

Update Report:



Council Enforcement of COVID Business Restrictions

Introduction

In March 2020, Wales, along with the other nations of the United Kingdom, entered lockdown and the freedoms enjoyed by individuals and the rights for a business to operate, were curtailed in order to reduce the spread of the coronavirus virus.

Government identified that various agencies were well placed to ensure the laws were enforced.

- The police were made responsible for most restrictions on individuals. This involved limitations on people gathering and essential travel, amongst many similar rules.
- Councils accepted the responsibility for the many rules placed on the way businesses deal with members of the public; particularly in the retail setting.
- The Health and Safety Executive were responsible for issues such as services provided in the home and larger industrial factories.

The purpose of this report is to make members aware of the activities of council officers in their efforts to ensure that businesses operated safely during the periods of restriction and lockdown.

The report will seek to explain the various waves of business restrictions and the effect of these on the traders in Newport and the response of officers.

Summary of Outputs

Since 25 March 2020, officers have completed the following interactions:

- Provided businesses with advice on 2,500 occasions
- Completed 3,000 inspections
- Assessed compliance on 4,276 occasions (74% were compliant; 16% became compliant immediately after being advised; and 10% required further investigation)
- 45 Premises Improvement Notices were issued
- 7 Premises Closure Notices were issued
- 3 Licence Reviews Brought
- 5 Fixed Penalty Notices were issued
- 10 Compliance Notices were issued

This work has made Newport a safer place and the data not only shows the volume of work being done by our teams but also the fact that businesses really do need support 'to get it right' as only three quarters were compliant prior to intervention. Welsh Government made it a requirement for many notices to be published on the [internet](#).

Many of the inspections to licensed premises were with partners in the police and a special community safety warden has provided increased support in recent months.

Initial Lockdown

The initial lockdown in March 2020 saw requirements for many businesses to suspend trading. The types of businesses required to close included:

- Cafes and restaurants
- Shops selling non-essential goods
- Close contact service businesses such as hairdressers and beauty parlours
- Pubs and nightclubs

A number of businesses were allowed to remain open. These were businesses providing essential goods and services and included:

- Food retailers
- Supermarkets
- Takeaways
- Building supplies
- Car services and repairs
- Bicycle shops

These 'essential' businesses were permitted to trade as long as they undertook an assessment of the risk within their premises and took measures to minimise the spread of the infection. Measures included:

- Controlling the numbers of customers inside premises
- Controlling the queues to enter the premises
- Ensuring customers and staff socially distanced (staying 2 metres apart)
- Hygiene measures
- Adequate information and signage

During the early days of the lockdown, officers were required to work from home unless travel was identified as being 'absolutely necessary'. This was the period when rates of infection were very high.

The response from officers across Regulatory Services was to use the services' business database to identify all Newport's businesses and contact as many as possible, to ensure those required to close were closed and those permitted to open operated safely.

A 'duty line' was established and publicised through the council's media outlets. This provided members of the public with a reporting mechanism and allowed businesses an opportunity to speak to officers and obtain guidance on operating safely. Welsh Government quickly produced information describing how all businesses could establish safe systems of operation. The service then set up a 'Response Officer' system to ensure there was always an officer available to carry out a site visit immediately if a problem arose.

There were many calls and discussions at this early stage as businesses were confused as to which category they belonged. For example; if a business is known as a toy shop, but sells bicycles,

questions were asked as to whether it was a non-essential trader (toy shop) and should close; or an essential trader (bicycle shop) and could remain open. Then, if it opened, there was further confusion as to whether it was allowed to sell non-essential items. These were the issues that were being put to the duty officers.

At this time, officers carried out many surveillance visits to check whether 'closed businesses' were illegally open. Investigations discovered pubs operating from their beer garden and hairdressers operating 'at home'.

During this time, certain businesses and individuals took advantage of the pandemic in order to make money. Other businesses simply misunderstood their responsibilities to the detriment of their customers. The service dealt with the following issues:

- Consumer and business facing COVID scams.
- Consumers facing 'price gouging'. (A practice whereby a business inflates the price of goods in short supply and customers are then charged higher prices than those advertised).
- Consumers refused refunds for cancelled holidays and events.
- Businesses selling PPE with claims of protection that were untrue.
- Businesses selling hand sanitiser that failed standards.
- An individual selling counterfeit NHS merchandise.

