



Llywodraeth Cymru
Welsh Government

From:

NR

Community Safety Division

I&S

Cleared by:

Karin Phillips

Date:

23 May 2020

MINISTERIAL ADVICE

For decision by: First Minister

Copied to: Counsel General, Deputy Minister and Chief Whip

Subject	Designation of Chief Constables to take forward prosecutions under the Single Justice Procedure for breaches of the Coronavirus Regulations.
100 word summary	The Attorney General has advised that they will designate, from 22 May, English Chief Constables to apply the Single Justice Procedure for fines issued under Coronavirus Regulations. Similar designations will be needed for Welsh Chief Constables under Wales' Coronavirus Regulations.
Timing	A decision is required urgently.
Recommendation	The First Minister is asked to: <ol style="list-style-type: none"> 1. Agree that Chief Constables in Wales should be designated for the purposes outlined in this MA. 2. Agree the attached draft letters.
Decision report	This decision does not require a Decision Report.

ADVICE

Background

1. The UK Government has advised that the Attorney General has agreed to a request from the National Police Chiefs Council (NPCC), the Crown Prosecution Service (CPS) and HM Courts and Tribunals service to make proceedings for offences set out in the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ("the English lockdown regulations") specified proceedings in order that the police can prosecute them under the Single Justice Procedure. This has been done as the Police are anticipating a high volume of contested FPN cases. The purpose of this is to avoid extensive backlogs of non-payment of fines hearings.
2. The Attorney General has the power to make orders specifying proceedings for the purposes of section 3 of the Prosecution of Offences Act 1985 ("the 1985 Act"). If offences are specified in such an Order the CPS is not under a duty to take over proceedings when they are instigated by the police. Nevertheless the CPS can still take over the proceedings if they consider it appropriate to do so. There is a long list of offences that are already specified for the purposes of Section 3, they are generally either minor road traffic offences or minor public order offences such as littering or drunk and disorderly behaviour.
3. The UK Government proposes to specify offences under the English lockdown regulations. The CPS and the NPCC have agreed that once this has been done, proceedings for offences under the regulations will be handled by the police where the accused pleads guilty by post or does not respond (known as the Single Justice Procedure). If the accused pleads not guilty or chooses to appear for whatever reason, the CPS will take over the proceedings.
4. In order for Police forces in England to bring proceedings for these offences the Chief Constables will be designated under section 11 of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 which states "proceedings for an offence under these Regulations may be brought by the Crown Prosecution Service and any person designated by the Secretary of State."
5. The NPCC and CPS have confirmed they would want to apply the same approach for Welsh forces. Our recommendation is to agree to this common approach in England and Wales.
6. The power to specify proceedings for the purposes of the 1985 Act lies with the Attorney General, we expect her to write to you tomorrow to confirm that you are content for proceedings for offences under the Health Protection (Coronavirus, Restrictions) (Wales) Regulations 2020 ("the Welsh lockdown regulations") to be specified proceedings.
7. As with England, the Chief Constables of the Welsh Police forces will need to be designated under the Welsh lockdown regulations to bring proceedings for offences under those regulations. Regulation 14 of the Welsh regulations states

'No proceedings for an offence under these Regulations may be brought other than by the Director of Public Prosecutions or any person designated by the Welsh Ministers.'

8. You are asked to agree that Chief Constables in Wales be designated to enable them to prosecute using the Single Justice Procedure.
9. Police forces have advised that whilst it is difficult to forecast whether there will be a high number of contested or unpaid fines, due to the variance in circumstances for which FPNs have been issued. There is a general view that the SJP process would be the best disposal option given that forces tend to issue a small number and the expectation has been that they would deal with them in this way.

Legal issues

10. Legal Services and OLC advise that designation should take the form of the attached letters and that it is necessary to implement the policy as agreed by the CPS and the Welsh Chief Constables.

Annex 1: ASSURANCE AND COPY RECIPIENTS**CLEARANCE TRACKING**

Aspect	Tracking	Yes	No	N/A	Clearance no.
Finance	Financial implications over £50,000?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Group Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Strategic Budgeting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Local Government Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Legal	Legal issues?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Cleared by relevant lawyers?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Governance	Novel and contentious issues?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Cleared by Corporate Governance Centre of Excellence?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

DEPUTY DIRECTOR, STATEMENT OF ASSURANCE

In clearing this MA, I confirm that I, Karin Phillips have quality assured this advice, ensuring it is provided on the basis of evidence, accurately presents the options and facts and I am accountable for the recommendations made

I am satisfied that the recommended decision or action, if agreed, would be lawful, affordable and comply with all relevant statutory obligations. Welsh Government policy priorities and cross portfolio implications have been fully considered in line with delivery of the government objectives.

I have fully considered the statement of assurance contained in the MA guidance to ensure all relevant considerations have been taken into account and that the actions and decisions take account of regularity, propriety and value for money.

COPY LIST

All mandatory copy recipients (as indicated in the guidance). Additional copy recipients specifically interested in this advice:

- NR
- Terry Kowal
- Reg Kilpatrick
- NR
- Neil Surman
- NR
- NR