

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL) (MEDIUM, HIGH AND VERY HIGH) (ENGLAND) (AMENDMENT) (NO.2) REGULATIONS 2020

2020 No. 1176

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument enables a number of public health measures to be taken to reduce the public health risk posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). It moves Warrington Borough Council from Local Covid Alert Level High to Local Covid Alert Level Very High. This enables the higher public health measures provided for in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 to be applied to this area.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is made under the emergency procedures set out in section 45R of the Public Health (Control of Disease) Act 1981 (c. 22). This instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make this instrument without a draft being so laid and approved so that public health measures can be taken in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- 3.2 This instrument was made on 26 October 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 27 October 2020. This instrument will cease to have effect at the end of the period of 28 days beginning with the day on which it comes into force, unless, during that period, it is approved by a resolution of each House of Parliament.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 The entire instrument applies to England only.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 The Secretary of State for Health and Social Care, Matt Hancock MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 2) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument is made under section 45C of the Public Health (Control of Disease) Act 1984 (the “1984 Act”) to enable a number of public health measures to be taken for the purpose of reducing the public health risks posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- 6.2 In accordance with section 45R of the Act, the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.
- 6.3 This instrument moves Warrington Borough Council from being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (referred to as an area being in ‘Local Covid Alert Level High’) to being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 (referred to as an area being in ‘Local Covid Alert Level Very High’). It also includes additional targeted restrictions in certain areas in relation to Cheshire (which, at present, only includes Warrington Borough Council). Areas allocated to Local Alert Level Very High cease to be under that restriction at the end of 28 days.
- 6.4 This instrument also corrects minor errors to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 and is being issued free of charge to all known recipients of those Statutory Instruments.

7. Policy background

What is being done and why?

Local Covid Alert Levels

- 7.1 The introduction of The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 on 14 October 2020 rationalised local Covid-19 interventions.
- 7.2 The Local Covid Alert Level framework consists of three local Alert Levels, with Local Covid Alert Level Medium consisting of the national measures that were in place prior to the introduction of the Local Covid Alert Levels and representing the minimum level of restrictions in place across England at that time. Local Covid Alert Level High is triggered in geographical areas where there is a rise in transmission, or nationally when there has been a rise in transmission which cannot be contained

through other, localised means. Local Covid Alert Level Very High is triggered in geographical areas or nationally when Local Covid Alert Level High measures have not contained the spread of the virus or where there has been a significant rise in transmission. The local areas allocated to Local Covid Alert Levels High must be reviewed at least every 14 days and the restrictions in the Local Alert Level High and Very High must be reviewed at least every 28 days.

- 7.3 This approach enables a coherent set of interventions across England, making it easier to communicate what restrictions apply in each area to the public, which will increase the likelihood of compliance and the effectiveness of social distancing measures. It will also allow the public to understand the consequences of non-adherence to measures (i.e., moving to a higher alert level) and plan for what they will do differently if the Local Covid Alert Level of their area changes.

Moving between Local Covid Alert Levels

- 7.4 Decisions about the appropriate Local Covid Alert Level in each area are made by the Government in discussion with local leadership and Directors of Public Health. Decisions are not based upon a single epidemiological factor, nor is there an automatic trigger for escalation. Instead, decisions are based upon recommendations provided by the Joint Biosecurity Centre and Covid-19 Task Force based on close monitoring of data and the spread of the virus across local areas. As part of this, the Joint Biosecurity Centre will consider prevalence, particularly in the over-60s, and positivity rates, as well as the capacity of local health services and the effectiveness of current interventions in the area. In addition, consideration will be given to the specific characteristics of individual areas, such as specific outbreaks and the impact of changes on the local economy and people's lives.

Engagement with local areas

- 7.5 The public health situation in each local area is kept under constant review and assessed through the weekly Local Action Committee framework. Engagement with Local Authorities is, and will continue to be, a key part of the response mechanism. The data collected by the Joint Biosecurity Centre is used to inform continuous engagement and consultation with local authorities, local leadership, and Directors of Public Health on the suitable recommendations for each area.

Substance of the regulations

- 7.6 This instrument moves Warrington Borough Council from Local Covid Alert Level High to Local Covid Alert Level Very High as set out below. It also makes provision for specific business closure requirements.

- 7.7 In addition to the baseline measures in the Local Covid Alert Very High regulations, the following businesses will close:

- Betting shops and adult gaming centres;
- Casinos; and
- Soft play areas and soft play centres.

- 7.8 These closures were decided upon as they represent settings that are more likely to involve sustained social interaction, as opposed to transient interactions. They are also indoor settings that will typically have poor ventilation and involve the touching of multiple surfaces. Local Authorities have also observed instances of larger gatherings

in these settings and poorer safety regimes in some instances. However, this does not prevent the use of soft play areas or soft play centres by persons with a disability.

Corrections to S.I. 2020/1103; S.I. 2020/1104 and S.I. 2020/1105

- 7.9 The instrument also makes minor technical drafting and clarification amendments to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

- 10.1 There has been no public consultation in relation to this instrument.

11. Guidance

- 11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus and this guidance will include information in relation to geographic areas subject to closures and restrictions on movements and gatherings under this instrument.

12. Impact

- 12.1 The instruments that this instrument amends are temporary provisions, which are part of the Government's response to Covid-19, lasting only six months each. As this instrument will cease to have effect after less than 12 months, a Regulatory Impact Assessment is not required and would be disproportionate.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The restrictions under the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 must be reviewed at least once every 28 days with the first review being by 11 November 2020 to ensure that they continue to be necessary for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of the Coronavirus infection in England.

14.2 Areas that are a part of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 must be reviewed at least once every 14 days with the first review being by 28 October. Areas that are part of the Alert Level Very High cease to have effect under the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 after 28 days, beginning with the day on which that inclusion came into force.

15. Contact

15.1 Beatrice Fannon at the Department of Health and Social Care Telephone: 0207 210 6346 or email: Beatrice.fannon@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kevin Dodds, Deputy Director for Social Distancing Strategy, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.

15.3 Matt Hancock, Secretary of State at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.