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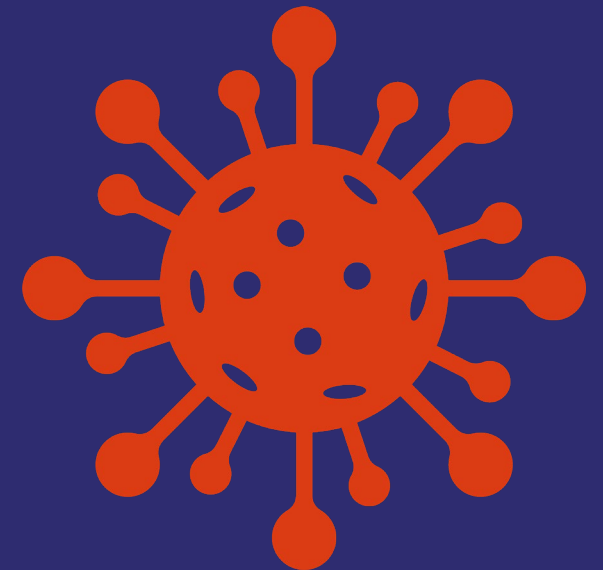
Working together
to keep people safe

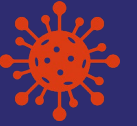
The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020

Tier 3, Alert Level Very High



20 October 2020





Local COVID-19 Alert Levels

This pack covers the **Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020**. They come into force on 14 October 2020.

- These Regulations must be reviewed at least once every 28 days, with the first review to be carried out by 11 November 2020
- Regulations expire at the end of the period of six months

The Government have produced a tiered model of restrictions – the **Local COVID-19 Alert Levels**. There may be a variety of alert levels within one force area depending on the local infection rates – you can check the restrictions in the specific area in which you are policing on the [gov.uk postcode checker](#).

For information on other alert levels, you can refer to the corresponding briefings available on our [Covid-19 Hub](#).

Other national Regulations still apply across England and should be viewed separately. All are available on the [Covid-19 Hub](#).



Make sure you know where your powers come from and that any enforcement action is accurately applied in line with what the law allows, the following may help you:

Consideration 1 What are my enforcement options?



The Act 2020 – Yes, enforceable

The Act details the powers relating to potentially infectious persons. This will be led by Public Health Officials. You are unlikely to be dealing with an Act offence, except for in exceptional circumstances.



The Regulations – Yes, enforceable

There are groups of Regulation:
 1. The Regulations that apply to the level of risk in your area, see consideration 2
 2. National Regulations that apply in England



Government guidance – NOT enforceable

Consideration 2 What is the alert level where I am policing?

Medium (baseline across England)

High

Very High

Find the local alert level on [gov.uk postcode checker](#)



Other national Regulations:



still apply to the whole of England regardless of the infection rates in that area, for example, face coverings and international traveller Regulations. These can be found on the [COVID-19 Hub](#)

Consideration 3 Under what Regulation has an offence been committed?

You need to make sure you know and understand whether the offence is a breach of the local alert restrictions or another applicable Regulation.



Tier 3, Alert Level Very High – the restrictions

These Regulations apply stricter social mixing restrictions, prohibiting households from mixing indoors and in gardens/other private outdoor settings. The restrictions on businesses consist of limitations on the sale of alcohol for consumption on the premises, the imposition of restricted hours for certain businesses and closure of certain businesses.

1. Restrictions on gatherings
 - a. participation in indoor gatherings
 - b. participation in outdoor gatherings, restrictions prohibiting
 - i. more than six people to gather in a public outdoor place and
 - ii. two or more people from gathering outdoors anywhere else
 - c. organisation or facilitation of gatherings of more than 30 people
2. Closure and restrictions on businesses
 - a. restrictions on opening hours of businesses and services
 - b. restrictions on service of food and drink for consumption on the premises
 - c. closures of businesses selling alcohol for consumption on the premises
 - d. requirement to close premises and businesses



Police and local authority enforcement

Police will lead enforcement in relation to breaches of requirements placed on **individuals**.

Officers should continue to engage members of the public and explain changes. If necessary they should offer encouragement to comply. However if the individual or group do not respond appropriately, then enforcement can follow without repeated attempts to encourage people to comply with the law.

We police by consent. The initial police response should be to encourage voluntary compliance. Policing will continue to apply the four-step escalation principles:

- Engage
- Explain
- Encourage and only
- Enforce as a last resort

Enforcement action in relation to breaches by **businesses** will be led by Local Authorities (Environmental Health Officers and Trading Standards Officers). The police should only be required as a last resort and to provide support as required.



