

Committee: Cabinet

Date: 7 September 2020

Wards: All

Subject: Covid-19 Local Outbreak Control Plans and Process.

Lead officer: Louise Round

Lead member: Stephen Alambritis

Contact officer: Ged Curran

Recommendations:

- A. That authority to implement the local lockdown provisions set out in the **The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750** be delegated to the Chief Executive;
 - B. To ask Council to note that Scheme of Delegation to the Chief Executive set out in Part 3E of the Constitution will be amended accordingly by the Monitoring Officer
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Government has recently introduced new regulations contained in the **The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750**
- 1.2. These new Regulations contain executive powers for local authorities to implement local lockdown measures for the protection of public health in respect of Covid-19 outbreaks.
- 1.3. There is no specific delegation to the Chief Executive to exercise these powers and this Report recommends that the delegation to the CEO in Part 3E of the Constitution be amended to specifically include reference to these executive powers.
- 1.4. The current provision in Part 3E of the Constitution provides as follows:
“All Executive Matters not reserved for Cabinet or the Leader or delegated to a specified officer are delegated to the Chief Executive as set out in Section C.”
- 1.5. It is recommended that the following words be added to Section B, p.54 of the Constitution after paragraph 1:
“For the avoidance of doubt, this includes all executive powers conferred by the Health Protection (Coronavirus Restrictions) (England) (No.3) Regulations 2020, including any future amended or replacement regulations relating to the protection of public health in respect of Covid-19 outbreaks and local lockdown restrictions”

2 DETAILS

2.1. On 18 July 2020, legislation to grant local authorities new powers to respond to a serious and imminent threat to public health and to prevent COVID-19 (“coronavirus”) transmission in a local authority’s area where this is necessary and proportionate to manage spread of the coronavirus in the local authority’s area will take effect. These powers are contained in **The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750** which confer powers for local authorities to:

- restrict access to, or close, individual premises
- prohibit certain events (or types of event) from taking place
- restrict access to, or close, public outdoor places (or types of outdoor public places)

following procedural requirements set out in the Regulations and summarised below.

2.2. A copy of the Regulations is set out at **Appendix A** to this Report.

2.3. To make a direction under these Regulations a local authority needs to be satisfied that the following 3 conditions are met:

- the direction responds to a serious and imminent threat to public health in the local authority’s area
- the direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the local authority’s area of coronavirus
- the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose

2.4. Before making a direction, local authorities will need to gather sufficient evidence to demonstrate that these tests have been met. This evidence may come from a range of sources, including information provided to the local authority from local experts, through the Local Resilience Forum, from NHS Test and Trace (including the Joint Biosecurity Centre (JBC)), from Public Health England (PHE) and from other sources. A local authority must consult with the director of public health, and assess whether the conditions for taking action have been met. It must have regard to any advice given to it prior to issuing a direction, or to revoke such a direction.

2.5. A local authority should also consult the police prior to issuing a direction, and any neighbouring police forces if the direction prohibits, requires or restricts access to a premises, event or public outdoor place that is situated against a Local Resilience Forum boundary. Local authorities should be clear about why they are taking directive action and communicate this clearly

to the Secretary of State, the person(s) to whom the direction applies and, where appropriate, those impacted by the direction.

- 2.6. The powers conferred by these Regulations are executive powers. Section 9E Local Government Act 2000 provides that decision as to the exercise of executive functions is to be determined by the Leader of the Council. Under the Constitution of the Council unless the Leader has expressly reserved something to himself or to the cabinet, then it is delegated to the chief executive. Although it is strongly arguable that the existing provisions of the Constitution do provide for these powers to be vested in the Chief Executive, the Monitoring Officer considers that given the importance of these powers, it is desirable for the delegation in Part 3E of the Constitution to specifically include reference to the powers.
- 2.7. Cabinet is also asked to note that the Council has published an Outbreak Control Plan providing guidance in respect of local outbreaks which is set out at **Appendix B**.

3 ALTERNATIVE OPTIONS

- 3.1. Given that these powers will, in the unfortunate event of a local outbreak of Covid-19, need to be exercised urgently, it is not considered that it would be appropriate to require a Council or Cabinet meeting to authorise the exercise of these powers.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. This Report has been the subject of informal consultation with the Leader. There is no requirement for public consultation

5 TIMETABLE

- 5.1. The recommendations will take effect immediately.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. These are set out within the body of this Report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. These form part of the regulations and the requirement for proportionality.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. The recommendations support the need to respond urgently to risks to public health.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

A The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750

B Merton Local Outbreak Plan

12 BACKGROUND PAPERS

12.1. None