

Full Council Meeting



Report subject	BCP Local Outbreak Management Plan and delegation of powers.
Meeting date	15 September 2020
Status	Public Report
Executive summary	BCP Council published its Local Outbreak Management Plan on 30 June 2020. This sets out how the Council will respond to significant outbreaks, and or increasing COVID-19 infection rates in our communities. Councils have local powers available to them under the coronavirus health protection regulations, to support prompt public health action. This paper updates Councillors on the Local Outbreak Management Plan and recommends powers are delegated to the Chief Executive, as advised by the Director of Public Health.
Recommendations	It is RECOMMENDED that: Council notes that the Chief Executive has delegated authority to exercise the local powers available to the Council under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 (the “Regulations”) should the need arise in connection with any outbreak or significant increase in coronavirus cases.
Reason for recommendations	To ensure there is a clearly understood process for the exercise of the new powers pursuant to the Regulations to stop the spread of coronavirus, in line with our local outbreak management plan.

Portfolio Holder(s):	Councillor Lesley Dedman
Corporate Director	Sam Crowe, Director of Public Health
Contributors	Kelly Ansell Peter Haikin Rachel Partridge Sian Ballingal
Wards	All Wards
Classification	For Decision

Background

In July 2020 the Government published the national Contain strategy which set out the framework for national oversight and intervention where necessary in response to an outbreak of COVID-19. In addition, Directors of Public Health (DPH) are accountable for controlling local outbreaks, working with Public Health England (PHE)¹ and local COVID-19 health protection boards. The delivery of this work is guided by Local Outbreak Management Plans, which are being written by each top-tier local authority, supported with resources deployed through the Test and Trace Grant, led by council chief executives. Local Outbreak Engagement Boards are responsible for the communication and engagement with local communities in any outbreak, led by council leaders.

Six principles support effective implementation of an integrated national and local system:

- the primary responsibility is to make the public safe;
 - build on public health expertise and use a systems approach;
 - be open with data and insight so everyone can protect themselves and others;
 - build consensus between decision-makers to secure trust, confidence and consent;
 - follow well-established emergency management principles;
 - consider equality, economic, social and health-related impacts of decisions.
1. As part of the Contain Framework, all top tier Local Authorities in England were required to produce their own Local Outbreak Management Plan to identify the plans they have to prevent, prepare for and respond to a local outbreak of COVID19 in their area.

¹ Public Health England will merge with the NHS Test and Trace service to form a new National Institute for Health Protection, announced in August. The Institute does not become a legal entity until 1 April 2021.

2. BCP council published their Local Outbreak Management Plan in July in line with the national timetable. <https://www.bcpCouncil.gov.uk/News/News-Features/COVID19/coronavirus-covid-19.aspx>.
3. BCP Council Health and Wellbeing Board [approved](#) the outbreak management plan in July, along with the terms of reference supporting the Board to function as the Local Outbreak Engagement Board.
4. To support the national Contain Framework, upper tier local authorities also now have new powers to respond to a serious and imminent threat to public health and to prevent COVID-19 transmission in our area where this is necessary and proportionate.
5. These new regulations include powers to:
 - restrict access to, or close, individual premises
 - prohibit certain events (or types of event) from taking place
 - restrict access to, or close, public outdoor places (or types of outdoor public places)
6. To make a direction under the Regulations BCP Council will need to be satisfied that the following three conditions are met:
 - the direction responds to a serious and imminent threat to public health
 - the direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection
 - the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.
7. Before making a direction, BCP Council will need to gather sufficient evidence from a range of sources, including the Local Resilience Forum, NHS Test and Trace and PHE, and must consult the Police. BCP Council must also have regard to any advice given by the Director of Public Health, who will accordingly inform the initial response and guide policy.
8. BCP Council must communicate any directive action to the Secretary of State, the persons whom the direction applies and those impacted. The Secretary of State may require the Council to issue a direction where conditions above have been met and can also revoke an existing direction where the conditions are no longer met. The Council must review a direction at least every seven days and must have due regard to the Public Sector Equality Duty.
9. Those directly impacted by any direction, including the owner or occupier of premises or event organiser against whom a direction applies, have the right of appeal to a local magistrate and may make representations to the Secretary of State.

