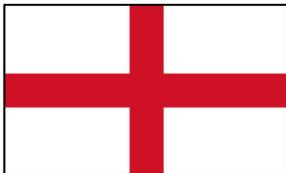

COVID-19 Policing brief in response to the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (‘the Restrictions Regulations’)

14.09.2020



As the pandemic has developed, guidance and legislation has been produced and amended. While police officers and staff should be aware of the advice available, they must ensure they understand where their powers come from and the levels of enforcement permitted by legislation.

This pack covers the **Health Protection (Coronavirus, Restriction) (No.2) (England) Regulations 2020** – these Regulations will expire six months from the date they came into force. They must be reviewed by the Secretary of State at least once every 28 days.

Note: These Regulations may not apply in part or full where local area restrictions mean that alternative regulations are in place.

Briefings are available on the **Covid-19 Hub** on the Coronavirus Act and all other Health Protection Regulations. It also houses useful information from a variety of policing sources to assist you. The hub is designed to help police forces across the country to respond to the unprecedented situation caused by the coronavirus pandemic in a measured and consistent way.

Restriction on participating in gatherings: ‘The rule of six’

A gathering is when two or more people are present together in the same place in order to engage in any form of social interaction with each other, or to undertake any activity with each other.

Gatherings in any place of **more** than six people are prohibited unless all members of the gathering are:

- i. from the same household
- ii. from a linked household

These are referred to as a ‘**qualifying group**’. A ‘qualifying group’ is:

- a) a linked household (this can be more than six people)
- b) members of the same household (this can be more than six people)
- c) any six (or fewer) people

A person may only participate in a gathering as a member of a ‘qualifying group’ if they do not:

- become a member of any other group participating in the gathering (whether or not that group is also a ‘qualifying group’)
- mingle with any other person not part of their ‘qualifying group’

Note: Exemptions apply.

No person may participate in a gathering which consists of more

than six persons, takes place indoors and would be a gathering of a kind mentioned in s63 CJPOA 1994 if it took place on land in the open air.

Linked households

This is where two households are treated as one for the purposes of the Regulations.

Conditions: Where a household comprises one adult, or one adult and one or more children (under the age of 18 on 12 June 2020), they may choose to be linked with a second household (there is no limit on the number of adults and children in the second household).

- Neither household can be linked with any other household
- All adult members of the second household must agree to the link
- The households cease to be linked if the conditions above are not met

If the households cease to be linked, neither of them may then link with another household.

Exemptions to ‘the rule of six’

The following exemptions to the rule of six apply to a person participating alone or as a ‘qualifying group’.

Gatherings at premises other than private dwellings are permitted if the gathering takes place on or at premises which are operated by a business, a charitable, benevolent or philanthropic institution or a public body, or are part of premises used for such purpose.

Gatherings in public outdoor spaces are permitted if organised by a business, a charitable, benevolent or philanthropic institution, a public body, or a political body, and:

- the person responsible for organising the gathering has carried out a risk assessment*, and
- the gathering organiser has taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account the risk assessment and any relevant government guidance

These requirements, relating to the risk assessment and reasonable measures, are known as **paragraph (5G)** and are referenced throughout.

Note: People can only gather in a qualifying group of up to six (or more if they are members of the same or linked households), and should not mix with others. While there can be more than six people at an event in all, people can only gather within the event in qualifying groups.

Exemptions to ‘the rule of six’ (continued)

Gatherings of more than six may be allowed where:

- the person concerned is an elite sportsperson (including a child), the coach of an elite sportsperson, or the parent of an elite sportsperson, and the gathering is necessary for training or competition
- the gathering is a sports gathering* and the person concerned is taking part
- the gathering is reasonably necessary:
 - for work purposes or to provide voluntary or charitable services
 - for education or training
 - for childcare provision by a registered person
 - for emergency assistance
 - to avoid injury or illness or to escape a risk of harm
 - to provide care or assistance to a vulnerable person
 - to facilitate child access/contact between parents
- it is necessary to fulfil a legal obligation
- the gathering is for a support group (‘support group’ refers to official groups, formally organised to provide support to their members, such as (but not limited to) those providing support to victims of crime, to those with, or recovering from addictions, to new parents or to those with, or caring for persons with any long-term illness or vulnerability)
- the gathering is for the purposes of protest and:
 - a) it has been organised by a business, a charitable, benevolent or philanthropic institution, a public body, or a political body, and
 - b) the person responsible for organising the gathering has carried out a risk assessment*, and has taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account the risk assessment and any relevant government guidance to comply with paragraph (5G)
- the gathering takes place in criminal justice accommodation
- the gathering takes place outdoors (whether or not in a public outdoor space) and it is for the purpose of a ‘relevant outdoor activity’ (defined as an outdoor physical activity for which a licence, permit or certificate is required to be issued by a public body), and the gathering organiser complies with paragraph (5G) (see **slide 4**)
- the person concerned is attending a person giving birth

*The risk assessment must satisfy the requirements of Regulation 3 of the Management of Health and Safety at Work Regulations 1999, whether or not the gathering organiser is subject to those Regulations.

