

# Changes to local authority powers and duties

Health emergencies, planning, local government meetings and education resulting from Coronavirus Regulations 2020

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# Introduction

This is a guide to the provisions of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020, Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No 2) Regulations 2020, Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020, Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020, the Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations 2020, School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) (No. 2) Regulations 2020 and the Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 including amendments, and to new, modified or suspended local government powers and duties applicable to local authorities in England only up to 7<sup>th</sup> August 2020. It is a guide and not legal advice and so if you are unsure or have any concerns about the meaning of or applicability of the Act or any of the provisions made under the Act you should seek your own detailed legal advice.

Information in this document can also be downloaded as a [Comma Separated Variables \(CSV\) spreadsheet](#).

## New duties

**Function(s): Community safety - Emergencies**

### Health emergency - notification of directions

Where a local authority gives a direction relating to a health emergency or revokes such a direction, the initiating authority must notify:

- any local authority whose area is adjacent to the initiating authority's area,
- where the initiating authority is a London borough council, every other London borough council,
- where the initiating authority is the county council for an area for which there is also a district council, the district council, and
- where the initiating authority's area is adjacent to the area of a council in Scotland constituted under section 2 of the Local Government etc (Scotland) Act 1994 or a county or county borough council in Wales, that council.

Where a local authority is notified the authority must:

- consider, as soon as may be reasonably practicable, whether to exercise its own powers under these Regulations,
- notify the initiating authority of what it has decided to do, and
- if it is a county council for an area for which there is also a district council, notify the district council of the matter notified to it by the initiating authority and of its own decision.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### **Health emergency - giving and publishing directions**

Where a local authority gives a direction which imposes a prohibition, requirement or restriction on a person specified by name, or revokes such a direction, the direction or notice of revocation must be given in writing to that person, and may be published in such manner as the local authority considers appropriate to bring it to the attention of other persons who may be affected by it.

In any other case, a direction given by a local authority or notice of revocation of such a direction must be published on the website of the local authority, and may be published in such other manner as the local authority considers appropriate to bring it to the attention of persons who may be affected by the direction or the revocation.

A direction given by a local authority must specify the power in these Regulations under which the direction is given.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### **Health emergency - approval of directions in respect of Crown Land**

A local authority may not, without the agreement of the appropriate authority, give a direction in relation to a public outdoor place which forms part of Crown land and includes property to which section 73 of the Public Health (Control of Disease) Act 1984 (Crown property) applies.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### **Health emergency - notification, review and revocation of directions**

Where a local authority has given directions in response to a serious and imminent threat to public health the authority must:

- notify the Secretary of State as soon as reasonably practicable after the direction is given
- at least once every 7 days review whether the threat to public health still exists
- revoke the direction where the conditions under which it was given no longer apply

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - duty to comply with Secretary of State

A local authority must give a direction in relation to the imminent threat of a public health emergency where directed to do so by the Secretary of State.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 31/07/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

**Function(s): Planning and building control – Development control**

### Community Infrastructure Levy - deferral of payments

Where a Community Infrastructure Levy payment is due to be paid by a person with an annual turnover not exceeding £45,000,000 and who is experiencing financial difficulties due to the effects of Coronavirus, the authority has a duty to consider a deferral of the payment and may issue a revised demand notice.

Where a deferral request is being considered no surcharge or interest on the payment may be imposed.

Legislation: [Community Infrastructure Levy \(Coronavirus\) \(Amendment\) \(England\) Regulations 2020](#)

Notes:

Applies in: England from 22/07/2020 until 17/01/2021

Applies to: District council, Greater London Authority, London borough, Metropolitan council, Unitary authority

## **New powers**

**Function(s): Community safety - Emergencies**

### Health emergency - giving of directions

Where they consider that there is an imminent threat to public health a local authority may give directions on the imposition of prohibitions, requirements or restrictions in relation to:

- the entry into, departure from, or location of persons in, specified premises in the local authority's area
- the holding of an event in its area
- access to a specified public outdoor place in its area, or public outdoor places in its area of a specified description

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - prohibition notices

A local authority designated officer or a constable may take such action as is necessary to enforce a direction under these regulations.

A local authority designated officer may give a prohibition notice to a person if the officer reasonably believes that:

- (a) the person is contravening a direction and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to do so.

"Local authority designated officer" means a person designated by a local authority for the purposes of this regulation.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - fixed penalty notice

A person authorised by a local authority may issue a fixed penalty notice to anyone that the authorised person reasonably believes has committed an offence under these Regulations and is aged 18 or over.

A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to an authority specified in the notice.

The authority specified in the notice must be the local authority (or as the case may be, any of the local authorities) in whose area the offence is alleged to have been committed ("the relevant local authority"), or an officer designated by the Secretary of State, or by the relevant local authority, for the purposes of this regulation.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - proceedings for an offence

Proceedings for an offence under these Regulations may be brought by a local authority, the Crown Prosecution Service and any person designated by the Secretary of State (but this does not affect any other power to bring proceedings for such an offence).

