

## CABINET

14 September 2020

# COVID 19 UPDATE AND APPROACH TO CONTINUED USE OF EMERGENCY POWERS

Report of the Chief Executive

Strategic Aim:	All	
Key Decision: No	Forward Plan Reference: N/A	
If not on Forward Plan:	Chief Executive Approved	
Reason for Urgency:	N/A	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance)	
Contact Officer(s):	Phillip Horsfield – Deputy Director Corporate Governance (Monitoring Officer)	01572 758154 phorsfield@rutland.gov.uk
Ward Councillors	All	

### DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the present position in Rutland in respect of COVID 19
2. Approves the Delegation of Powers under the contained Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 including the authorising of Officers for the purposes of the act (incorporating authorising enforcement and the issuing of fixed penalty notices) to the Chief Executive in consultation with the relevant Portfolio Holder.
3. Notes the continued use of the Civil Emergency Delegation and requests a further report reviewing the situation in January 2021.

## 1 PURPOSE OF THE REPORT

- 1.1 At the Cabinet meeting held on the 21<sup>st</sup> April 2020, it was agreed that Cabinet would keep under review the use of Emergency Powers.

1.2 In addition to this the Report provides Cabinet with information on the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 ('the Regulations') that came into force on 18 July 2020 and seeks approval to add these powers to the Scheme of Delegation.

1.3 The Report also provides a more detailed update on the present position in relation to the pandemic.

## **2 BACKGROUND AND MAIN CONSIDERATIONS - COVID POSITION**

2.1 Rutland's Local Outbreak Management Plan has been developed with input from a wide range of partners and was published on 10 July 2020. A copy of the LOMP is available at <https://www.rutland.gov.uk/my-services/health-and-family/health-and-nhs/health-and-support-services/coronavirus/local-outbreak-management-plan/>. It is a dynamic plan and will be updated as new national guidance is published or legislation changes.

2.2 The Government published its Contain Framework on 17 July, setting out how national and local partners will work with the public at a local level to prevent, contain and manage outbreaks. The framework supports local decision makers by clarifying their responsibilities and empowering them to take preventative action and make strong decisions locally, supported by mechanisms that safeguard key national assets and interests.

2.3 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 took effect. The regulations include additional 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)

2.4 The powers are intended as a last resort should approaches based on consent fail.

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

- i) the direction responds to a serious and imminent threat to public health in the local authority's area
- ii) 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
- iii) the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose

2.6 There are also requirements for evidence, consultation with the Police and Public Sector Equality Duty considerations. In addition, there are means of appeal via

Magistrates or the Secretary of State. Alongside this, government has published regulations setting out a range of possible interventions it could make at local level to slow the spread of the virus. These include closing whole sectors or types of premises in a certain area, introducing local 'stay at home' orders, preventing people leaving or entering defined areas, reducing the maximum size of gatherings beyond national rules and restricting transport systems serving local areas.

- 2.7 Where it is reasonably believed that a person aged 18 or over has committed an offence under these regulations, an authorised person or a police officer or PCSO may issue a Fixed Penalty Notice (FPN). The amount of the FPN will be £100 for a first offence (reduced to £50 if paid within 14 days), doubling upon further offences up to a maximum of £3,200.
- 2.8 The powers provided under the legislation (Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020) rest with Cabinet. Cabinet is asked to formally delegate these powers to the Chief Executive in consultation with the Director of Public Health and the Councillors in the Oversight Group. The Local Outbreak Management Plan in Section 13 the Governance structure that applies in respect of any outbreak. It should be noted that the Chief Executive may exercise these Powers using the emergency powers urgently and separately to the formal delegation should an urgent need arise.
- 2.9 For a range of settings, the government has also produced quick-reference Guides that provide key steps to help identify, report and respond to any potential COVID-19 outbreak within local communities  
**<https://www.gov.uk/government/publications/reporting-outbreaks-of-coronavirus-covid-19/covid-19-early-outbreak-management>**.
- 2.10 The Prime Minister announced in mid-July additional chapters for the national recovery plan alongside the Contain Framework. The new chapter outlined the following changes, that were contingent on infection rates continuing to fall:
- Compulsory wearing of face masks has been required in shops from 24 July (in addition to pre-existing requirements for public transport).
  - Permission for the opening of leisure centres and indoor swimming pools at the end of July and further leisure settings (such as bowling, ice rinks and casinos).
  - the return of schools in September;
  - the prospect of mass gatherings being allowed from October;
  - Potential changes to distancing from November;
  - Additional funding for NHS preparations for winter and the roll out of the biggest flu vaccination campaign to date.
- 2.11 On 31 July the Prime Minister announced that further relaxations for leisure settings would not begin until mid-August. Alongside this, there are requirements for face coverings in all public indoor settings such as libraries, museums and cinemas (in addition to shops) that began on the 8 August

