

**POLICY & RESOURCES
(URGENCY) SUB-COMMITTEE
VIRTUAL MEETING**

Agenda Item 3

Brighton & Hove City Council

Subject:	Covid-19: Designation of Officers for enforcement purposes
Date of Meeting:	31 March 2020
Report of:	Executive Lead Officer for Strategy, Governance & Law (Monitoring Officer)
Contact Officer:	Name: Abraham Ghebre-Ghiorghis Tel: 01273 291500
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Ward(s) affected:	All

FOR GENERAL RELEASE

By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency for the following reason: given the rapid escalation of the situation with Coronavirus and having regard to government guidance, the Council needs to put arrangements in place for the enforcement of the regulations and cannot wait until, the next scheduled meeting of the committee..

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the report had to be compiled at short notice having regard to national developments

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report proposes the designation of officers for the purposes of enforcement of the provisions regarding closure of certain business premises during the coronavirus crisis in accordance with the provisions of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

2. RECOMMENDATIONS:

2.1 That Members agree the designation of the officers listed in paragraph 3.5 of the report for the purpose of the enforcement of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 to the extent permitted by those Regulations and recommend its implementation by the relevant Chief Officers.

2.2 Note that, in accordance with the powers delegated to officers by Policy & Resources Committee on 19th March, the above will be given effect to by the Executive Director for Housing, Neighbourhoods and Communities and other relevant Chief Officers.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 As one of the measures to control the spread of the coronavirus, the Coronavirus Act 2020 gave the Secretary of State for Health the power to introduce regulations to close certain premises during the period of the crisis. The secretary of state made the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 and these have now been updated and superseded by the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020. <http://www.legislation.gov.uk/ukxi/2020/350/made>
- 3.2 The regulations require all food and drink outlets listed in part I in the Appendix to this report to close for the purpose of serving customers on the premises. The regulations require the businesses listed in appendix 1 to close.
- 3.3 The police and local authorities are designated as the enforcement authorities for the purposes of the Act and regulations. The role of local authorities is limited to the closure of premises while that of the police covers all activities restricted by the regulations. Local authorities are authorised to designate officers as enforcement officers for the purposes of the Act and regulations Failure to comply with the requirement to close relevant premises is a summary offence.
- 3.4 Food outlets are permitted to sell food for consumption off the premises, but not on adjacent land. Where the business consists of a mixed use, the requirement to close applies to parts of the business required to close.
- 3.5 Having regard to the enforcement work already carried out by Council officers, including food hygiene, trading standards, environmental health, highways and others, and having regard to the level of experience and expertise available, it is proposed to designate the following categories of officers as enforcement officers for the purposes of the regulations:
- Regulatory services managers
 - Environmental Health Officers
 - Senior Licensing Officer
 - Technical Officers in Environmental Health and Licensing Team
 - Trading Standards officers
 - Fair Trading Officers
 - Highways Enforcement Officers
 - Field Officers
 - Seafront Team
- 3.6 It is proposed that the Head of Safer Communities oversees the operation of the enforcement work and may issue guidance and provide training, standard forms etc to ensure efficient discharge of the functions and ensure appropriate professional standards and quality control.
- 3.7 The enforcement function is shared with the police and there will need to be a co-ordination of approach to avoid duplication and inconsistency. It is hoped that the focus will be more on informing, encouraging, persuading and cautioning with prosecution as a last resort or in cases of flagrant breach. Under the Council's

constitution, the institution of legal proceedings needs to be approved by the Solicitor to the Council (Monitoring Officer.)

- 3.8 The Secretary of State is required to review the restrictions every 21 days with the first review being carried out by the 16th April and the intention is that they are removed as soon as the risk is illuminated or reduced to a manageable level.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The designation of officers and the enforcement of the requirement to close certain premises is a power rather than a duty. However, given the serious risk to public health the Council would be criticised, and potentially legally challenged, for failure to use the powers to protect the public. The designation of officers to enforce the regulations is an enabling measure and Officers will be able to assess the situation and exercise discretion on whether and how to use the powers.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 There was insufficient time to engage or consult with the community and the designation of officers in itself is not something that requires consultation.

6. CONCLUSION

- 6.1 The proposals in this report will enable the Council to support measures to reduce the risk of infection by designating officers for enforcement purposes. They will be kept under review and, if necessary, consolidated as part of the review of the constitution.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 It is not expected that there will be significant financial implications arising from the proposals in the report. Any enforcement work will be done as part of normal duties of the officers or by a reallocation of resources within existing budgets.

Finance Officer Consulted: Nigel Manvell

Date: 27/03/2020

Legal Implications:

- 7.2 These are included in the body of the report

Lawyer Consulted:

Abraham Ghebre-Ghiorghis

Date: 27/03/2020

Equalities Implications:

- 7.3 There are no adverse equalities implications arising from the report.

Sustainability Implications:

- 7.5 None

Brexit Implications:

7.6 None.

Public Health Implications:

7.7 The proposals in the report will support the work of the Council and other agencies to protect public health by limiting the spread of infection.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 Schedule 2 to the Protection of Health (Coronavirus, Business closures) Regulations 2020.

Background Documents

None

SCHEDULE 2 to the Regulations

SCHEDULE 2 Regulations 4 and 5 Businesses subject to restrictions or closure

PART 1

1. Restaurants, including restaurants and dining rooms in hotels or members' clubs.
2. (1) Cafes, including workplace canteens (subject to sub-paragraph (2)), but not including -
 - (a) cafes or canteens at a hospital, care home or school;
 - (b) canteens at a prison or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;
 - (c) services providing food or drink to the homeless.(2) Workplace canteens may remain open where there is no practical alternative for staff at that workplace to obtain food.
3. Bars, including bars in hotels or members' clubs.
4. Public houses.

PART 2

5. Cinemas.
6. Theatres.
7. Nightclubs.
8. Bingo halls
9. Concert halls.
10. Museums and galleries.
11. Casinos.
12. Betting shops.
13. Spas.
14. Nail, beauty, hair salons and barbers.
15. Massage parlours.
16. Tattoo and piercing parlours.
17. Skating rinks.
18. Indoor fitness studios, gyms, swimming pools, bowling alleys, amusement arcades or soft play areas or other indoor leisure centres or facilities.
19. Funfairs (whether outdoors or indoors).
20. Playgrounds, sports courts and outdoor gyms.
21. Outdoor markets (except for stalls selling food).
22. Car showrooms.
23. Auction Houses.

PART 3

- 24.** Food retailers, including food markets, supermarkets, convenience stores and corner shops.
- 25.** Off licenses and licensed shops selling alcohol (including breweries).
- 26.** Pharmacies (including non-dispensing pharmacies) and chemists.
- 27.** Newsagents.
- 28.** Homeware, building supplies and hardware stores.
- 29.** Petrol stations.
- 30.** Car repair and MOT services.
- 31.** Bicycle shops.
- 32.** Taxi or vehicle hire businesses.
- 33.** Banks, building societies, credit unions, short term loan providers and cash points.
- 34.** Post offices.
- 35.** Funeral directors.
- 36.** Laundrettes and dry cleaners.
- 37.** Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services, including services relating to mental health.
- 38.** Veterinary surgeons and pet shops.
- 39.** Agricultural supplies shop.
- 40.** Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this Part.
- 41.** Car parks.
- 42.** Public toilets.