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Guidance

# COVID-19 enforcement powers for local authorities

Updated 14 April 2021

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On 2 December 2020, additional powers came into force to support local authorities' efforts to maintain COVID-secure environments in their area. This guidance now reflects the changes made by The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (<https://www.legislation.gov.uk/uksi/2021/364/contents/made>).

## Summary

Following proposals from and consultation with local authorities in England, the government provided local authorities in England with powers to take decisive action against premises that do not comply with COVID-secure rules. These enable enforcement officers to issue improvement and restriction notices to premises that are not meeting COVID-secure business obligations. See the list of the relevant obligations, below.

These tools enable local authorities to take targeted action against unsafe premises and will help to avoid further sector-wide restrictions, thus keeping the majority of safe premises open.

The tools will consist of:

- Coronavirus Improvement Notice (CIN)
- Coronavirus Restrictions Notice (CRN)
- Coronavirus Immediate Restrictions Notice (CIRN)

## Background

The notices are based in part on the existing health and safety regime under the Health & Safety at Work etc. Act 1974 (HSWA). The HSWA regime has been used so that local authority officers will have some familiarity with the new regime. Proportionality and the principles set out in the Regulators' Code (<https://www.gov.uk/government/publications/regulators-code>) should be followed, so that local authority officers should attempt to engage with a business before issuing a notice where possible.

### Coronavirus Improvement Notice (CIN)

A Coronavirus Improvement Notice can be issued by a local authority when a business is failing to fulfil a provision set out in the relevant coronavirus regulations relating to COVID-Secure measures. This will often be the first step for local authority enforcement officers to encourage businesses to remedy unsafe practices. A CIN will be applied for a minimum of 48 hours. Its actual duration will be at the discretion of the local authority enforcement officer.

An early review can be requested by the recipient of the notice, if early compliance is achieved. A review must be carried out in any event by a local authority enforcement officer, as soon as practicable after or at the end of the notice period. Failure to comply with a CIN by the end of its operational period could lead to a fixed penalty notice (FPN) of £2,000 and/or a Coronavirus Immediate Restriction Notice or a Coronavirus Restriction Notice being issued.

### Coronavirus Restriction Notice (CRN)

A Coronavirus Restriction Notice will be issued by a local authority when there has been a breach of the provisions of the relevant coronavirus regulations, and a recipient has failed to comply with the terms of a Coronavirus Improvement Notice, where this non-compliance creates a risk of exposure to coronavirus.

Following the 7-day period of application, a **CRN** can be withdrawn or allowed to expire where the premises have taken necessary steps to remedy unsafe practices.

An early review can be requested by the recipient of the notice, if early compliance is achieved. A review must be carried out in any event by a local authority enforcement officer before the **CRN** ceases to have effect. Failure to comply with a **CRN** during its operational period will result in an **FPN** of £4,000 being issued and a new **CRN** or Coronavirus Immediate Restriction Notice may be issued.

## Coronavirus Immediate Restriction Notice (**CIRN**)

A Coronavirus Immediate Restriction Notice can be issued by enforcement officers where rapid action is needed to close a premises or restrict an activity to stop the spread of the virus, without first issuing a **CIN** to stop the spread of the virus. Closure will be for a 48-hour period initially. The local authority will be required to review the **CIRN** before it ceases to have effect. A **CIRN** can be withdrawn or allowed to expire where the premises have taken necessary steps to remedy unsafe practices.

Where necessary, a local authority can decide to issue a **CRN** at the end of the 48 hours, so that the premises is required to close for a further 7-day period, or where it is assessed that the premises is causing a serious and imminent threat to public health, a direction can be issued under separate regulations.

Failure to comply with a **CIRN** will result in an **FPN** of £4,000 being issued.

## Reviews

A review will occur at the end of each notice or where an early review is requested for a **CIN**, **CRN** or **CIRN**. A local authority officer will apply their judgement to determine whether action taken by the recipient has complied with the notice. The relevant review periods are set out in each of the notices. When carrying out a review, a local authority officer must notify the person in receipt of a **CIN**, **CRN** or **CIRN** of their right to appeal the issue of a notice.

## Appeal and withdrawal

A notice can be appealed by the claimant in accordance with the Magistrates' Courts Act 1980. Where an appeal is made and is successful, compensation may be awarded by the magistrates' court. Following review or at challenge via the magistrates' court, a notice may be varied or withdrawn. The period of appeal is limited to 28 days.

## Essential Infrastructure

A **CIN**, **CRN** or **CIRN** may not be issued in relation to premises which form part of essential infrastructure. You can find examples of essential infrastructure in this guidance (<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>).

## Investigative powers

The relevant powers of entry and investigation for local authority officers to support the issuing of a notice, are set out in section 61 and 62 the Public Health (Control of Disease) Act 1984 (PH(CD)A), which is the enactment under which coronavirus regulations have been made in England to date.

The powers are available to a “relevant health protection authority”, but the local authority specified at section 1 of that act is extended, so that the powers are also available to county councils in 2-tier areas.

## Relevant obligations on businesses

These notices enforce rules to:

- take reasonable steps not to accept bookings, admit groups or allow persons to join groups or interact, in a way that offends the gatherings rules
- keep appropriate distance between tables in hospitality premises
- display a notice or otherwise ensure persons entering the relevant area are given the relevant information about the rules on face coverings, that information being that they need to wear one unless an exemption applies
- prohibit a person responsible for a business from preventing or seeking to prevent any person at their premises from wearing a face covering where they must do so
- a requirement to close premises or business as set out in the Steps Regulations (<https://www.legislation.gov.uk/uksi/2021/364/contents/made>) at step 1 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/1/made>), step 2 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/2/made>) and at step 3 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/3/made>) and in the business and venue closure guidance (<https://www.gov.uk/government/publications/further-businesses-and-premises-to-close/closing-certain-businesses-and-venues-in-england>)
- a requirement to close any indoor premises, or indoor part of the premises, in which food or drink are provided for consumption on a restricted businesses and to cease providing food or drink indoors, as set out in the Steps Regulations (<https://www.legislation.gov.uk/uksi/2021/364/contents/made>), at step 1 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/1/made>) and step 2 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/2/made>)
- a requirement for a business which serves alcohol for consumption on the premises to ensure that food or drink is ordered by, and served to, a customer who is seated on the premises and that the business takes all reasonable steps to ensure the customer stays seated, as set out in the Steps Regulations (<https://www.legislation.gov.uk/uksi/2021/364/contents/made>) at step 2 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/2/made>) and step 3 (<https://www.legislation.gov.uk/uksi/2021/364/schedule/3/made>)
- display an NHS QR code in a relevant premises for the collection of contact details
- request certain details from all members of a group, when they seek to enter a relevant premises and have not scanned the NHS QR code
- request the details of an individual and the one member of staff, volunteer or person providing the service, where an individual will only come into contact with that person

- require hospitality businesses or premises to refuse entry to individuals or groups who do not provide the required details
- require businesses or premises to retain this information securely for 21 days and disclose those details when requested to do so by a public health officer
- require an employer not to knowingly allow a worker who must self-isolate to attend work other than at the designated place of isolation, during the period of isolation

Further details, including exemptions to these rules, can be found by visiting separate guidance on Steps Regulations (<https://www.legislation.gov.uk/uksi/2021/364/contents/made>), business restrictions (<https://www.gov.uk/government/publications/further-businesses-and-premises-to-close>) and safer working (<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>).

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