

Executive Decision Making by an Officer with Delegated Powers

Decision to be taken by: Peter Bungard, Chief Executive

Report title: **Direction under the Health Protection (Coronavirus Restrictions) (England) (No 3) Regulations 2020 – Stow Horse Fair also known as Stow Fayre, located on fields between Maugersbury Road and Oddington Road, Stow-on-the-Wold Gloucestershire**

The decision	<p>To:</p> <ol style="list-style-type: none">1. make a Direction under the Health Protection (Coronavirus Restrictions) (England) (No 3) Regulations 2020 to prohibit the Stow Horse Fair also known as Stow Fayre, located on the fields between Maugersbury Road and Oddington Road, Stow-on-the-Wold, Gloucestershire taking place, preventing the public access to the Event and requiring the Event organisers to notify those planning to attend. <p>The restrictions within the Direction will have effect from 00:01 on Saturday, 17 October 2020 until 23:59 on Friday, 23 October 2020.</p> <ol style="list-style-type: none">2. authorise the Assistant Director of Legal Services to sign the formal Direction giving effect to recommendation 1.
Background documents	<p>Covid 19 Gloucestershire Local Outbreak Management Plan (GLOMP) and allocation of the Local Authority Covid-19 Test and Trace Service Support Grant Decision https://glostext.gloucestershire.gov.uk/ieDecisionDetails.aspx?Id=1526</p> <p>Gloucestershire Local Outbreak Management Plan (GLOMP) https://glostext.gloucestershire.gov.uk/documents/s62701/GLoucestershire%20GLOMP%20Document.pdf</p> <p>Equalities Impact Assessment for the GLOMP https://glostext.gloucestershire.gov.uk/documents/s62702/GLOMP%20DRS%20July%202020.pdf</p>

Reasons for the decision	<ul style="list-style-type: none"> • The proposed Direction responds to a serious and imminent threat to public health in the local authority's area. • The proposed Direction is necessary to prevent, protect against, control or provide a public health response to the incident or spread of infection in the local authority's area of COVID-19. • The prohibitions, requirements or restrictions imposed by the Direction are a proportionate means of achieving that purpose
Resource implications	<p>There are no resource implications for Gloucestershire County Council as a direct result of this decision, other than officer time in considering and preparing the Direction.</p>
Who has been consulted?	<p><u>Gloucestershire County Council:</u></p> <ul style="list-style-type: none"> • The Leader of the Council • The Local Member • The Director of Public Health • The Deputy Director, Public Health • Assistant Director of Legal Services • Principal Gypsy & Traveller Lead Officer, GCC <p><u>Cotswold District Council/Publica</u></p> <ul style="list-style-type: none"> • Acting Chief Executive • Environmental Health • Senior Environmental Health Officer West Oxfordshire District Council/Publica • Service Manager (Food Health and Safety) <p><u>Gloucestershire Constabulary</u></p> <ul style="list-style-type: none"> • Local Policing Inspector • Head of Legal Services <p><u>Other Bodies:</u></p> <ul style="list-style-type: none"> • Local Resilience Forum • NHS Test and Trace • Joint Biosecurity Centre • Public Health England
What were their comments? <p>All Gloucestershire authorities, members and the police consulted are in support of the proposed direction.</p>	

The National Bodies were consulted in relation to any relevant evidence concerning the proposed Direction to cancel the event. Representatives from the Joint Biosecurity Centre provided some useful advice regarding equalities considerations which have been taken into consideration and incorporated into our documentation.