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - county directions to district

A county council for an area for which there is also a district council may direct the district council to exercise any of the district council's functions in a specified way. But a county council may only give a direction under this regulation if it considers that it is necessary and proportionate to do so in order to prevent, protect against, delay or otherwise control the incidence or spread of infection by coronavirus in the district council's area.

A direction under this regulation may be varied or revoked by the county council.

In determining whether to give a direction under this regulation, or to vary or revoke such a direction, a county council must have regard to any advice given to it by its director of public health (or its interim or acting director of public health).

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - restrictions on premises

A local authority may give a direction imposing prohibitions, requirements or restrictions in relation to the entry into, departure from, or location of persons in, specified premises in the local authority's area.

A direction may be given only for the purposes of closing the premises, restricting entry to the premises, or securing restrictions in relation to the location of persons in the premises.

Conditions which must be complied with when issuing directions are specified in the Regulations.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - prohibitions, requirements or restrictions on events

A local authority may give a direction imposing prohibitions, requirements or restrictions in relation to the holding of an event in its area. A direction may be given in relation to a specified event, or events of a specified description.

A direction may only have the effect of imposing prohibitions, requirements or restrictions on:

- the owner or any occupier of premises for an event to which the direction relates,
- the organiser of such an event, and
- any other person involved in holding such an event.

A direction may, among other things, impose requirements about informing persons who may be planning to attend an event of any prohibitions, requirements or restrictions imposed in relation to the holding of it.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - directions on prohibitions on public outdoor places

A local authority may give a direction imposing prohibitions, requirements or restrictions in relation to access to a specified public outdoor place in its area, or public outdoor places in its area of a specified description. Such a direction may in particular prohibit access at specified times.

A direction must:

- specify or describe the public outdoor place or places to which it relates in sufficient detail to enable the boundaries of the place or places to be determined
- state the date and time on which any prohibition, requirement or restriction imposed by the direction comes into effect, and the date and time on which it will end, and
- give details of the right of appeal to a magistrates' court, and the time within which such an appeal may be brought.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Health emergency - restriction of access to a public outdoor place

A local authority which has given a direction under regulation 6(1) must take reasonable steps to prevent or restrict public access to the public outdoor place or places to which the direction relates in accordance with the direction.

Any person, other than a local authority who owns, occupies or is responsible for land in a public outdoor place to which a direction under regulation 6(1) relates must take reasonable steps to prevent or restrict public access to that land in accordance with the direction.

No person may without reasonable excuse enter or remain in a public outdoor place to which a direction under regulation 6(1) relates in contravention of a prohibition, requirement or restriction imposed by the direction.

Legislation: [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 3\) Regulations 2020](#)

Notes:

Applies in: England from 18/07/2020 until 17/01/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### **Function(s): Administration and government – Internal operation – Corporate management**

#### Local authority meetings - scheduling

In respect of a reference in any enactment to a meeting of a local authority, that authority may, as they may determine:

- (a) hold such meetings and at such hour and on such days; and
- (b) alter the frequency, move or cancel such meetings, without requirement for further notice.

Where an appointment would otherwise be made or require to be made at an annual meeting of a local authority, such appointment continues until the next annual meeting of the authority or until such time as that authority may determine.

Legislation: [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)

Notes:

Applies in: England and Wales from 04/04/2020 until 06/05//2021

Applies to: County council, District council, Fire authority, Greater London Authority, London borough, Metropolitan council, National park authority, Transport authority, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Local authority meetings - attendance

A local authority may conduct a meeting which is not limited to all attendees being present in the same place but may allow attendance by electronic, digital or virtual means. Attendance is dependent upon conditions specified in Regulations being met.

Legislation: [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)

Notes:

Applies in: England and Wales from 04/04/2020 until 06/05//2021

Applies to: County council, District council, Fire authority, Greater London Authority, London borough, Metropolitan council, National park authority, Transport authority, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Local authority meetings - notification of meetings

Where a meeting is scheduled the authority may give notice of the date/time and place of the meeting by publishing such information on its website. The place of the meeting may be remote.

Legislation: [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)

Notes:

Applies in: England and Wales from 04/04/2020 until 06/05//2021

Applies to: County council, District council, Fire authority, Greater London Authority, London borough, Metropolitan council, National park authority, Transport authority, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

### Local authority meetings - public and press access

A meeting being “open to the public” includes access to the meeting through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and, where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

Legislation: [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)

Notes:

Applies in: England and Wales from 04/04/2020 until 06/05//2021

Applies to: County council, District council, Fire authority, Greater London Authority, London borough, Metropolitan council, National park authority, Transport authority, Unitary authority, the Common Council of the City of London and the Council of the Isles of Scilly

## Revised duties

### Function(s): Administration and Government – Democracy – Democratic services

#### Local government re-organisation - Plans, reviews, schemes etc.

Each preparing council which is a county council and each shadow council shall prepare for the whole of its area, and if required by the enactment concerned publish plans, reviews, schemes, statements and strategies as detailed in Regulations.

Legislation: [Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008](#)

Notes: Amended by the Local Government (Structural Changes) (Coronavirus) (Amendment) Regulations 2020 to allow required plans, reviews, schemes, statements and strategies to be prepared no later than 36 months from the date of re-organisation for single tier councils which have reorganisation dates in 2019, 2020 or 2021.