Exemptions to 'the rule of six' (continued)

A gathering of more than six people and no more than thirty people may be permitted if:

- it is a marriage, civil partnership or conversion of a civil partnership and it
 - a) takes place on religious premises (or approved premises) and
 - b) the manager complies with paragraph (5G) (see slide 4)
- the gathering is a 'significant event gathering' (defined as being for the purposes of a ceremony, rite or ritual) and it
 - a) takes place at premises (other than a private dwelling) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body or part thereof or a public outdoor space, and
 - b) the manager/gathering organiser has complied with the conditions of paragraph (5G) (see slide 4)
- the gathering is a wedding reception, reception following a civil partnership or conversion of a civil partnership to a marriage and it
 - a) takes place in premises other than a private dwelling, and
 - b) the gathering organiser complies with paragraph (5G) (see slide 4)

Restrictions on organisation or facilitation of gatherings

No person may hold or be involved in the holding of a 'relevant' gathering

A 'relevant' gathering is a gathering which consists of more than 30 persons and takes place:

- in a private dwelling
- on a vessel, other than a vessel used for public transport
- on public outdoor land (except where it is operated by a business, a charitable, benevolent or philanthropic institution or a public body or is part of premises used for such); and
- is not an 'excepted' gathering

An excepted gathering for these purposes is where all the people in the gathering are from the same or linked households, or the criteria/exceptions in Para 2, 2A or 3 of regulation 5 participation in gatherings apply.

No person may hold or be involved in the holding of a section 63 type gathering

A section 63 type gathering is a gathering which:

- consists of more than 30 persons
- takes place indoors, and
- would be of a kind mentioned in section 63(1) of the Criminal Justice and Public Order Act 1994 if it took place in the open air, such as **a rave or other unlicensed music event**

A person is not involved in the **holding** of a 'relevant' or section 63 type gathering if their only involvement in the gathering is attendance at the gathering

Other Restrictions Regulations

Requirement to close premises and businesses

Schedule 2 lists all the businesses that must still remain closed (although exceptions apply). Local Authorities and Trading Standards will lead on enforcing and monitoring the closure of businesses.

Power to restrict access to public places (also see 'restricted areas')

These Regulations now allow the Secretary of State to issue a direction restricting access to a specified public outdoor place, or to public outdoor places of a specified description, to enable a quick time response to a serious and imminent threat to public health, or to prevent, protect against or control the spread of infection.

It is possible that such directions may be made in respect of areas you police. If such a direction is made, it will be published on www.gov.uk as well as other appropriate places.

Such a direction would mean no person may enter or remain in the restricted area, without a reasonable excuse. The list of reasonable excuses in the Regulations is non-exhaustive. You should make sure you are aware of any such directions that may affect local policing responses.

Policing approach

We police by consent. The initial police response should be to encourage voluntary compliance. There is no power to 'stop and account'.

Policing will continue to apply the four-step escalation principles:

1. Engage
2. Explain
3. Encourage, and only as a last resort
4. Enforce

Enforcement options

Participation in Gatherings: Where a constable or PCSO considers that a number of people are participating in a gathering in contravention of the Regulations, they may:

- **direct** the gathering to disperse
- **direct** any person in the gathering to return to the place where they are living
- **remove** any person from the gathering. Officers may use reasonable force, if necessary, in exercising this power.

Restricted areas: Where a constable or PCSO considers that a person is in a restricted area without a reasonable excuse in contravention of the Regulations, they may:

- **direct** that person to leave the restricted area immediately
- **remove** that person from the restricted area. Officers may use reasonable force, if necessary, in exercising this power.

Policing approach (continued)

Fixed penalty notices (FPNs)

Anyone contravening these requirements commits an offence, punishable on summary conviction by a fixed penalty notice. Where someone is reasonably believed to have committed an offence under these regulations and is 18 or over, you may issue them with an FPN in the case where:

- i. a person contravenes the requirements restricting:
 - **participation in gatherings or**
 - **entering or remaining in a restricted area**

The amount is **£100** payable within 28 days, but this is reduced to £50 if paid within 14 days. Court proceedings may be brought in cases of non-payment. The fixed penalty notice amounts double for each subsequent offence, up to £3,200 for the sixth and subsequent offences. This will take into account FPNs issued under other Restrictions Regulations.

- ii. a person contravenes the requirements relating to **organisation or facilitation of a restricted gathering** (either s63 type or other relevant gathering)

The amount is **£10,000** payable within 28 days. Court proceedings may be brought in case of non payment.

Note: such FPNs are not taken into account for the purposes of doubling in (i) above.

The usual FPN process via ACRO applies.

Children

Where the person in contravention of the Regulations is a child and they are accompanied by an individual who has responsibility for them:

- a constable or PCSO may **direct** that individual to take the child to the place where they are living, the responsible individual must, so far as reasonably practicable, ensure that the child complies
- where the child repeatedly fails to comply with requirements, a constable or PCSO may **direct** the responsible individual to secure that the child complies with the restrictions. A breach of this direction can result in an FPN issued to the responsible individual

Recording

These are non-recordable offences. They can't be punished by imprisonment.

Powers of arrest

The necessity test under Section 24 PACE has been temporarily amended by the Health Protection Regulations to include:

- to maintain public health
- to maintain public order

Usual applications of Section 24 PACE still apply and officers' attention is specifically drawn to the necessity to arrest in relation to ascertaining name and address, and to protect a child or other vulnerable person from the person in question. In this context, this aspect is linked to the spread of infection. Officers may also wish to determine if breach of the peace powers apply.

Remember



The Health Protection Regulations (secondary legislation)

Yes, enforceable. Anyone contravening these requirements commits an offence, punishable on summary conviction by a fine



The Coronavirus Act 2020 (primary legislation)

Yes, enforceable. There are five main summary offences created by the legislation. These offences are punishable on summary conviction by a fine



Government guidance – is not enforceable. Do not issue fines to people for not adhering to government guidance.