10. It is requested to be noted that the Chief Executive holds the power on behalf of BCP Council, will seek advice from the Director of Public Health and any enforcement is then delegated to the appropriate officers.
11. It is recommended that any enforcement of these powers should be via delegation to existing staff who are familiar with this type of work, such as the Council's Environmental Health Officers and Trading Standards Officers (or any other appropriately designated officers) or Police officers / PCSOs in liaison with the Chief Constable.
12. Guidance is available through the 'COVID-19 contain framework: a guide for local decision-makers', which includes advice on escalation within individual settings, a local authority area, and cross regional boundaries (see appendix 1).

Implementing the Powers

13. The following section describes the process by which it is proposed that the Council enacts the Coronavirus powers, if it becomes necessary as a last resort. The preferred and primary approach would be through engagement and consent.
14. The 'Our Dorset Covid-19 Health Protection Board' meets weekly and has a broad representation of key local agencies who are working together to prevent and prepare for any local outbreaks. This board is supported by the Epicell, which pulls together regular reports from a range of data sets to inform and produce a regular assessment of the current situation. The Health Protection Board meetings will maintain oversight of data and trends for early warning and reporting. The board includes key representatives such as the BCP Council COVID Silver and the chair of the Local Resilience Forum Tactical Coordinating Group (TCG) to ensure strong links with the Local Authority and links to the Local Resilience Forum.
15. If the COVID-19 Health Protection Board identifies an increasing trend in infection rates or escalating outbreaks this will be reported to the BCP Council Corporate Incident Management Team (CIMT), which is currently meeting at least weekly.
16. The Local Outbreak Engagement Board provides leadership, communications and engagement, and oversight to the health protection response to COVID-19, under the Local Outbreak Management Plan. It was established as a function of the BCP Council Health and Wellbeing Board in July. Should any situation arise in which infection rates rise significantly, or there are multiple outbreaks requiring local action or consideration of powers, the LOEB will be convened rapidly. It comprises Council Leader, Chief Executive, Director of Public Health, Dorset CCG Accountable officer (vice-chair of Health and Wellbeing Board).
17. The CIMT will urgently review the situation and, in discussion with the Director of Public Health, will make the decision to convene the Local Outbreak Engagement Board to engage with the community and key stakeholders in the event of the need to use the powers. It will also consider whether a multiagency approach is required to support the response through the Local Resilience Forum (LRF).

18. If the decision is made by the Chief Executive in consultation with the Local Outbreak Engagement Board to exercise local powers this will need to be communicated rapidly both to the premise involved, context or area, as well as to Government (see flowchart in appendix 2). The powers will be delegated from the Chief Executive through the appropriate Directorate Scheme of Delegations for enactment by officers in the regulatory services team (Environmental Health Officers or Trading Standards Officers).

Summary of financial implications

19. The financial implications of the Local Outbreak Management Plan will be influenced by the scale, volume and duration of any outbreaks and responses in BCP council area. The Test and Trace Grant allocation of £1.8M for BCP Council supports the mobilisation of resources needed to respond to outbreaks, and support prevention and preparation for outbreak planning.

Summary of legal implications

20. The powers under the Regulations are exercisable by BCP Council's Cabinet in line with The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001. Pursuant to paragraph 18.1 of Part 3 of the Constitution, the Chief Executive has delegated authority to enact the local powers available under the Health Protection (Coronavirus, Restrictions) (England) (No3) Regulations 2020 should the need arise in connection with any outbreak or significant rise in coronavirus cases.

21. The key legal requirements for the exercise of the powers are set out in the body to this report and further legal advice can be provided by Legal Services on a case by case basis where needed, including in relation to any enforcement powers.

Summary of human resources implications

22. It is proposed that the Chief Executive delegates authority to implement any agreed local powers to the Regulatory Service. This will mean that the Service must be resourced in a way that it can respond urgently to any requirement to implement local powers. The Test and Trace Grant is being used to fund additional capacity from environmental health officers to support local outbreak management.

