

St Helens Borough Council Outbreak Management Plan

Appendix 2: Regulatory powers

Local authority regulatory powers relating to COVID-19

It is not possible to provide detailed guidance to cover all scenarios. Each incident will need to be managed on a case by case basis. However, the guidance is applicable to all workplaces and community settings such as schools and care homes – these are collectively referred to as settings for the purpose of this document. Responsibility for enforcement of the Health and Safety at Work Act is shared with the Health and Safety Executive (HSE). Local authorities are responsible for enforcement in the following sectors: retail, catering (restaurants/takeaways), leisure/entertainment venues, warehousing/distribution, offices, call centres and residential care homes. The HSE is responsible for all other sectors including manufacturing, construction, education, hospitals, nursing care and local authority activities.

The council will not be able to use Health and Safety at Work Act powers in premises that are not allocated to the local authority for enforcement.

Currently several businesses are required by law to remain closed. This guidance does not deal with enforcement of business closures. This guidance deals with health and safety and public health arrangements in businesses and community settings that are permitted to remain open.

It is considered likely that additional regulation or amendments to current regulations will be implemented to enable local authorities to deal with localised outbreaks and where necessary, enforce the local “lockdown” measures proposed by the Government.

Enforcement approach

In keeping with the Government’s approach to enforcement of coronavirus restrictions and social distancing guidelines, the council’s approach will be guided by the ‘4 E’s’:

- Engage
- Explain
- Encourage
- Enforce

Therefore, enforcement powers will be used as a last resort but must be considered as an option where necessary to protect public health.

Overarching principles

All settings will need to adapt their operations to manage the routine risk of infection. Settings may need to take further additional steps in the event of an outbreak associated with that setting. Public health interventions or enforcement actions may be required to effectively manage an incident.

Whether a setting is managing the routine risk of infection or an outbreak amongst staff, customers or service users, the principal control measures are:

- Exclusion of suspected cases and household contacts of suspected cases from the setting. Those individuals should self-isolate at home. This exclusion may be extended to all contacts of suspected cases once the national Test, Track, Trace and Isolate system is introduced. Employers should ensure all suspected cases are excluded from the setting. (Note this is not applicable to residential care)
- Encourage employees/service users to work at home where possible.

- Hand hygiene – employees/service users should be encouraged to regularly wash their hands for 20 seconds with soap and water or hand sanitiser if soap and water are not readily available.
- Increased environmental cleaning and disinfection. Shared facilities such as toilets, changing rooms, restrooms and canteens should be regularly cleaned and disinfected. Surfaces that are regularly touched by hands such as switches, door handles and taps should also be regularly cleaned and disinfected.
- Implementation of social distancing measures to ensure staff and customers keep 2 metres apart. Where this is not practical additional measures should be put in place.

Legislation and powers

Legislation	Powers
Public Health (Control of Disease) Act 1984 as amended by the Health and Social Care Act 2008	<p><i>The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020</i> Contains provisions regarding premises and businesses, which must close during the current pandemic. Also contains restrictions on movement and gatherings, which are enforced by the Police.</p> <p><i>The Health Protection (Local Authority Powers) Regulations 2010</i> Contains provisions for requiring a child to be kept away from school, for requiring head teachers to provide details of children attending school, to request cooperation for health protection purposes and restrictions around access to dead bodies.</p> <p><i>The Health Protection (Part 2A Orders) Regulations 2010*</i> Following an application from a local authority to a Justice of the Peace, they may make orders relating to a wide variety of restrictions covering persons, things or premises. Restrictions can include keeping people in quarantine, abstaining from work, seizing or detaining things for decontamination, closing, cleaning and disinfecting premises.</p>
Coronavirus Act 2020	<p>Grants government emergency powers to manage the Covid-19 pandemic. It contains provisions relating to the NHS, social care, schools, police, local councils, funerals and courts and provides the Government with 'switch on' and 'switch off' powers dependent upon the medical advice received.</p> <p>In the context of testing, tracking and tracing, the act provides the Police with powers to support public health officers in screening and assessing persons suspected as being potentially infected with Covid-19 to remove that person to a place for screening and assessment or keep that person at a particular place until a public health officer can assess them.</p>
Health and Safety at Work etc. Act 1974	<p>Contains general duties that employers should take all reasonably practicable steps to ensure the health, safety and welfare of workers and visitors to a workplace. Safe systems of work need to be developed.</p> <p><i>Management of Health and Safety at Work Regulations 1999</i></p>

	<p>Impose a requirement to ensure a suitable and sufficient risk assessment has been made in respect of Covid-19 to protect both employees and non-employees.</p> <p><i>Personal Protective Equipment at Work Regulations 1992</i> Requires employers to provide appropriate Personal Protective Equipment to protect against Covid-19 infection taking into account the risks and conditions within the workplace.</p> <p>Health and safety legislation contains provisions such as improvement notices, which could be used to require structural improvements or changes to working practices within workplaces.</p> <p>Prohibition notices are also available to inspectors to prohibit certain activities or operations, where there is a risk of serious personal injury to employees or members of the public.</p>
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Fast track procedure in applying to a Justice of the Peace for a Part 2A Order *

1. The local authority constructs a written application to a Justice of the Peace in accordance with the Health Protection Regulations 2010 – TOOLKIT and issues a notification of intention to the person or owner of the premises or thing.
2. The application should be sent to the email address:
ME-MerseysideETMP@justice.gov.uk
3. Immediately upon receipt, the application will be forwarded to a legal adviser, who will review the documentation. Following review, if the application is in order, it will be passed to a judge located at Liverpool Crown Court.
4. The judge will review the application and hold a telephone hearing.
5. If the judge is minded to approve the application, it will be signed and returned to the officer making the application, forthwith.