Easing of Restrictions

As the spring became the summer and infections reduced, government was able to ease restrictions. This increased the complexity of trading safely and thereby the way in which enforcement was carried out.

Officers often dealt with issues on a sector-by-sector basis.

Essential Business Inspections: Officers began a programme of compliance audits at businesses such as supermarkets, mini-markets and food retailers. Issues encountered included:

- Failure to adhere to social distancing requirements
- Queue management
- Poor signage
- Hygiene safeguards
- Appropriate one way systems

Non-Essential Businesses: This group of traders was permitted to open in the summer and officers were concerned. These businesses had no experience of operating during the pandemic, so there was a risk they may make mistakes. In addition, the public were being allowed more freedom (and were quite excited to be out in the shops again) and there had been scenes of over-crowding when the shops opened in England a week or so earlier.

To ensure that there was a safe reopening officers engaged early with the shops in the city centre and the retail parks. In addition, there were conversations with the landlords of retail centres.

Advice and guidance was given and businesses committed to opening safely.

On the day of the opening officers attended all the major shopping sites in Newport and oversaw a calm and sensible reopening.

The media were particularly interested in the opening of Newport's Primark store (the scene of overcrowding elsewhere in the UK). Officers attended the shop and were confident that the systems inside the store were robust; but the key cause for concern, as expected, was the large group of customers queuing to gain entry. Officers spoke to the managers at the store, encouraged, and advised them how to organise the queue safely whilst not impeding the entry to other stores nearby and members of the public walking by. This action ensured that when the matter was reported by the press online; the story was not about people breaking the law; but was instead about people waiting patiently and safely to enter the shop.

Pub Gardens and Outside Hospitality: Initially pubs and similar licensed premises were only permitted to open for outside drinking and eating as long as patrons complied with social distancing.

The Licensing Team identified that 'out-of-town' pubs etc. would be well suited to this new open-air approach; but the same could not be said of the city centre businesses due to the proximity of busy roads. Discussions were held between officers in Licensing, City Services and Regeneration, which were then opened up to business groups and the police.

A project group then ensured that key roads were closed; namely, High Street, Cambrian Road and Market Street. This would allow a safe environment to city centre customers and visitors to the centre. Grants were also made available for street furniture and barriers.

Therefore, when the rules changed, city centre pubs were still able to trade.

It is with regret that within days of opening for outside drinking, one premises failed to obey the rules and opened as a nightclub. As hospitality reopened, nightclubs, due to the additional risks of mixing, consuming alcohol, dancing and cavorting, remained banned. A ban on loud music was also recommended to ensure people did not need to shout and thereby increase the risk of transmission.

Despite interactions with the business and its presence at most of the partnership meetings, one particular premises refused to heed the advice. This business was 'The Courtyard' a nightclub very popular with younger adults in Newport. The Courtyard ignored requests to shut their business by midnight and advertised the reopening of their club nights with social media flyers stating DJs would be playing until 2 a.m.

In the days that followed the event; the service received intelligence of broken rules. The music was heard from streets away and a social media video clip was circulated widely. The clip showed people intoxicated and dancing; social distancing was not evident in the clip; the DJs were clearly visible playing very loud music; and door staff were seen on the dancefloor observing the goings-on.

Officers seized CCTV and observed many breaches of the rules and focussed on the one issue. Whether or not the business was illegally operating as a nightclub. The CCTV observed late night opening; loud music; dancing; and drinking. It was determined to be a nightclub.

Officers requested the premises attend a Licence Review. The case was presented to committee and the licence was suspended for a 3-month period. The committee stating the premises 'had no consideration for its staff or its customers' safety'.

Barbers, Hairdressers and Close Contact Businesses etc.: When this group of traders was permitted to open, officers were again concerned due to the close contact in these premises that made social distancing impossible leading to the reliance on PPE. Government issued guidance that was enshrined in the regulations. Such businesses had new rules with which to contend.

- They had to operate by appointment only.
- They required tracing systems to be in place.
- PPE and face coverings were mandatory.
- Social distancing was required for those waiting.