Participating in indoor gatherings and private dwellings

No person may participate in a gathering in the Tier 3 area which:

- a. consists of **two** or more people, and
- b. takes place in a private dwelling or any indoor space

General exceptions apply to all gatherings which include, but are not limited to (see **full list on page 20**), where the gathering:

- solely comprises members of the same or **linked households** (page 17)
- is a **permitted organised gathering** (page 18) and the person participates alone or as part of a **qualifying group** (page 18)
- is reasonably necessary for certain purposes such as work, education and childcare
- is for the purpose of marriages, civil partnerships and alternative weddings (no more than 15 persons – specific criteria apply).
Note: Wedding receptions are prohibited in a Tier 3 area
- is for the purpose of funerals (no more than 30 persons) (special criteria apply)

No person living in the Tier 3 area may participate in a gathering **outside that area** which:

- a. consists of **two** or more people, and
- b. takes place in a private dwelling or any indoor space

Additional exceptions apply to indoor gathering:

- where the person concerned is visiting a person who is reasonably believed to be dying (conditions apply)
- where the person concerned is visiting a person receiving treatment in hospital or staying in a hospice or care home or accompanying them to a medical appointment (conditions apply)
- where the gathering is reasonably necessary for the purpose of informal childcare provided to a child in their '**linked childcare household**' (page 17)



Participating in outdoor gatherings

No person may participate in a gathering in the Tier 3 area which:

- a. takes place in a **specified outdoor place** and consists of more than **six** people
- b. takes place in any other outdoor space and consists of two or more people*

No person living in the Tier 3 area may participate in a gathering **outside that area** which:

- a. takes place in a **specified outdoor place** and consists of more than **six** people
- b. takes place in any outdoor place and consists of two or more people*

Specified outdoor place: An outdoor gathering of up to six is permitted if it takes place in a public outdoor place. This must be a place where no payment is required by any member of the public to access it or the place falls within one of the following categories:

- outdoor sports grounds or sports facilities
- botanical gardens
- gardens or grounds of a castle, stately home or historic house

Exceptions apply to all gatherings (see [full list on page 20](#)), however, there is a specific exception which applies to outdoor gatherings only:

- where the gathering takes place outdoors and it is for the purpose of a relevant outdoor activity (a physical activity for which a licence, permit or certificate is required to be issued by a public body)
- the gathering organiser or manager takes the **required precautions**

* **Additional exceptions** also apply to certain outdoor gatherings that are not in a specified outdoor place:

- where the person concerned is visiting a person who is reasonably believed to be dying (conditions apply)
- where the person concerned is visiting a person receiving treatment in hospital or staying in a hospice or care home or accompanying them to a medical appointment (conditions apply)
- where the gathering is reasonably necessary for the purpose of informal childcare provided to a child in their '**linked childcare household**' (page 17)



Exception for Remembrance Sunday

Gatherings taking place for Remembrance Sunday are permitted as long as:

- a. the gathering takes place to commemorate Remembrance Sunday
- b. the persons attending the gathering are limited to:
 - i. persons there as part of their work
 - ii. persons providing voluntary services in connection with the event
 - iii. members of the armed forces
 - iv. veterans of the armed forces or their representatives or carers
 - v. spectators who participate in the gathering alone or as a member of a qualifying group, and
- c. the gathering organiser or manager takes the **required precautions** in relation to the gathering



Restrictions on organisation or facilitation of gatherings

No person may hold, or be involved in the holding of, a **relevant gathering** in a Tier 3 (Local Alert Level Very High) area.

A 'relevant' 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**

or

- consists of more than 30 persons
- takes place in
 - a private dwelling
 - on a vessel, or
 - on land which is a public outdoor place which is not operated by a business, a charitable, benevolent or philanthropic institution and is not part of a premises used for the operation of a business, charitable, benevolent or philanthropic institution or public body.
- is not a gathering to which any of the outlined exceptions apply (see [pages 6, 7 and 8](#))

Note: A person is not involved in the **holding** of a 'relevant' gathering if their only involvement in the gathering is attendance at it.



Restrictions on opening hours of businesses and services

A person responsible for carrying on a restricted business or providing a restricted service in a Tier 3 (Local Alert Level Very High) area must not carry on that business or provide that service between the hours of 22:00 and 05:00, **the restricted hours**.

