

REVOCATION AND REPLACEMENT OF DIRECTION

(INDIVIDUAL PREMISES)

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750)¹, REGULATION 2(3)

1. The Borough Council of Bolton (“the Authority”), in exercise of the powers conferred by regulation 2(3)(b) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020² (“the No. 3 Regulations”), hereby revokes the Direction dated 20th August 2020 from **4.59pm on Thursday 20th August 2020**.
2. Upon review, the local authority considers the conditions in Regulation 2(1) are no longer met in relation to the Direction of the 20th of August 2020 and **replaces it with the following Direction under regulation 4(1):**

3. Directed Actions

This replacement Direction requires the following:

Provide suitable and sufficient measures to manage queuing customers for both dine in and takeaway.

Timing and Duration of Direction

4. Any actions required to be put into effect the restrictions set out in paragraph 3 must be undertaken by **5pm on Thursday 20th August 2020** and will end at **5pm on Tuesday 1st September 2020**.

¹ SI 2020/750 accessed at <https://www.legislation.gov.uk/uksi/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).

5. In accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this further 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 that further Direction, it will either be revoked without replacement or revoke and replace it with another Direction.

6. Before revoking and replacing this Direction, the Authority has had regard to advice given to it by its Director of Public Health.

7. This revocation of Direction and replacement Direction is given to
, 350 Derby Street, Bolton, BL3 6LS who is the Director for the premises to which this direction relates.

Grounds for Replacement Direction

8. This replacement 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.

Following a previous Direction the operators of the premises to which this Direction relates have now reviewed their risk assessment and undertaken to implement additional controls at the premises to prevent the spread of Covid-19. The premises have implemented control measures for customers waiting and queuing at the premises. This enables the previous closure requirements to be revised.

The additional restrictions contained within this Direction are necessary to ensure that the premises are operated in a safe manner going forwards.

See Annex A for additional details on how the conditions required by Regulation 2 (1) are met.

Consequences of not meeting the requirements of the Direction

9. If this further Direction is not complied with the Authority may issue a Prohibition Notice³ against you or may commence criminal proceedings against you.

10. A person commits an offence if, without reasonable excuse, the person:⁴

- contravenes a direction under regulation 4(1); or

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

⁴ See regulation 13(1) of the No. 3 Regulations.

- 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

11. If you believe that this further 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).

You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.⁵ 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.

12. You also have the right to make representations to the Secretary of State about this Direction.⁶ 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 State must provide written reasons for the decision to the person who made the representations and to the Authority.

13. 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;

⁵ See regulation 4(9)(a) of the No. 3 Regulations.

⁶ See regulation 4(9)(b) of the No. 3 Regulations.

- e. Any evidence which supports this contention; and
- f. What action you would like to be taken.

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

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

Additional powers and requirements that accompany this Direction

Publication

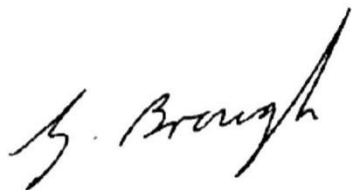
16. This Direction may be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it.

Notification

17. 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 Direction) by the No. 3 Regulations⁷. All Greater Manchester Local Authorities have been notified of the service of this Direction.

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

Any queries in relation to this revocation should be directed to the Officer below.



Gerry Brough, Director of Place, Borough Council of Bolton

⁷ See Regulation 11(1)(a) – (d) of the No. 3 Regulations