Compliance was difficult with a number of businesses. Partly due to the guidance changing frequently and because the way many barbers operated was by walk-in appointments and often acted as a social hub. The new rules went against the entire business model. It was necessary to issue a number of improvement notices after education and encouragement had not achieved the right result.

Pubs and Cafes Open Indoors: In late summer pubs, restaurants and cafes reopened with many conditions. This reopening caused another major issue.

Restrictions put in place by government included:

- Social distancing
- People at a table needed to be from the same household (or support 'bubble')
- They required tracing systems to be in place.
- One way systems
- Hygiene safeguards
- Maximum capacity
- Serving time restrictions
- Many businesses found ways to comply with the new laws.
- Some pubs found it difficult and asked for help.
- Others ignored the laws.

Partnership working with the police became a real success story at this time. Joint patrols were commonplace and intelligence sharing was stepped up. It is a fact that the work of the council officers was made much easier due to the committed support from colleagues in Gwent Police.

Issues encountered included:

- Failure to social distance
- Mixing of households
- Poor tracing procedure
- Poor management of the systems in place

Many pubs were given Premises Improvement Notices and some ordered to close.

Colleagues in Environmental Health, responsible for investigating clusters of inspections identified many instances where an infected person entered a pub or bar and caused infections.

This issue led to the next major investigation.

In September 2020 at the Breeze Bar. CCTV evidence was viewed by Newport City Council Trading Standards, which showed the VIP area of the bar operating with disregard for the reasonable measures to minimise risk of exposure to coronavirus. The CCTV highlighted the lack of social distancing and people mixing. The outcome of the breach of the Regulations resulted in NHS Public Health Wales stipulating that a number (cluster) of positive Covid 19 cases attended Breeze. Officers requested the premises attend a Licence Review.

The case was presented to committee and the licence was suspended for two weeks, conditions were also added to the premises licence.

Firebreak Lockdown

With infections rising towards the second wave, Government ordered a firebreak lockdown for two weeks starting on 23 October 2020. This reintroduced many of the main restrictions on businesses from the first lockdown. This time it was recommended that non-essential items were not sold at essential shops.

Officers again carried out patrols checking that businesses closed as required. Visits to essential premises continued.

Post Firebreak Reopening

This period saw considerable inspection work in the run up to Christmas. Shops seemed to be getting busier and officers stepped up their presence at licensed premises and food retail, particularly supermarkets.

Infection rates were still rising. A curfew was placed on alcohol sales at shops. Officers completed test purchase operations and fined a number of off licence premises.

Then in December, Government announced the latest lockdown.

Latest Lockdown

Again, all non-essential business were closed unless they could operate a click-and-collect service.

Challenges and Lessons Learnt

- Usually legislation takes years to be implemented; but the restriction regulations are being drafted without the usual consultation; and officers have found out about new rules at the same time as the public, with mere days until implantation. Officers were required to adapt quickly and get the message out to the public and traders. Excellent support was available from the PR Team.

- The approach adopted by officers has been based as ever on the 4 E's approach to enforcement: [Engage. Explain. Encourage. Enforce]. This has allowed officers to create an environment where businesses can be coaxed into obeying the law and saving formal enforcement for those that are either persistent rule breakers or allow significant breaches to take place).
- Welsh Government enforcement funding was made available in October 2020. The funding has paid for 2 x Compliance Officers, 1 x COVID Marshall and 1 x Database Officer. By March 2020, these officers have completed 1,455 assessments of business compliance and provided advice on 185 occasions. They have been excellent additions to the teams and the work of the service would have been quite difficult without their superb and tireless contribution. The Trading Standards and Licensing Management Team decided that the resource would be best used as patrol officers carrying out high numbers of visits with the remit of – find a problem and report it – then Trading Standards Officers and Licensing Officers would carry out follow up work – thereby allowing the officers with the in-depth knowledge to focus on identified problems.
- Trading Standards and Licensing Officers have taken forward the enforcement programme. Initially, seven of their number left the service to support the COVID effort in other teams. For a significant period there was a small core group of officers and managers leading on this work; the commitment, enthusiasm and professionalism of these officers is commended. I am very proud to have worked with this group over the last year.
- I have no doubt their efforts have made Newport a safer place to live and work.