Businesses and services subject to restricted hours include:

- restaurants, including restaurants and dining rooms in hotels or members' clubs
- businesses providing food and drink take away services (exceptions apply)
- bars, including bars in hotels or members' clubs
- cafes (exceptions apply)
- public houses
- social clubs
- casinos
- bowling alleys
- cinemas*
- theatres*
- amusement arcades or other indoor leisure centres
- funfairs and similar
- bingo halls
- concert halls*

Exceptions

A restricted business can sell food or drink for **consumption off the premises** between 22:00 and 05:00:

- a. by making deliveries for orders received through a website by telephone or text or by post
- b. for collection provided the person collecting does not enter the premises

*Theatres, cinemas and concert halls may carry on the business or service at or after 22:00 for the purpose of concluding a performance that began before 22:00.

Motorway service areas: Restricted businesses located in motorway service areas may continue during the restricted hours, but alcohol may not be served.

Airports and sea ports: Restricted businesses may continue during the restricted hours if the area is accessible to crew, passengers or other authorised people (but not members of the general public) and alcohol is not served.

Public transport: restricted business may continue during the restricted hours on an aircraft, a vessel or train as long as alcohol is not served during the restricted hours. Alcohol can be served to persons who are seated on an aircraft.



Service of food and drink for consumption on the premises

A person responsible for carrying on a restricted business, or providing a restricted service, in a Tier 3 (Local Alert Level Very High) area must take all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

In addition, where the restricted business serves alcohol for consumption on the premises they may only sell food or drink for consumption on the premises if it is ordered by, and served to, a customer who is seated on the premises.

The restrictions apply to the following businesses:

- restaurants, including restaurants and dining rooms in hotels or members' clubs
- bars, including bars in hotels or members' clubs
- businesses providing food and drink prepared on the premises for immediate consumption off the premises (exceptions apply)
- cafes, including workplace canteens (exceptions apply)
- public houses
- social clubs

Note: This includes areas adjacent to the premises where seating is made available for customers of the business (whether or not by the business) or is habitually used for consumption of food or drink served by the business.



Requirement to close businesses selling alcohol for consumption on the premises

A person responsible for carrying on a business of a public house, bar or other business involving the sale of alcohol for consumption on the premises, must cease to carry on that business (exception applies).

Exception

- The requirement to close does not apply if alcohol is only served for consumption on the premises as part of a table meal, and the meal is such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal.
- Alcohol served as part of room service is not considered as being sold for consumption on the premises.

Note: an area adjacent to the premises where seating is provided for customers of the business (by the business or not) or where people gather to drink outside of the business are considered to be part of the premises.



Requirement to close premises and businesses

A person responsible for carrying on a restricted business, or providing a restricted service, in a Tier 3 Local Alert Level Very High area must cease to carry on that business or provide that service.

The restricted businesses and services for all Tier 3 areas include:

- nightclubs
- dance halls*
- discotheques*
- any venue which opens at night, has a dance floor or other space for dancing by members of the public, and plays music (live or recorded)* for dancing
- sexual entertainment venues
- hostess bars

*These may remain open if they cease to provide music and dancing

Local Closures: Further business closures may be imposed in areas under Tier 3 restrictions. These will be specified in **Schedule 2A of the Regulations.**

Exceptions

The restricted business premises may be used for the use of:

- host blood donation sessions where suitable
- training by elite sports persons
- professional dancers and choreographers
- indoor sport and fitness facilities for supervised activities for children or persons with disabilities to take part in sport or fitness related activities

Closed businesses may continue to:

- carry on a non restricted business or service in premises which are separate from the closed business
- provide goods for sale or hire by making deliveries providing services received through a website, phone or post

The policing role in enforcement: Local authorities (Environmental Health Officers and Trading Standards Officers) will monitor compliance with these Regulations and will enforce them as necessary. The police should only be required as a last resort and to support partner agencies as required.



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

Offences:

A person commits an offence if, without reasonable excuse, the person:

- contravenes a Tier 3 restriction
- contravenes a requirement imposed, or a direction given in the enforcement of the restrictions
- fails to comply with a reasonable instruction or a prohibition notice given by a constable or PCSO
- obstructs any person carrying out a function under these Regulations



Fixed penalty notices (FPNs)

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

a. Participation in gatherings

Where someone is reasonably believed to have committed an offence under these regulations and is 18 or over, an officer may issue them with an FPN. The amount is **£200** payable within 28 days, but this is reduced to £100 if paid within 14 days. The fixed penalty notice amounts double for each subsequent offence, up to £6,400 for the sixth and subsequent offences.