Applies in: England from 24/08/2020

Applies to: County council, District council, London borough, Metropolitan council, Unitary authority

### Function(s): Administration and Government - Internal operation – Human resources, Education and learning – Schools – Curriculum and policy

#### Schools - teacher induction (England)

The head teacher of an institution in which a person is serving an induction period and the local authority (as the “appropriate body”) are responsible for that person's supervision and training during that induction period. Where a person serving an induction period is employed in two or more institutions simultaneously, the head teachers of those institutions must agree which of them, and which appropriate body, is to be responsible for that person's supervision and training. On completion of an induction, the head teacher or principal of the institution where induction is completed must make a recommendation to the appropriate body as to whether standards have been met.

Legislation: [Education \(Induction Arrangements for School Teachers\) \(England\) Regulations 2012](#)

Notes: Amended by the Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations 2020 to state that the induction period does not need to be extended where the person serving the induction period is absent from work on more than 30 days for a reason relating to the incidence or transmission of coronavirus.

Applies in: England from 01/09/2020 until 31/08/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority

### Function(s): Education and learning – Schools – Curriculum and policy

#### Education - pupil registration

The proprietor of every school shall cause to be kept an admission register and except in the case of a school of which all the pupils are boarders, an attendance register.

The contents of the admissions register and the attendance register must be as specified in regulations.

Legislation: [Education \(Pupil Registration\) \(England\) Regulations 2006](#)

Notes: From 24 August 2020 Coronavirus may be recorded in the attendance register as the reason for the absence of a child from school during the 2020/21 school year where attendance is contrary to any guidance relating to the transmission of Coronavirus.

Applies in: England from 24/08/2020

Applies to: County council, London borough, Metropolitan council, Unitary authority, Common Council of the City of London

### Schools - exclusion from school

A head teacher must inform the parent of the excluded pupil or the pupil (if over 18), the governing body of the details of an exclusion and the LA if the exclusion is permanent, if the exclusion will result in the pupil missing a public examination or a National Curriculum test, or if the exclusion takes the total exclusions for that pupil to more than 5 school days in any term.

The Governing Body, or the Management Committee of a Pupil Referral Unit, must consider reinstatement in prescribed circumstances. An LA must make arrangements for a review by a review panel of decisions not to reinstate a pupil permanently excluded, if the relevant person applies for a review.

Regard must be had to guidance given by the Secretary of State.

Legislation: [School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)

Notes: Amended by the School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020 to allow meetings to consider certain school exclusions to be carried out by remote access in certain circumstances.

Further amended by the School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) (No. 2) Regulations 2020 to extend the time limit for a review meeting, for a relevant exclusion occurring on or after 25th September 2020, to be extended by such period as is reasonably necessary where it has not been practicable to do so by remote access and where this is for a reason related to the incidence and transmission of coronavirus.

Applies in: England from 01/06/2020 to 25/03/2021

Applies to: County council, London borough, Metropolitan council, Unitary authority, Common Council of the City of London

### **Function(s): Planning and building control – Planning policy**

#### Planning - availability of local documents

Where a planning authority is required to make documents available for inspection, they must do so by either making the documents available at the offices of the local planning authority or placing the documents on the local planning authority web site for the period of time specified in regulations.

Legislation: [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)

Notes: Requirement to make documents available other than on the local planning authority web site suspended by the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020. Where the period for which the documents are to be made available goes beyond 31st December 2020 documents and copies must also be made available in accordance with Sections 35 and 36 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Applies in: England from 16/07/2020 until 31/12/2020

Applies to: County council, District council, London borough, Metropolitan council, National park authority, Unitary authority

### Planning - London spatial development availability of documents

The Mayor of London must make copies of the London Spatial Development Strategy available for public inspection.

Legislation: [Town and Country \(London Spatial Development Strategy\) Regulations 2000](#)

Notes: Amended by the Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 to allow the spatial development strategy documents to be made available for inspection solely on the Greater London Authority's website.

Applies in: England from 12/08/2020 until 31/12/2020

Applies to: Greater London authority

### Planning - spatial development availability of documents

The combined authority must make the spatial development strategy documents available for public inspection.

Legislation: [Combined Authorities \(Spatial Development Strategy\) Regulations 2018](#)

Notes: Amended by the Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 to allow the spatial development strategy documents to be made available for inspection solely on the Combined authority's website.

Applies in: England from 12/08/2020 until 31/12/2020

Applies to: Combined authorities

### Planning - publication for development of nationally significant infrastructure

Where a developer has made an application for a development of nationally significant infrastructure publicity for the proposed application, notice of the accepted application (where this applies) and publicising of the acceptance notice must all be done in accordance with regulations.

Legislation: [Infrastructure Planning \(Applications: Prescribed Forms and Procedure\) Regulations 2009](#)

Notes: Modified by the Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 to allow publicising and notification to be done on a website.

Applies in: England from 22/07/2020 until 31/12/2020

Applies to: County council, District council, London borough, Metropolitan council, National park authority, Unitary authority