



	<u>Agenda Item: 7</u>
Report to:	Local COVID Outbreak Engagement Board
Date:	1st October 2020
TITLE:	LEGAL POWERS AVAILABLE TO BCC TO RESPOND TO CORONAVIRUS EMERGENCY
Presenting Officer	Suzanne Dodd Assistant Director & Solicitor (Deputy Monitoring Officer)

1. Purpose:
1.1 The purpose of the Report is to update the Board on the main legal powers available to the local authority to assist with addressing Covid-19.

2. Recommendation
2.1 That the report be noted

3. Report Body
3.1 <u>Key Legislation</u>
3.1.1 The Health Protection (Coronavirus, Restrictions) (England) (No. 3)
On the 18 th July 2020, The Health Protection (Coronavirus , Restrictions) (England)(No. 3) Regulations 2020 came into force; these Regulations contain new powers assist local authorities helping prevent Covid- 19 transmission in a local authority’s area. The new powers include:
<ul style="list-style-type: none">• Restricting access to, or close, individual premises• Prohibiting certain events (or types of events) from taking place• Restricting access to , or close , public outdoor places (or types of outdoor public places) .
3.1.2 Before using such powers, a local authority needs to be satisfied that the following three conditions are met :
<ul style="list-style-type: none">• - That there is a serious and imminent threat to public health in the area;

- - The local authority needs to act quickly to protect public health by preventing and protecting against the spread of infection in the area; and
- - That the restrictions in place are appropriate to prevent the spread of COVID-19.

3.1.3 The local authority is expected to utilise such powers with discretion, and only having had regard to any advice given to it by its Director of Public Health.

3.1.4 Any affected businesses/premises users will be notified by email or by letter, which will contain all the relevant information, including the reason why the action is being taken. The notice will also inform them of why this action is taking place. A local authority must review any direction issued at least every seven days and the direction can be lifted when there is no longer a serious and imminent threat to public health, or the measures are not required to prevent or control COVID-19 in the area.

3.1.5 If someone ignores or obstructs a direction this is an offence and local authority designated officers, police officers or Police Community Support Officers (PCSOs) may issue a Fixed Penalty Notice (FPN). The amount of the FPN will be £100 for a first offence (reduced to £50 if paid within 14 days), doubling upon further offences up to a maximum of £3,200.

3.1.6 In Birmingham, a number of directions have now been issued these include a Direction in respect of a Banqueting Suite in the City where the council had received numerous complaints of individuals failing to maintain the appropriate social distancing . The Direction issued required the venue to restrict entry, to introduce a new booking system and not to allow bookings of more than 30 people (the relevant number at the time) . The Regulations were also utilised to issue a direction requiring the closure of Stone Road Asylum Centre in Edgbaston in order to ensure that residents were moved to alternative accommodation where they could safely self-isolate and socially distance.

3.2 Public Health (Control of Disease) Act 1984 – Part 2A Orders

Local authorities may apply to a magistrate for a Part 2A order when they need additional powers to manage a person or item that may cause significant harm to human health from infection or contamination.

3.2.1 A magistrate can grant a Part 2A order to a local authority if the various conditions set out in Health Protection (Part 2A Orders) Regulations 2010 are met. Any restriction or requirement imposed by or under the order must not exceed 28 days. In granting an order, a magistrate must be satisfied that an individual is or may be infected or contaminated, that the infection or contamination is one which presents or could present significant harm to human health , that there is a risk that the individual might infect or contaminate others and that an order is necessary in order to remove or reduce that risk.

3.2.2The order may impose on or in relation to the person or people concerned a number of restrictions or requirements e.g. that the individual submits to medical examination, that the individual is removed to or detained in a hospital or other suitable establishment, that the individual is kept in isolation or quarantine etc.

3.2.3 A person commits an offence, punishable by way of a fine, if they fail without reasonable excuse to comply with a restriction or requirement imposed by or under a Part 2A order. If the Part 2A Order imposes a requirement that a person be detained or kept in isolation or quarantine in a place, and the person leaves that place contrary to the requirement, a constable may take the person into custody and return the person to that place.

3.2.4 A Part 2A order has recently been obtained by the City Council, working closely with PHE, requiring a group of individuals to be kept in isolation or quarantine at Strathallan Hotel in Birmingham where a number of positive COVID 19 cases had been confirmed.

3.3 Health Protection (Local Authority Powers) Regulations 2010

3.3.1 These Regulations, local authorities have a limited power to request persons or groups of persons to do or refrain from doing anything by serving a notice for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present a significant harm to public health. For example, where a local authority is satisfied that a child may be infected or contaminated and certain conditions are met, they may serve notice on the child's parents requiring the child to be kept away from school. It is an offence, punishable by way of a fine, to fail to comply with such a notice.

3.4 Licensing Act 2003: Review of a premises licence

3.4.1 The chief officer of police for an area in which licensed premises are situated may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both). On receipt of that application and the certificate, the licensing authority must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days after the day of receipt of the application. At the interim steps stage, the licensing authority has a number of options – it may for example modify the conditions attached to the licence or suspend the same. Following the full licence review, the licensing authority again has a number of options including revocation of the licence.

3.4.2 An expedited review was recently heard by the Council's Licensing Sub Committee in respect of PB's Bar in Hockley. The bar licence was revoked after West Midlands Police told an expedited review hearing how officers witnessed its failure to observe Government guidance in respect of COVID 19 on several occasions – with no social distancing and a failure to limit the number of people on the premises.

3.4.3 In addition to the above, a responsible authority e.g. environmental health, or any other person may apply for a review of a licence or certificate that is in force. The grounds for review must be relevant to one or more of the licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance or the protection of children from harm.

3.5 Other New Powers

3.5.1 The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020

Local authorities now have the powers to bring a prosecution for breaches of the new mandatory requirements in relation to track and trace system. From the 21 September businesses and venues have to collect customer contact details as part of the track and trace system, as well as to display the QR code linked to the new NHS Test and Trace app. The requirement on displaying the QR code took effect on the Thursday 24 September when the app was launched. They apply to a broad mix of food and drink businesses, leisure and tourism services, 'close physical contact services' such as hairdressers and barbers, and services provided for social, cultural and recreational purposes in community centers, youth and

community centres and village halls. Councils will be responsible for enforcing the new regulations, with the police also empowered to do so.

These powers are enforced by the Regulation and Enforcement Division and the necessary authorisations for enforcement officers have been put in place.