rules and regulations themselves.</p> <p>3.2 Throughout all these iterations, the policing approach has been based around what are known as the 4Es</p> <ul style="list-style-type: none"> • Engage, • Explain, • Encourage and • Enforce. <p>The fourth 'E' of Enforcement was seen as the last resort if members of the public did not respond well to the first three Es. That said, given the rise of the second wave, the policing response nationally has moved quicker to Enforcement and this has included the issuing of a number of the so-called super fines of £10,000. There was a brief period of a couple of days when</p>

these were suspended but national policy is that they are back and are fully enforceable.

- 3.3 As has been discussed in previous reports, WMP produced an app for the mobile devices of all our front-line staff. This app allowed them to record what we called, "Directions to Leave" (DTL), and when people are spoken to who were breaching the regulations, they were assessed as falling into one of four tiers:

Level 1: Simple request is made, and compliance gained resulting in a voluntary dispersal - these were not recorded on the app.

Level 2: Mild disagreement (argumentative, delaying etc.) resulting in a formal instruction to disperse. Recorded on app.

Level 3: Individual is obstructive, abusive, severely delaying, has been previously dispersed or has come back after already being dispersed, aggravating factor present (e.g. distance travelled). Record as Fixed Penalty Notice on the app.

Level 4: As above, but threshold of arrest is met under Code G PACE. Arrest, then deal with person in custody through the app.

- 3.4 Level 1 interventions from 18th September 2020 were also recorded on the app as a result of a local policy change.

- 3.5 It is this enforcement that I will refer to in the below section. This is not to underplay other important aspects of enforcement that have taken place in conjunction with the BCC Environmental Health Team when it has come to licensing issues related to premises. However; if it was linked to people (usually unlawful gatherings) then WMP would lead.

- 3.6 The other issue that has attracted interest around enforcement has been the policing of protest. When the city was in Tier 2, gathering for the purpose of protest was one of the specific exemptions to the prohibition of gathering in public. During lockdown, there was no such exemption granted for protest. The legislation did not explicitly prohibit gathering but, travelling to attend a protest would not have been considered a "reasonable excuse" to travel and such gatherings were also unlawful. This led to what is an unprecedented moment in my 29 years of police service when WMP arrested a dozen people in Victoria Square for attending a protest and failing to disperse as they met the Level 4 criteria discussed above. It is worth commenting that all those arrested were dealt with by way of Fixed Penalty Notice and the event otherwise passed off peacefully.

- 3.7 In Tier 3, the rules around protest have changed again. There is now an exemption around gathering for protest, but only if a series of conditions are met. This includes the nature of the organising body (must be a business, charity, benevolent organisation (e.g. Unison), philanthropic organisation (e.g. Big Issue Invest) or a public body) and a suitable risk assessment must be completed. Ideally the risk assessment should consider the ability to keep the protest under some control in the context of

the spread of the virus. If the protest (whether by location or volume) presents a higher risk, in theory the required precautions may not be satisfied. In both cases, it is for the police to decide whether the organiser meets the first criteria and if the risk assessment is of sufficient standard. Anyone attending a protest must comply with the relevant Tier 3 guidelines. The same rules apply in Tier 2 areas.

Results

3.8 The results referred to below focus on individual interactions as an agreement was arrived out with BCC colleagues that, as a rule if breaches related to a premises (usually related to a licensing issue) then BCC would lead on enforcement.

3.9 The results are as follows:

	Up to 16/9/20	19/9/20-19/11/20	20/11/20-10/12/20
Total DTL	1655	4641	4150
Level 1	N/A	4290	3740
Level 2	1196	138	78
Level 3	229	198	331
Level 4	5	15	1

3.10 It is worth commenting that the above relates to DTL records, not people. The 4150 directions were issued to 10,774 people. Perhaps the single most noteworthy incident was the rave that was hosted in Digbeth that was attended by over 150 people. When the police attended, they were attacked by the people inside the venue, which is one of the contributors to increase in FPNs (Level 3) given out over the past 20 days. Enquiries are continuing with the organisers with a view to issuing £10,000 fines.

3.11 Work has taken place to measure the proportion of ethnic minority DTLs compared to white DTLs. Across Birmingham the Asian DTL ratio is 1.7 (was 1.8 on the last report) and the Black DTL ratio is at 2.5 (3.3 at last report). These figures are lower than the West Midlands as a whole, which are 2 (2.1) and 4.5 (5.9) respectively.

3.12 These results continue to reflect a range of operational deployments including everyday patrols, combined enforcement days with BCC and Operation RELIANT. Op RELIANT is the name given by West Midlands Police to a series of specific deployments to tackle incidents over weekend nights and evenings including unlicensed music events, unlawful house parties and so-called block parties.

Summary

3.13 As in previous reporting periods, even with the swifter move to enforcement, the 4Es remains our overall strategy. There are still no

targets for enforcement across the city and this will remain our policy. We continue to balance the enforcement of the new regulations in a way that does not compromise the legitimacy of WMP in our communities but are confident in our use of the new powers, which is reflected in the massive step up of Tier 1 interactions. This time of year, we would normally have an increased resources level in the City Centre to police the Frankfurt Christmas Market and the attendant crowd issues that brings. This year those levels have obviously been scaled back, but we have kept additional resources in place to respond to what we anticipate will be extra reports of COVID breaches.

Appendices
N/A

The following people have been involved in the preparation of this board paper:

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