

From: Ben Watts, General Counsel
To: Scrutiny Committee, 11 March 2021
Subject: Local Authority Coronavirus Enforcement Powers
Status: Unrestricted

Summary:

This report summarises the legislative framework as it concerns Kent County Council's powers of enforcement in relation to Covid-19.

Recommendation:

Members are asked to NOTE the report.

1. Introduction

- a) The cornerstone of the emergency and enforcement powers relating to Covid-19 and health protection in England are set out in the following:
 - a. Coronavirus Act 2020.
 - b. Public Health (Control of Disease) Act 1984.
- b) The well-established powers in the latter, along with the trading standards powers available to local authorities gave Kent County Council (KCC) a firm foundation in the early stages of the pandemic and Officers across the authority have worked diligently to put them into effect to protect the people of Kent.
- c) The primary legislation has been supplemented by literally hundreds of pieces of secondary legislation, with 308 UK Statutory Instruments passed containing the word 'coronavirus' in the title to date. In addition, there have been many sets of official guidance from Government and other official bodies.

2. Health Protection Powers

- a) Out of all this information and regulation, it is possible to highlight some regulations as being of more strategic importance than some of the more technical ones. For example, the four 'Tiers' that applied across England were set out in:
 - a. The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (S.I. 2020/1374).
- b) The six main health protection regulations that apply to everyone in England are:
 - a. The Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (S.I. 2020/568).

- b. The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 (S.I. 2020/750).
- c. The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 (S.I. 2020/791).
- d. The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020 (S.I. 2020/1005).
- e. The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (S.I. 2020/1045).
- f. The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers) (England) Regulations 2020 (S.I. 2020/1375).

3. Enforcement Powers

- a) In terms of local authority enforcement, the two that I would like to focus on are b and f above in 2b.
- b) The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 (S.I. 2020/750) will be familiar to Members in practice. These came into force on 18 July 2020 and were the ones that gave local authorities, including KCC, the ability to issue directions relating to individual premises, events, and public outdoor places. KCC put in place clear governance arrangements around the use of these powers that ensured there would be a clear decision-making process whilst recognising the need to act swiftly. Part of the arrangements were to report each instance of these powers being used to the Scrutiny Committee for review. Doing so contributed positively to ensuring the right lessons were learned.
- c) These regulations are due to expire at the end of 17 July 2021. Directions have been issued on three occasions:
 - a. Decision 20/00105 – Hop Farm, Paddock Wood.
 - b. Decision 20/00125 – Broadstairs Christmas Market.
 - c. Decision 20/00131 – Pantiles.
- d) The details of The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers) (England) Regulations 2020 (S.I. 2020/1375) are set out in the Appendix to this report. It came into force on 2 December 2020 and remain in force for six months from this date.
- e) These regulations were brought in under the 1984 Act following engagement with local authorities. It is designed to give additional powers to local authorities to assist in the control of the spread of Covid-19. In summary, they gave KCC additional powers to enforce safety measures in businesses by being able to quickly request improvements, and close or restrict unsafe activities that do not meet Covid-19 secure requirements.

4. Looking Forwards

The Government set out its 'roadmap' out of the current lockdown across England on 22 February 2021. Local authorities will have a key role to play in this. No enforcement powers have been mentioned as part of this roadmap in addition to the ones set out above and described in the appendix. I will keep Members updated if this changes.

5. Recommendation

Members are asked to NOTE the report.

6. Background Documents

None.

7. Contact details.

Ben Watts, General Counsel

03000 416814

benjamin.watts@kent.gov.uk