

## **STAGE 1 – EVIDENCE GATHERING**

- 1.1 A report needs to bring together the evidential concerns and statutory considerations.
- 1.2 The statutory guidance sets out examples of the range of sources that the evidence could be provided from.

**“... Before making a direction, local authorities will need to gather sufficient evidence to demonstrate that these tests have been met. This evidence may come from a range of sources, including information provided to the local authority from local experts, through the Local Resilience Forum, from NHS Test and Trace (including the Joint Biosecurity Centre (JBC)), from Public Health England (PHE) and from other sources. A local authority must consult with the director of public health, and assess whether the conditions for taking action have been met. It must have regard to any advice given to it prior to issuing a direction, or to revoke such a direction.”**

- 1.3 The report must provide primary (first hand) evidence of the concerns and the report should also highlight and consider any particular Equality Act implications for any decision as well as balancing out Human Rights implications.
- 1.4 The report should set out exactly what directions, prohibitions, requirements or restrictions are being asked for and it should explain that the directions are proportionate and necessary because one of the following factors applies
  - That giving direction responds to a serious and imminent threat to public health in the local authority’s area (regulation 2(1)(a))
  - That 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 (regulation 2(1)(b))
  - That the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose (regulation 2(1)(c))
- 1.5 The report should also set out where the notice should be published (and why), and set out anyone else who should receive notice of the direction.

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- 1.6 The report should confirm that consultation has taken place with all necessary parties as set out in the statutory guidance and it should confirm that the Director of Public Health has been consulted with and supports the issuing of the direction.

**The reports may be prepared and submitted to Staffordshire County Council by any agency.**

**Staffordshire County Council Trading Standards will receive and collate the reports.**

**Where the need for a direction is identified the evidence will be submitted to the Director of Public Health and to the Legal Services Unit for review.**

## **2. STAGE 2 – WARNING LETTER**

- 2.1 Legal Services Unit must be asked to review the evidence base and must be asked to review any warning letter prior to submission.
- 2.2 Once legal are able to advise that the three conditions have been met the warning letter should be personally served. We would suggest that the service be undertaken by the person who has co-ordinated and collated the evidence.
- 2.3 If the subject complies with the warning letter then the process will end although it is anticipated that there will be ongoing monitoring by the Police and Districts and Boroughs.
- 2.4 If there is no compliance then the report must be updated to go to the Decision Maker.

## **3. STAGE 3 - WRITING AND SUBMISSION OF REPORT FOR DECISION**

- 3.1 A report must be submitted to the relevant decision maker depending on whether or not the individual decision falls within the definition of a key decision. Sufficient information must be provided to the decision maker to make an informed decision and this must include at least the following information:

1. The evidence gathered both prior and post to the submission of the warning letter;
2. What (if any) actions or compliance have been taken by the subject as well as any non-compliance;
3. Whether the subject approached SCC for advice and guidance;
4. Whether an equality impact assessment been done;
5. Whether equality implications and human rights (with particular reference to s6 Human Rights Act 1988) been considered. It is important to assess what impact (if any) the direction will have and how the local authority consider it will be justified.
6. Confirmation that the making of a decision will not negatively impact on infrastructure, as defined within statutory guidance.
7. What (specifically) directions, prohibitions or restrictions are being asked for and how long should they last.
8. Where should any decision be published and to whom should notice be given.

#### **4. STAGE 4 – DECISION**

- 4.1 Legal Services in conjunction with the Director of Public Health will review the updating evidence following the issue of the warning letter.
- 4.2 [Subject to Cabinet approval] If an individual decision to issue a direction falls within the category of a key decision then the decision will be taken by Cabinet in consultation with the Director for Health and Care in his capacity as director of Public Health.
- 4.3 If the issuing of an individual direction does not fall within the category of key decisions then that decision will be made by the Chief Executive (or The Deputy Chief Executive and and Director for Children’s Services or the Director for Environment, Infrastructure and Skills, in consultation with the Director for Health and Care in his capacity as director of Public Health.
- 4.4 If the decision to issue the direction is made then the notice should be personally served, where service is required.
- 4.5 Notice should be provided to the Secretary of State within 24 hours.
- 4.6 The decision must be published in accordance with statutory obligations and others may be notified and other publications may take place as determined by SCC.

#### **5. STAGE 5 – REVIEW**

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- 5.1 The decision, once made, does need to be reviewed at least every 7 days. This is to ensure that the three conditions are still met. If they are not met, then the direction will need to be revoked. Directions can also be replaced dependant on improvements or deterioration.
- 5.2 The subject may fail to improve in which case the direction could continue. In the event of any breach of the direction then enforcement needs to be commenced.

**Enforcement**

- 5.3 Either the police or SCC LADO (Designated Trading Standards Officers) may take enforcement action. The appropriate mechanism or sanction is defined by statute and will depend upon the breach.