- 2.12 Shielding requirements remain paused from 1 August and workplaces are being encouraged to put in place measures to enable people to return where it is necessary and safe to do so.
- 2.13 The focus has moved from the immediate response to the pandemic and into plans for containment and recovery. At the time of writing the picture both locally and nationally is that the number of cases at best plateauing and in many cases rising, this means our efforts on containment are key. Working with Partners the Council will work to identify and deliver key messages as the Country and County continues to open up. This includes messages around social distancing for parents and those taking children to school for example. As ever individual behaviours are the key, from previous data it is clear that Rutland residents have actively engaged with measures that have enabled the County to stay as safe as possible and we will be focussed on ensuring that our communities have the information that they need to continue to protect themselves and the vulnerable in our communities.
- 2.14 In light of this change it is suggested that the next formal review of the use of the powers take place in January 2021.

### **3 DECISION MAKING AND EMERGENCY POWERS**

- 3.1 As we have moved into a new phase in the Emergency Planning so the use of the Emergency Powers has evolved. The approach being taken is now is that Emergency Powers continue to be necessary for the 'contain' element of the work that is being undertaken. However all other areas of the Council's business are following the Governance arrangements that were in place before COVID. This means that significant Policy decisions are being made through Council, Cabinet, Committees and the Scheme of Delegation as they would have been previously.
- 3.2 As Councillors are aware a Decision Making Log was created for the use of the emergency powers (and other delegated powers that have been deployed during the crisis). This document has been created in order to record the decisions that have been made and the powers that these have been made under.
- 3.3 The Decision Making Log has been shared with all Members and will continue to be. This allows for scrutiny of decisions and further ensures that all members are informed of the decisions that have been made through delegated powers.

### **4 CONSULTATION**

- 4.1 Through the Member briefings all Councillors have been kept abreast of the position in relation to the Pandemic.

### **5 ALTERNATIVE OPTIONS**

- 5.1 The report provides an update on information regarding the actions taken and the Constitutional position.

### **6 FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications arising from this report.

### **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

7.1 These are contained in the Report

## **8 DATA PROTECTION IMPLICATIONS**

8.1 None arising from the report.

## **9 EQUALITY IMPACT ASSESSMENT**

9.1 An Equality Impact Questionnaire is not required for this report.

## **10 COMMUNITY SAFETY IMPLICATIONS**

10.1 There are no community safety implications arising from this report.

## **11 HEALTH AND WELLBEING IMPLICATIONS**

11.1 There are no health and wellbeing implications arising from this report.

## **12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

12.1 It was agreed by Cabinet to review the emergency powers to ensure that the powers are still required. The Report makes clear the present phase of the response to the pandemic and the manner in which the powers will be used while ensuring that the usual governance arrangements of the Council are used for matters that are outside of the contain element of the response.

12.2 The report also seeks delegated authority to ensure that powers granted can be used appropriately.

12.3 Finally the report suggest a review date of January 2021 in light of the present situation.

## **13 BACKGROUND PAPERS**

13.1 There are no background papers for the report.

## **14 APPENDICES**

14.1 There are no appendices to the report

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.**