

LANCASHIRE COUNTY COUNCIL
LSG6 PO BOX 78 COUNTY HALL
PRESTON PR1 8XJ

Ref: LSG6/889.762/2

DIRECTION (INDIVIDUAL PREMISES)

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

1. Lancashire County Council (“the Authority”), in exercise of the powers conferred by regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020² (“the No. 3 Regulations”), gives the following Direction.
2. 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.³
3. Before giving this Direction, the Authority has had regard to—
 - a. any advice given to it by its Director of Public Health and
 - 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).
 - c. Other matters referred to in the guidance

¹ 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>

² 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).

³ See regulation 2(1).

DIRECTION

Person and premises

4. This Direction is given to [REDACTED] who is the owner of the Premises, [REDACTED] as the holder of the Premises Licence of the Premises and to [REDACTED] who is the Designated Premises Supervisor to which the Direction relates.
5. This Direction is given in respect of Nostalgia Cocktail Bar, 53a Fylde Road, Preston PR1 2XQ including its outside space, said premises being the land registered under title LA271750 at the Land Registry (“the Premises”).

Direction given

6. a) That the maximum capacity of the premises is set at 50
b) That upon arrival all customers are taken by the host to their table to be seated

Timing and duration of Direction

7. Any actions required to put into effect the prohibitions restrictions or requirements set out in paragraph 6 must be undertaken by 6pm on 23 October 2020 **when the Direction comes into effect**. The prohibitions, restrictions or requirements set out in paragraph 6 have effect until 6pm on 15 January 2021 or until varied or revoked before then by the Authority.
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.

Consequences of not meeting the requirements of the Direction

9. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice⁴ or Fixed Penalty Notice⁵ against you or may commence criminal proceedings against you.

⁴ See regulation 12(2) of the No. 3 Regulations.

⁵ See regulation 14(1) of the No. 3 Regulations

10. A person commits an offence if, without reasonable excuse, the person:⁶
- contravenes a Direction under regulation 4(1); or
 - 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

11. 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).
12. You have a right to appeal against this Direction to a magistrates' court by way of complaint for an order.⁷ 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.⁸ The address of the Authority is at the end of this document. Refer also to Ref: LSG6/889.762/2
13. You also have the right to make representations to the Secretary of State about this Direction.⁹ 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.
14. 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. This should include:
- a. The name of the Authority;
 - b. The reference number listed at the top of this Direction;

⁶ See regulation 13(1) of the No. 3 Regulations.

⁷ See regulation 4(9)(a) of the No. 3 Regulations.

⁸ 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.

⁹ See regulation 4(9)(b) of the No. 3 Regulations.

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

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

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

Additional powers and requirements that accompany this Direction

Publication

17. This Direction may 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

18. The Authority is required to notify any County Council whose area is adjacent to the initiating authority's area of this Direction by the No. 3 Regulations¹⁰. Notification will be to all upper tier authorities adjacent.

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

Specified point of contact email- litigationadmin@lancashire.gov.uk

**Post – Legal Services LSG6 Ref LSG6/889.762
Lancashire County Council PO Box 78 County Hall Preston PR1 8XJ**

¹⁰ See Regulation 11(1)(a) – (d) of the No. 3 Regulations

Direction given by Mike Kirby, Director of Strategy and Performance, Lancashire County Council, PO Box 78, County Hall, Preston, Lancashire PR1 8XJ

Dated 23 October 2020