

## **DIRECTION (INDIVIDUAL PREMISES)**

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

1. The Royal Borough of Greenwich (“the Authority”), in exercise of the powers conferred by regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020<sup>2</sup> (“the No. 3 Regulations”), gives the following direction.

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.<sup>3</sup>
2. Before giving this Direction, the Authority has had regard to:-
    - a. any advice given to it by its Director of Public Health; and

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<sup>1</sup> 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>

<sup>2</sup> 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).

<sup>3</sup> See regulation 2(1).

- 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).
3. The Authority will take reasonable steps to give advance notice of this direction to any person carrying on/managing a business from the premises to which the direction relates if different from any person who owns or occupies the premises.

## **DIRECTION**

### **Person and premises**

4. This Direction is given to **Mr Robert John Fanshawe and Mrs Amma Konadu Fanshawe** who are the owners or occupiers of the premises to which this direction relates **and any other person involved in managing entry into, or departure from, such premises or the location of persons in them**
5. This Direction is given in respect of **Helen's Kitchen, 123 Woolwich High Street, Woolwich, London SE18 1TG** ("the Premises").

### **Directed actions**

6. This Direction requires the following
  - a. ~~Closure of the Premises;~~
  - b. **Restricted entry to the Premises: Only members of staff may be present within the premises at any one time. No customers, friends or relatives of any staff member or any recipient of this Direction are to be permitted entry into the premises; [and/or]**
  - c. ~~Restrictions in relation to the location of persons in the Premises as follows:~~

### **Timing and duration of direction**

7. Any actions required to put into effect the restrictions set out in paragraph 6 must be undertaken by **2<sup>nd</sup> December 2020** when the prohibition, requirement or restriction come(s) into effect. The restrictions set out in paragraph 6 have effect until **5<sup>th</sup> January 2021**.
8. 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**

9. This Direction is given on the basis that:

a) The premises is a small licensed venue in Woolwich town centre which provides both food and alcohol to those within the local community.

b) Licensing Officers employed by the Authority undertook external visits to the premises and observed poor social distancing being maintained on the following dates:

16<sup>th</sup> August 2020, 23<sup>rd</sup> August 2020, 29<sup>th</sup> August 2020, 12<sup>th</sup> September, and 3<sup>rd</sup> October 2020,

10. A warning letter was issued to the premises (dated 19<sup>th</sup> August 2020) by Mr Steve Cox (Licensing Officer) as Council CCTV had recorded the premises on 16<sup>th</sup> August 2020 as operating beyond permitted hours. On 21<sup>st</sup> August 2020, Mr & Mrs Fanshawe responded to this letter indicating they were minded to transfer the license.

11. Two advice/compliance visits were undertaken by an Environmental Health Practitioner on 22<sup>nd</sup> September 2020 and 26<sup>th</sup> October 2020 respectively alongside the above external observations of the premises.

12. On 27<sup>th</sup> October 2020, two police officers from the Licensing & Wildlife Crime Unit (SE BCU) visited the premises at 23:00 and found food being served to a member of the public in contravention of the Tier 2 restrictions in place at the time of the visit. These findings, and the above history, demonstrate that there is a serious and imminent threat to public health linked to the premises, this direction is necessary for the purpose of preventing spread of the virus, and is a proportionate means to achieve this purpose.

## **Consequences of not meeting the requirements of the Direction**

13. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice<sup>4</sup> or Fixed Penalty Notice<sup>5</sup> against you or may commence criminal proceedings against you.

14. A person commits an offence if, without reasonable excuse, the person:<sup>6</sup>

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

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<sup>4</sup> See regulation 12(2) of the No. 3 Regulations.

<sup>5</sup> See regulation 14(1) of the No. 3 Regulations

<sup>6</sup> 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**

15. 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).
16. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.<sup>7</sup> 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.<sup>8</sup>
17. You also have the right to make representations to the Secretary of State about this Direction.<sup>9</sup> 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.
18. 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](mailto:directionnotification@dhsc.gov.uk). This should include:
  - a. The name of the Authority;
  - b. The reference code/number listed at the top of this Direction;
  - c. The link to this Direction as noted in paragraph 21 below;
  - d. 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;

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<sup>7</sup> See regulation 4(9)(a) of the No. 3 Regulations.

<sup>8</sup> 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.

<sup>9</sup> See regulation 4(9)(b) of the No. 3 Regulations.

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

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

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

### **Additional powers and requirements that accompany this Direction**

#### Publication

- 21. This Direction (and notice of revocation of this direction) will be published on the Authority's website as required by the No. 3 Regulations.<sup>10</sup>
- 22. 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

~~23. The Authority is required to notify any [local authority, district council, area of a council in Scotland or county borough council in Wales – delete as appropriate] whose area is adjacent to the initiating authority's area [if the Authority is a London borough council: and every other London borough council] of this Direction (and any revocation of the Direction) by the No. 3 Regulations<sup>11</sup>. [Optional: note any LAs which have been contacted in complying with this.]~~

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

Signed:                      Date: 30<sup>th</sup> November 2020

Ian Andrews

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<sup>10</sup> See Regulation 10(2)(a) of the No. 3 Regulations.

<sup>11</sup> See Regulation 11(1)(a) – (d) of the No. 3 Regulations

Head of Trading Standards & Commercial Environmental Health

Directorate of Housing & Safer Communities

**As authorised by Jamie Carswell, Director of Housing & Safer Communities**