Background

1. The Health Protection (Coronavirus, Restrictions (England) (No 3) Regulations 2020 ('the No 3 Regulations') gave powers to local authorities (including the County Council) to respond to a serious and imminent threat to public health and to prevent COVID-19 transmission in a local authority's area where this is necessary and proportionate to manage the spread of COVID-19. The Regulations included powers for local authorities to make a Direction 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)
2. Local authorities were granted powers under the No 3 Regulations to make a Direction where satisfied that the following three conditions are met:
 - The Direction responds to a serious and imminent threat to public health in the local authority's area.
 - The Direction is necessary to prevent, protect against, control or provide a public health response to the incident or spread of infection in the local authority's area of COVID-19.
 - The prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.
3. Before using the powers, local authorities must:
 - Gather sufficient evidence to demonstrate that these tests have been met, and consult with the Director of Public Health and the police concerning the making of the direction which prohibits, requires or restricts access to premises, events or public outdoor places.
 - Have due regard to the Public Sector Equality Duty (s. 149 of the Equality Act 2010) and consider carrying out an equalities impact assessment to determine whether the measure may disproportionately affect people with protected characteristics.
 - Have regard to the need to ensure the public has access to essential public services
 - Be clear about why they are taking directive action and communicate this clearly to the Secretary of State, the persons to whom the direction applies and where appropriate, those impacted by the direction.
4. Those directly impacted by any direction under the No 3 Regulations, 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.

5. The local authority must have regard to the advice given by its Director of Public Health before determining whether to give a direction.
6. The No 3 Regulations confirm that a person who contravenes certain provisions of the regulations or directions made under the regulations commits an offence, punishable by a fine. It also includes provision that a local authority designated officer or a constable (including a police community support officer) may take such action as is necessary to enforce a direction under the No 3 Regulations.
7. Where the Council makes a direction relating to an event or a public outdoor place, a constable (including a police community officer) may direct a person to leave the event or place, or may remove a person from the event or place, and in relation to an event, may direct the event to stop.

The local context for Gloucestershire

8. The Stow Horse Fair, also known as the Stow Fayre, has taken place twice a year in May and October at Stow-on-the-Wold for many years. Travellers and Gypsies gather from across the country, primarily for the sale of horses and horse equipment. There are other stalls that sell goods. It is held in fields between Maugersbury Road and Oddington Road, Stow-on-the-Wold, Gloucestershire, which is away from the town centre. The actual numbers attending are unclear from documentation provided but indicate that anything from 100 up to 420 caravans/trailers/vans/cars attend on site.

By tradition the Fayre is held on the closest Thursday to 24 October, which is 22 October this year; however experience of the Fayre in previous years indicates that attendees start to arrive around a week ahead of the event.

The Director of Public Health's Opinion

9. The Director of Public Health was asked to consider whether the proposed event had a serious and imminent threat to public health in the Council's area. She was asked to give her recommendations regarding whether it was appropriate for the Council to consider exercising its powers to make a Direction and recommend appropriate proportionate action in line to prevent the transmission of Covid-19 in accordance with the No 3 Regulations. The Appendix to this report sets out the Director of Public Health's Opinion regarding the situation which has arisen together with her recommendations.

Analysis and Conclusion

10. The Director of Public Health's evidence presented raises significant concerns that if the Stow Fayre event were to take place on 22 October 2020 the risk of transmission of Covid-19 would pose a serious and imminent threat to public health.
11. I consider, on balance, that it is a necessary and proportionate response to

cancel the Stow Horse Fair/Stow Fayre taking into account the Director of Public Health's evidence, the overall equality considerations, the evidence provided by the event organisers, enforcing agencies in Gloucestershire and national bodies.

12. I am also satisfied that the evidence shows that the threshold for making a Direction under the No 3 Regulations is appropriate in that it is necessary to prevent, protect against, control or provide a public health response to the incident or spread of infection in the local authority's area of COVID-19. I note the event takes place on 22 October 2020; however, participants will begin to arrive from 17 October to enable them to set up their stalls and camp on the site. Therefore, the Direction should come into effect from 00:01 on 17 October 2020 and cease to have effect on 23:59 on 23 October 2020. I note that as the duration of the event is less than 7 days a review will not be required.

Alternative options considered and why they were rejected

Appropriate efforts have been made by enforcing agencies to engage with and support the organisers to seek appropriate assurance through robust risk assessments to enable the event to take place in a Covid-secure manner, however this assurance has not been provided. Issuing a Direction to cancel the event is now the only available option.

