

DIRECTION (INDIVIDUAL PREMISES)

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750)¹, REGULATION 4(1)

1. The Borough Council of Bolton (“the Authority”), in exercise of the powers conferred by regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England)(No. 3) Regulations 2020² (“the No. 3 Regulations”), gives the following direction.
2. The Authority considers that the following conditions are met—
 - a. this direction responds to a serious and imminent threat to public health;
 - b. this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
 - c. the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose.³
3. Before giving this Direction, the Authority has had regard to—
 - a. any advice given to it by its Director of Public Health; and
 - b. the need to ensure that members of the public have access to essential public services and goods (including whether the individual premises forms part of essential infrastructure).

¹ SI 2020/750 accessed at <https://www.legislation.gov.uk/ukxi/2020/750/contents/made>; guidance on local authority powers at: <https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020>

² In this Direction, any reference to a regulation is a reference to a regulation of the Health Protection (Coronavirus Restriction) (No. 3) (England) 2020 (S.I. 2020/750).

³ See regulation 2(1).

4. The Authority has taken reasonable steps to give advance notice of this direction to a person carrying on/managing a business and the person who owns or occupies the premises.

DIRECTION

Person and premises

5. This Direction is given to Mr Asif Kantharia, 350 Derby Street, Bolton who is the owner of the premises to which the direction relates.
6. This Direction is given in respect of Grillaz, 350 Derby Street, Bolton, BL3 6LS (“the Premises”).

Directed actions

7. This Direction requires the following:⁴
 - a. Closure of the Premises.

Timing and duration of direction

8. Any actions required to put into effect the restrictions set out in paragraph 7 must be undertaken by **5pm on Thursday 20th August 2020**. The restrictions set out in paragraph 7 have effect until 5pm on 1st September 2020.
9. In accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this direction at least once every seven days. If the Authority considers that one or more of the conditions in regulation 2(1) are no longer met in relation to the direction, it will either be revoked without replacement or revoked and replaced with another direction.

Grounds for Direction

10. This direction is given on the basis that:

Restrictions on gatherings have been implemented in Bolton due to rising Coronavirus infection rates. Gatherings between different households are of particular concern and are increasing transmission rates. The number of outbreaks in the hospitality sector are increasing.

The premises to which this direction relates has failed to implement appropriate social distancing controls and failed to manage large queues of customers both inside and outside the premises.

See Annex A for additional details.

⁴ As per regulation 4(2), a direction may only be given for the purposes of (a) closing the premises; (b) restricting entry into the premises; or (c) securing restrictions in relation to the location of persons in the premises.

Consequences of not meeting the requirements of the Direction

11. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice⁵ or Fixed Penalty Notice⁶ against you or may commence criminal proceedings against you.
12. A person commits an offence if, without reasonable excuse, the person:⁷
 - contravenes a Direction under regulation 4(1); or
 - obstructs a person carrying out a function under the No. 3 Regulations, including any local authority designated officer under regulation 12 or a constable.

Such an offence is punishable on summary conviction by an **unlimited fine**.

Appeal/representations

13. If you believe that this Direction should not have been issued, and/or it contains incorrect information, please inform the specified point of contact set out below, setting out your reason(s).
14. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.⁸ There is a time limit of **up to six months from the date of issue of this Direction to appeal to the Magistrates' Court**. However, bear in mind that this Direction will be reviewed by the Authority at least every seven days and it will decide whether to revoke this Direction or revoke and replace it with another direction.⁹ The address for service of the summons is: The Borough Solicitor, Bolton Council, Town Hall, Bolton, BL1 1RU.
15. You also have the right to make representations to the Secretary of State about this Direction.¹⁰ The Secretary of State must consider any such representations as soon as is reasonably practicable, and decide whether it would be appropriate to exercise the Secretary of State's powers set out in regulation 3 of the No. 3 Regulations. The Secretary of State may direct the Authority to revoke this Direction, or revoke and replace this Direction. The Secretary of

⁵ See regulation 12(2) of the No. 3 Regulations.

⁶ See regulation 14(1) of the No. 3 Regulations

⁷ See regulation 13(1) of the No. 3 Regulations.

⁸ See regulation 4(9)(a) of the No. 3 Regulations.

⁹ If this direction was made pursuant to a direction of the Secretary of State under regulation 3 of the No 3 Regulations, a summons is to be issued to both the Secretary of State and the local authority.

¹⁰ See regulation 4(9)(b) of the No. 3 Regulations.

State must provide written reasons for the decision to the person who made the representations and to the Authority.

16. In making any representations to the Secretary of State about this Direction, the recipient of the Direction should do this via NHS Test and Trace, with representations emailed to directionnotification@dhsc.gov.uk. This should include:

- a. The name of the Authority;
- b. The reference LS/NR/81028 listed at the top of this Direction;
- c. An explanation as to how you have been impacted by the Direction and their relationship to the premises, such as whether you are the owner, occupier or involved in managing entry into, or departure from, the Premises, as set out in Regulation 4(5) of the No.3 Regulations;
- d. An explanation of the basis upon which the Direction should not have been made and was or is not appropriate, with reference to the conditions set out in Regulation 2(1) / paragraph 2 of this Direction;
- e. Any evidence which supports this contention; and
- f. What action you would like to be taken.

17. You are still required to comply with this direction pending the outcome of any appeal to the magistrates' court or the Secretary of State.

18. You may wish to obtain independent legal advice should you seek to pursue an appeal.

Additional powers and requirements that accompany this Direction

Publication

19. This Direction (and notice of revocation of this direction) is published on the Authority's website as required by the No. 3 Regulations.¹¹

20. This Direction may also be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it.

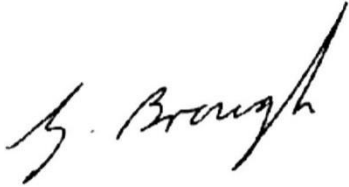
Notification

21. The Authority is required to notify any local authority whose area is adjacent to the initiating authority's area of this Direction (and any revocation of the

¹¹ See Regulation 10(2)(a) of the No. 3 Regulations.

Direction) by the No. 3 Regulations¹². All Greater Manchester Local Authorities have been notified of the service of this Direction.

22. The Authority is required to notify the Secretary of State as soon as reasonably practicable after the Direction is given.

A handwritten signature in black ink, appearing to read 'G. Brough', written in a cursive style.

Gerry Brough, Director of Place, Borough Council of Bolton

¹² See Regulation 11(1)(a) – (d) of the No. 3 Regulations