



**SIMON BYRNE QPM
CHIEF CONSTABLE**

Our Ref: Com Sec 5563-20

TTM
April 2020

Dear Minister,

My purpose in writing to you is to seek clarity about a number of issues relating to the functioning of The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (hereafter referred to as The Regulations). This follows correspondence between Assistant Chief Constable Alan Todd and Nigel McMahon, Chief Environmental Health Officer from 10 to 15 April 2020.

I must begin by placing on record my admiration and gratitude on behalf of the Service for the work being undertaken by all health care professionals and those supporting them throughout this unprecedented crisis. You are leading a Department with onerous responsibilities at this time and I do not doubt the considerable competing pressures on your time as you deal with the daily realities of the crisis. We share your sense of purpose and responsibility in minimising the risk of transference in the community.

The situation evolves on a daily basis, as does the PSNI approach to our role as defined by the Regulations. Over recent days we have faced considerable scrutiny from the Policing Board, political representatives, the media and the wider community about how we are enforcing the Regulations. Just yesterday I received a letter from the Attorney General which I believe was also copied to you (copy attached) challenging how we are enforcing Regulation 5. I will respond to him in due course, but I feel I do need to seek clarity from you about a number of issues before I do so.

1/ As a principle, we see any enforcement activity as being in support of a healthcare requirement overseen by the Department of Health and responsive to the Healthcare requirements at any point in time. This is central to our approach and lies behind our continued desire to have a formal 'commissioning arrangement' that engages policing of the regulations/restrictions and which would be regularly reviewed to balance various considerations. We believe that this is in line with the Regulations stating;

"The Department of Health considers that the restrictions and requirements imposed by these regulations are proportionate to what they seek to achieve, which is a public health response to that threat" and;

The Department of Health must review the need for the restrictions and requirements imposed by these Regulations at least once every 21 days....."

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Assistant Chief Constable Todd has raised this with Nigel McMahon but to date we have yet to receive a clear operational commission from the Department of Health against which the parameters of our policing response can be tested. I believe such a commission would provide the necessary legitimacy to what we are being asked to achieve. I understand that whilst your Department has primary responsibility for the Regulations, this is something that you may wish to involve Executive colleagues in.

2/ As thoughts turn to any changes to the Regulations and any future "easing" of the restrictions in place, I would ask again that you give consideration to designating other public officials as enforcement bodies. I do not believe it is appropriate or desirable that police officers continue to fill the space of other roles such as environmental health enforcement, health and safety, council wardens etc.

I am advised that exchanges with the District Council Chief Executives (SOLACE) to date indicate a reluctance to adopt a formal enforcement role. Whilst I appreciate that this is being kept under review, the risk of policing fulfilling responsibilities outside our "traditional" role have medium term consequences for public confidence.

3/ Appreciating that you will be keeping the Regulations and guidance under review, I would ask that any plans to change them are the subject of prior consultation with PSNI to ensure the policing implications of any proposed changes are fully understood. Whilst I appreciate that the decision by Mid and East Antrim Council to reopen some recycling centres was outside your scope, it does have policing implications in terms of enforcement, and risks further confusing public understanding of how the Regulations are being enforced. I believe this may be an issue for CCGNI to consider, as a lack of a co-ordinated approach across the public sector risks further confusion within the community.

4/ Given the challenge posed within the Attorney General's letter (I understand he has written to the Northern Ireland Executive also), alongside the significant media and political interest in how the Regulations are being enforced, I believe it is vital for the PSNI to ask for as much legal clarity from your Department and the Executive as to how Regulation 5 should be interpreted, in particular with regard to what travel is permissible. I respect his role, and in responding to him I will require absolute clarity of the Department of Health's position on the issues raised, and in particular the issue of travel for exercise.

Over the past week, PSNI has dealt with many media queries and correspondence with political representatives about the Regulations, and why we are taking the approach we have taken. However, we are not the legislator, and to that extent, I ask that your Department and the wider Executive bring legally based clarity to the public debate as soon as possible.

The overall response to this pandemic is a common endeavour for us all, and PSNI will continue to provide all necessary support to the Department of Health and the wider public sector in enforcing (when necessary) the Regulations. However, I would ask for clarity about the issues raised. I answered questions about a number of these at a meeting of the Policing Board on 16 April 2020. Therefore, I am copying the Chair of the Policing Board into this letter. Given the overlapping responsibilities for the overall response to Covid 19, I am also copying this letter to the First Minister, Deputy First Minister, Minister of Justice and the Head of Northern Ireland Civil Service.

Personal Data

SIMON BYRNE

Copy to: Doug Garrett Chair Northern Ireland Policing Board
Arlene Foster First Minister
Michelle O'Neill Deputy First Minister
Naomi Long Minister Department of Justice
David Sterling HOCS
Peter May Permanent Secretary DOJ

Robin Swann MLA
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