Risk Analysis

Risk	Owner	Mitigations
Attendees will not be aware that the event has been cancelled	Event organiser GCC Communications team	<p>The Direction stipulates the need to make reasonable efforts to inform attendees</p> <p>Extensive communications through local media, Gypsy specific media and social media channels.</p> <p>The Police have undertaken direct conversations with the lead Event Organiser to explain the concerns and will continue to speak to the lead Event Organiser to explain the effect of the Direction when it comes into effect.</p> <p>The Council's Principal Traveller Liaison Officer is facilitating the communications directly with the traveller and gypsy community.</p>
Attendees will travel to the site and attempt to gain access or find an alternative site in the vicinity	Gloucestershire Constabulary	<p>Monitoring the area</p> <p>Signage at the site</p> <p>Communications to the Traveller and Gypsy community</p>
The Direction is contravened	Gloucestershire Constabulary	<p>The Police will be undertaking enforcement near the site and site visits will take place to check the status</p> <p>The Direction will be handed to the organiser in person (where possible) and explanation provided to ensure it and its implications are understood.</p> <p>Maintain open communication with the organiser to gauge their response.</p>

From 2nd October 2000, the Human Rights Act 1998 has the effect of enshrining much of the European Convention on Human Rights in UK law. Article 8 of the Human Rights Act 1998 guarantees a right to respect for private and family life and Article 1 of the First Protocol guarantees the right to peaceful enjoyment of possessions. Article 8 also provides that there shall be no interference by a public authority with the exercise of this right except in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the freedom of others.

It is not considered that there would be any breach of the Convention rights by making the Direction and imposing the restrictions contained within it. Even if there was to be an interference with the Convention rights then, in this case it is considered that the interference would be justified in the interests of protection of health and to prevent the spread of infection in the local authority's are of COVID-19 and a necessary and proportionate action to take.

Equalities considerations

The County Council considered the equality implications during the development of the Gloucestershire Local Outbreak Management Plan which sets out the Council's plan for preventing, containing, responding to and monitoring local outbreaks of Covid-19 in Gloucestershire.

This decision also involves wider equality considerations supplementing those which are set out in GLOMP equality assessment as the organisers and attendees for the Stow Horse Fair/Stow Fayre are from the Gypsy and Traveller community. To ensure that the individuals have not been disproportionately disadvantaged through this process, enforcing agencies have ensured that communication has taken place verbally and face to face and Traveller Community Link Workers have been used to facilitate communications where possible.

There are some characteristics of this population group which mean that risk of transmission of coronavirus may be higher than in the general population. This means that the health impacts of increasing transmission of the virus in this community may disproportionately adversely affect them. Therefore, the cancellation of the Horse Fair/Fayre through the Direction will seek to avoid the risk of such transmission.

It is worth noting that the primary concerns around this event are not related to the Gypsy and traveller community itself but instead relate to the size, duration and plans for overnight stays and the lack of assurance provided regarding mitigating actions. Other events In Gloucestershire have already been cancelled on these ground, however a Direction has not yet been required.

Has a Due Regard Statement been completed? Yes

<p>Has any conflict of interest been declared by any Cabinet Member consulted on the decision?</p> <p>If any conflict of interest declared, was a dispensation granted by the Audit and Governance Committee of the Council?</p>	<p>No</p>
<p>Does this decision report form or any supporting papers provided contain confidential or exempt information?</p>	<p>No</p> <p>The names of the Event Organisers, owners and occupiers will be redacted on published versions of all forms relating to this Direction.</p>
<p>Does this decision need to be published on the GCC website?</p> <p><i>(Refer to guidance on “Executive Decisions taken by Officers”).</i></p>	<p>Yes</p>
<p>In coming to this decision I have given due and full regard to the requirements of the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 (“the Act”) by reference to the law itself and also the relevant Due Regard Statement, which was/were prepared in accordance with the requirements of the Act.</p> <p>Having fully considered all available information, I have decided to reject any alternative options and take the recommended decision(s), for the reasons set out in this report.</p> <p>Signed:</p>  <p>Peter Bungard Chief Executive</p>	
<p>Date: 15 October 2020</p>	
<p>Contact details for further information:</p> <p>Officer: Beth Bennett-Britton. Consultant in Public Health Tel: 01452 427619</p>	

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