WLGA Leaders briefing for the enforcement meeting with the First Minister 10.30am 5th August 2020.

Since the start of the pandemic, the Directors of Public Protection Wales (DPPW), and WLGA have engaged positively with WG in relation to emergency Coronavirus Regulations, and their impact on regulatory activity for public protection teams, businesses, and the general public.

As we enter a period of further relaxation, businesses such as pubs, cafes, restaurants and clubs have reopened, firstly outdoors, and from 3rd Aug, indoors again. We believe this to be the right move at the right time but are aware that in England issues have arisen in licenced premises, which could easily be replicated in Wales. The re-opening of leisure, beauty and fitness sectors and the relaxation of controls on gatherings may also present challenges.

We understand the First Minister has asked for confirmation that existing legislative powers would permit local authorities to act swiftly, so that problem premises or activities can be closed immediately if necessary.

It is important to stress that our concerns are about both premises, and activities, which by definition are distinct – and may require enforcement for either premises, activities, or both. To only include enforcement in relation to premises, may render effective enforcement impossible.

After examining a wide range of legal powers, including the current version of the Coronavirus Regulations, the Licensing Act, The Public Health Act, and others, local government is not confident that sufficient authority exists to deal efficiently and effectively with immediate public health risks.

In order to move confidently and safely into a long period of full reopening, local government has pressed WG on the need for enforcement powers, which would enable public protection officers to deal immediately with problem premises and or activities and hence prevent longer term and more serious issues, namely an increase in the spread of the virus.

In a recent email to Reg Kilpatrick, DPPW and WLGA has suggested some solutions which, if written into Wales regulations, provide that enforcement backstop, and give confidence should the worst happen, action can be taken immediately by competent, local and accountable public protection officers.

The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 contain a number of important provisions which we believe could be replicated in the context and framework of future Wales Regulations. https://www.legislation.gov.uk/uksi/2020/750/made

Reg 4, 5, and 6 provide wide powers in relation to premises, events and outdoor spaces, which could be used to deal with incidents etc immediately, by authorised officers. These largely refer to the issuing of immediate direction orders requiring the closure of premises, restriction of entry or other necessary controls as directed by an officer. There powers are in our view essential tools going forward.

The regulations provide that any action taken is "necessary" and therefore, alongside local authorities existing enforcement policies – this would ensure proportionality in protecting the wider public interest. In the advent of local escalations in infection rates, Local authorities would seek to ensure the use of such powers is therefore done in consultation with Directors of Public Health and

Health Boards as necessary and is commensurate with the Coronavirus Prevention and Response Plans in place for each region. .

An additional, important omission we believe should be included, is one which WG has already considered and approved within the Sunbeds (Regulation) Act 2010 (in this regard, we suggest that if WG considered these powers appropriate to investigate offences about Sunbeds, then one would imagine they would be appropriate for Coronavirus):

Section 7 of the Sunbeds Act, refers to the Schedule which contains inter alia:

"(c)where the officer considers it necessary for that purpose, to require the production of any book, document or record (in whatever form it is held) and inspect it, and take copies of or extracts from it;

(d)to take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the officer considers necessary for that purpose;

(e)to require any person to give such information, or afford such facilities and assistance, as the officer considers necessary for that purpose."

Subsection (e) being especially useful.

A further practical enforcement issue that is arising is in relation to enforcement of face coverings in taxis. Currently, the regulation cites the police as enforcers, from an operational perspective, to include local authorities would be sensible.

Finally, the insertion into amended Wales Regulations of wording such as "a person taking all reasonable measures to minimise the risk of exposure to coronavirus" would enable local authorities to deal with e.g. playing loud music, or loud sports streaming, not recording TTP records, etc.

In a more general sense, we remain concerned at the number and scale of gatherings (for example in Cardiff Bay, or Ogmore) which appear to be gaining in popularity, while at the same time, increase the risk of transmission. Enforcement in these circumstances is particularly difficult – and where "policing by consent" fails, positive outcomes are difficult to obtain.

While we welcome a strengthened enforcement regime to enhance the protection of public health, we also seek urgent clarity and sight of the escalation plans where localised and individual incidents (such as a non-compliant pub), become a larger issue of transmission in localities, communities, sectors etc.

We understand there are ongoing discussions between Welsh Government, and public protection officers in relation to the enhanced and strengthened enforcement powers; we remain committed to assisting and coproducing with Welsh Government to find the most appropriate and effective way forward.

It cannot be over emphasised, that our officers have a depth and breadth of experience and knowledge, and we willingly offer this in the spirit of coproduction.

Unfortunately, during the pandemic this resource has been overlooked in the planning, preparation and drafting of legislation. As a result, significant Public Protection resource across Wales has been

ploughed into deciphering and interpreting regulations, instead of being put to better use, on the front line of providing advice and guidance to businesses and the public.