Note: this will take into account FPNs issued under other Restrictions Regulations

b. 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 increased amounts in (a) or above.

c. Opening hours of businesses or services or Service of food and drink for consumption on the premises

Local Authorities (Environmental Health Officers and Trading Standards Officers) will monitor compliance with these Regulations and will enforce them as necessary. The police should only be required as a last resort and to support partner agencies as required.

The amount is £1,000 for the first offence, £2,000 for the second, £4,000 for the third and £10,000 for the fourth and subsequent offences. These increases apply only to FPNs issued for these offences.



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.



Tier 3, Very High Alert Level: Participating in gatherings, glossary

Officers may already be familiar with some of the terms used in this briefing, but we have summarised some of the most commonly used terms.

Linked households

Where a household comprises one adult, or one adult and one or more children (under the age of 18 on the 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).

Conditions:

- neither household can be linked with any other household
- all adult members of the second household must agree to 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.

Linked childcare households

Where a household includes at least one child aged 13 or under they may choose to link with a second household for the purposes of the second household providing informal childcare to the child.

Conditions:

- neither household can be linked with any other household for the purpose of providing informal childcare
- all adult members of both households must agree to the link
- the households cease to be linked childcare households when neither household includes a child aged 13 or under
- if the households cease to be linked childcare households, neither of them may then link with another childcare household

*Informal childcare is any form of care for a child aged 13 or under provided by someone not doing so in their role as a person registered to provide childcare and includes education and any other supervised activity.



Participating in gatherings, glossary (cont.)

Permitted organised gatherings

Restrictions on gatherings do not apply to a person participating alone or as a member of a 'qualifying group' in the following circumstances:

Indoor gatherings. Gatherings at premises (or part of a 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.

Outdoor Gatherings. 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 takes the **required precautions**.

Qualifying group

Participating in a permitted organised gathering as a member of a '**qualifying group**' is permitted as long as the qualifying group consists of:

- indoor gatherings or certain outdoor gatherings not in a **specified outdoor place** - only members of the same or linked house holds (this may be more than 6 people)
- outdoor gatherings (**specified outdoor places** – only - no more than 6 persons (who need not be members of the same or linked households); or consists only of members of the same or linked households (can be more than 6)

However, they must not:

- become a member of any other group participating in the gathering or
- mingle with others at the gathering not in their qualifying group



Participating in gatherings, glossary (cont.)

Required precautions

- the organiser or manager of 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

*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, and the required precautions must have been taken.



Restrictions on gatherings in Tier 3 (Very High Local Alert Level) areas – full list of exceptions

Exceptions apply where the gathering:

1. solely comprises members of the same or linked households
2. is a permitted organised gathering* and the person participates alone or as part of a qualifying group ([see page 18](#))
3. is reasonably necessary for the purposes of :
 - work or to provide voluntary or charitable services
 - education or training
 - childcare by a registered person or supervised activities for children
 - providing emergency assistance
 - avoiding injury or illness or escaping risk of harm
 - providing care or assistance to a vulnerable person
 - arrangements for access to, and contact between, parents and children
 - arrangements for contact between siblings where one or both are in care, where they do not live in the same household (conditions apply)
 - arrangements for prospective adopters and their households to meet a child or children
 - to facilitate a house move
4. is for the purpose of a person fulfilling a legal obligation or participating in a legal proceeding
5. takes place in criminal justice accommodation
6. is for the purpose of a marriage, civil partnership or conversion of a civil partnership (or alternative wedding) – no more than **15 persons***
7. is of a support group, consists of no more than 15 people and does not take place in a private dwelling
8. is for the purpose of attending a birth at the request of the person giving birth
9. is a funeral – no more than **30 persons*** and takes place at premises or part of a premises (other than a private dwelling) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body
10. is a celebration of the life a person who has died - no more than **15 persons*** and takes place at premises other than a private dwelling
11. is for the purposes of protest and it has been organised by a business, a charitable, benevolent or philanthropic institution, a public body, or a political body*
12. where the person concerned is an elite sports person, coach or, where the sports person is a child, their parent, and the gathering is necessary for training or competition
13. outdoor sports gathering or permitted indoor sports gathering
14. Remembrance Sunday

See [page 6](#) for specific exceptions for indoor gatherings and [page 7](#) for the specific exception for outdoor gatherings.

***Note for exceptions 2, 6, 9, 10, 11, and 13** the person responsible for organising or managing the gathering must have taken all the **required precautions**