

Licensing Committee

Agenda
Item:

A.1

Meeting Date: 9th September 2020
Portfolio: Finance, Governance & Resources
Key Decision: No
Policy and Budget Framework: No
Public / Private: Public

Title: Regulating Coronavirus Controls in the Night-time Economy
Report of: Director of Governance and Regulatory Services
Report Number: GD 44 /20

Purpose / Summary:

A report to inform the Committee of the Council's Environmental Health activities taking place, and non-Licensing Act legislation available, to regulate the control of coronavirus in Carlisle's night-time economy.

Recommendations:

Members are requested to note this report

Tracking

Executive:	NA
Scrutiny:	NA
Council:	NA

1. BACKGROUND

- 1.1** The Environmental Health Department had been required to provide daily information on its additional work relating to coronavirus to the Office of Product Safety and Standards since March 2020. The Department has recorded 234 complaints / enquiries regarding business responsibilities up until the 24th August 2020. These complaints and enquiries were at first about whether premises could open and more recently about the safe operation of businesses. From the 10th August 2020 the reporting changed to weekly and is collected by the Health and Safety Executive.
- 1.2** The Department works closely with the Licensing Team sharing intelligence from site visits and discussing who can undertake the appropriate regulatory response. Both Environmental Health and Licensing attend the weekly Carlisle Hub meetings where concerns are discussed with multi-agency partners, including the Police and Fire.

2. REGULATORY CONTROLS

2.1 Business Closures

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, as amended many times, contain the controls, such as prohibition notices, fixed penalty notices and powers to prosecute, for those premises required to be closed due to coronavirus. Public houses were permitted to open on Saturday 4th July 2020 but restrictions still remain for premises such as night clubs, indoor events, sexual entertainment venues and casinos. Regulation 5 contains details of a number of restrictions that apply to the movement of people and gatherings, but these are enforced by the Police.

The premises most complained about to the Environmental Health Department in respect of alleged breaches to the business restriction regulations were public houses and hairdressers / barbers. Only two Prohibition Notices were served where there was sufficient evidence to believe a breach occurred, these were for a public house offering the sale of alcohol for consumption on the premises and the occupation of a guest house. The Environmental Health Department adopted the engage, educate, encourage approach to compliance with the business restrictions regulations, only using the enforcement option when the other approaches failed and there was sufficient evidence of a breach. There was very good compliance with the business restriction requirements. Recent complaints include pubs allowing dance floors to operate within their premises.

2.2 Health and Safety at Work

As business were allowed to re-open the focus turned from business restrictions to compliance with infection control as part of businesses health and safety at work responsibilities. Environmental Health Departments are responsible for most health and safety enforcement in retail, hospitality and leisure businesses. The Government has published guidance for businesses who reopened including that for restaurants, pubs, bars, cafes or takeaways:

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

The guidance does not supersede any legal obligations relating to health and safety, entertainment licensing and other regulations. Most of the coronavirus related enquiries coming into environmental health are queries from businesses themselves about safe working practices. There have however been a number of common public complaints, particularly in relations to pubs, social distancing and customer record keeping, and hairdressers, personal protective equipment. At the end of July there were two weekends where confirmed positive cases with coronavirus had visited pubs whilst infectious and the full track and trace system was implemented to advise pub visitors at these times to get themselves tested. Social distancing issues are being followed up by checking the premises' health and safety risk assessment. Following complaints, or intelligence from night-time visits, an Environmental Health Officer will contact the premises to review its processes. Over the period of the 23rd and 24th July where we were aware of problems within pubs the Environmental Health team visited 11 licenced premises in Carlisle. Most premises do have good systems in place but struggle to moderate the behaviours of groups as the night progresses, particularly in respect to social distancing.

There is a difficulty with enforcement using the health and safety at work legislation. To serve a Health and Safety at Work Prohibition Notice you have to be certain there is an imminent risk to health, with the pubs deviating from the guidance having younger clientele, who are more likely to be asymptomatic if they caught coronavirus, the HSE has argued it would not be appropriate to serve Prohibition Notices for most of the guidance breaches. Improvement Notices in the legislation have a 21-day period for compliance. The difficulties with enforcement have been raised and the Local Government Association have also raised the issues nationally.

2.3 Emergency Powers

The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 were made under the Public Health (Control of Disease) Act 1984. This is emergency legislation to address the risks posed by Covid-19 and provide powers to the County Council, through the Director of Public Health, and the Secretary of State to impose restrictions on activities at a local level. These regulations make provision for directions relating to premises, events and public outdoor places in its area. A direction may be given only if the local authority considers that there is a serious and imminent threat to public health, a direction is necessary to prevent or control the spread of coronavirus and the restrictions are proportionate. Environmental Health Departments work closely with the Director of Public Health on outbreak management and will discuss events of concern.

3. RECOMMENDATIONS

3.1 Members are requested to note this report

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Appendices NA
attached to report:

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS:

LEGAL - None

FINANCE – None

EQUALITY – None

INFORMATION GOVERNANCE – None