Summary of environmental impact

23. Having a clear scheme of delegation to support any use of powers in the event of an increase in coronavirus cases means BCP Council can be confident to continue with recovery and reset work, including work on responding to the climate and ecological emergency locally.

Summary of public health implications

24. Ensuring there is a clear process for decision making about any use of powers under the Regulations will enable BCP Council to take prompt public health action to limit the spread of coronavirus and protect the health of residents.

Summary of equality implications

25. Officers enacting local powers will have full regard to the Council's duties under Equalities legislation. In addition, the principles supporting local outbreak management and the Contain framework require BCP Council to consider any equalities considerations arising in connection with the enactment of any powers. The Council and its partners will be working to proactively engage all members of the local community through the Trusted Voices programme, in understanding the risks from the virus to particular communities, and how best to work with those communities to ensure prompt public health action can be taken in the event of any increase in COVID-19 cases. This work is led by the Leader of the Council, through the local outbreak engagement board.

Summary of risk assessment

26. The risk of further outbreaks of coronavirus requiring the use of powers to enforce public health action is considered high currently, due to the country still being at Alert level 3 with a pandemic in general circulation and no approved vaccine. Having a clear process for enacting powers under the Regulations means that the risks of further transmission in any outbreak can be mitigated if necessary, to protect the public.

Background papers

'COVID-19 contain framework: a guide for local decision-makers'

<https://www.gov.uk/government/publications/containing-and-managing-local-coronavirus-covid-19-outbreaks/covid-19-contain-framework-a-guide-for-local-decision-makers>

Appendices

Appendix 1: Summary of Key roles for managing outbreaks at individual, local authority and regional levels.

Appendix 2: BCP Draft process for use of Local Powers under the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020

Appendix 1: the key roles for managing outbreaks within an individual setting, within a local authority area, and which cross regional boundaries.

Level	Decision-maker(s)	Coordination, advice and engagement
Individual setting (for example restaurant, school, factory)	Setting owner – with appropriate support.	
May vary depending if the setting is deemed a setting of national significance.	PHE (local health protection teams) Director of Public Health NHS Test and Trace and PHE setting specific action cards	
Within a local authority area	Decisions may be taken by the chief executive, Director of Public Health or Head of Environmental Health	COVID-19 Health Protection Board (including NHS, faith, community partners, PHE) Local Strategic Co-ordination Group Local Outbreak Control Board or other political oversight bodies
Regional (cross-boundary)	N/A – agreed cross-boundary decisions will be implemented at local authority level	Local resilience forums (LRFs) Mayoral and combined authorities Integrated care systems Regional health directors (PHE and NHS)



Use of local powers under health protection regulations 2020

Identification of outbreak or cluster

Outbreak Management
COVID-19 Health Protection Board

Outbreak contained

Outbreak escalates
Inform **Corporate Incident Management Team**

Consider use of COVID Powers

- serious and imminent threat?
- steps proposed are necessary?
- steps are proportionate?

1. If powers don't meet the 3 tests above, continue to manage outbreak within the **COVID-19 Health Protection Board**
2. If use of powers meets 3 tests refer to **Local Outbreak Engagement Board** (see page 2 issue notices)
3. If local powers insufficient - **escalate to regional and national level**



Use of local powers under health protection regulations 2020

BCP Council issue notice

- Following consultation with the **Local Outbreak Engagement Board**, **either** issue notice to any specified person named in the notice **or** if no specific person, a notice should be published on the website
- Send notice to neighbouring councils
- Send notice to Secretary of State

Appeal to be lodged within 7 days

Secretary of State could need a notice to be taken

Enforcement -prohibition and fixed penalty notices can be issued by police and BCP's designated persons such as environmental health officers. Take steps to restrict access to places concerned.

Notices from outside BCP Council - consider what actions need to be taken locally and tell issuing authority of actions.

Review notices every 7 days (at most). Remove notice or reissue one that's more suitable with help of Director of Public Health.

Secretary of State may need notice to be withdrawn.

Republish notice to those who had the first notice.

All **decisions** should be in consultation with BCP Council Chief Executive, Director of Public Health (or nominated deputies).