

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS,  
RESTRICTIONS) (BOLTON) REGULATIONS 2020

*Tuesday 29 September 2020*

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**Saturday 3 October 2020**

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**The Committee consisted of the following Members:**

*Chair:* CAROLINE NOKES

Betts, Mr Clive (*Sheffield South East*) (Lab)

† Bowie, Andrew (*West Aberdeenshire and Kincardine*) (Con)

Brennan, Kevin (*Cardiff West*) (Lab)

Bryant, Chris (*Rhondda*) (Lab)

† Churchill, Jo (*Parliamentary Under-Secretary of State for Health and Social Care*)

† Coutinho, Claire (*East Surrey*) (Con)

† Crosbie, Virginia (*Ynys Môn*) (Con)

† Davies, Gareth (*Grantham and Stamford*) (Con)

† Hunt, Jane (*Loughborough*) (Con)

† Miller, Mrs Maria (*Basingstoke*) (Con)

† Norris, Alex (*Nottingham North*) (Lab/Co-op)

† O'Brien, Neil (*Harborough*) (Con)

† Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

† Western, Matt (*Warwick and Leamington*) (Lab)

Whittome, Nadia (*Nottingham East*) (Lab)

† Wood, Mike (*Dudley South*) (Con)

Yasin, Mohammad (*Bedford*) (Lab)

Kevin Maddison, Ben Rayner, *Committee Clerks*

† **attended the Committee**

## Third Delegated Legislation Committee

Tuesday 29 September 2020

[CAROLINE NOKES *in the Chair*]

### Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020

9.25 am

**The Chair:** Before we begin, I need to remind hon. Members about social distancing, so thank you all for sitting in appropriately marked spaces or at the back of the room. *Hansard* colleagues would be grateful if you could send any speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

**The Parliamentary Under-Secretary of State for Health and Social Care (Jo Churchill):** I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 (S.I. 2020, No. 974).

It is a pleasure to serve under your chairmanship, Ms Nokes. The regulations came into force on 10 September. On that date, my right hon. Friend the Secretary of State for Health and Social Care announced that the latest epidemiological data showed a dramatic increase in the incidence rates of covid-19 in the Bolton area, leaping from 18.6 per 100,000 people to more than 100 per 100,000 people within a week. Test positivity was also higher than the national average.

Given the rapid increases in cases, the local authority understood the seriousness of the situation and was proactive and willing to take more stringent action. It increased testing by bringing in mobile testing units and distributed 2,000 home testing kits throughout the community. The University of Bolton carried out a comprehensive risk assessment and made plans for the imminent start of term. The council engaged with the university and local businesses to discourage them from promoting large events to coincide with the start of term.

Learning from the outbreak in Leicester earlier in the summer, Bolton was one of the first areas to roll out its own locally supported contact tracing. The start date was brought forward by two days in response to the spike in cases. At that time, there was no clear understanding of what was driving transmission. The council, Public Health England and the Joint Biosecurity Centre analysed the available NHS Test and Trace data and other data to try to identify what was driving transmission.

The results were interesting. It was found that 93% of cases were among 18 to 49-year-olds, two thirds of cases were in the 20 to 39-year-old age group, the main ethnic group testing positive for the virus was white British, and the cases were understood not to come from the most deprived parts of the population. The cases were also geographically dispersed across the Bolton area, rather than being clustered in hotspots, as was the familiar pattern in other parts of the north of England at the time. There was anecdotal—I stress “anecdotal”—evidence that an outbreak was linked to a local pub and

started from a visitor who had recently returned from overseas. There were also concerns that transmission was happening in workplaces, but that was not thought to be the main driver of the spike in cases.

It is important to remember that at this point Bolton was already subject to interventions as part of the protected area defined in the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020. That meant that households in Bolton could not meet up with each other in private homes or gardens, and certain businesses remained closed despite being able to reopen elsewhere in England.

Given the urgency of the situation in Bolton, we used the emergency procedure to make the present set of regulations as soon as we could. They gave effect to the decision set out by the Secretary of State, responding to the latest epidemiological evidence and local insights. These regulations went further than just repeating the restriction on different households mixing in each other's homes by requiring certain businesses to remain closed. They seek to address the increased risk of transmission associated with people's reduced compliance with social distancing guidance when they are out socialising in and around hospitality venues. The new restrictions prohibit food and drink businesses from opening, other than to sell items to be collected or delivered and consumed away from the premises. They cannot operate at all between the hours of 10 pm and 5 am. Other non-essential businesses and services are also required to close between 10 pm and 5 am.

The restrictions are enforced by the same regime as the other health protection regulations, although there is the creation of new offences punishable by fixed penalty notices or fines following conviction.

We published guidance to help people living in Bolton understand what they can and cannot do under the restrictions, and it was updated every time there was a change. The local authority's guidance went even further, given the exceptionally quick increase in the incidence rates. It advised residents to use public transport only for essential purposes and not to mix with other households, even when they were outside their homes. The local authority also decided to reissue previous national guidance on shielding for the clinically extremely vulnerable.

The concern about the outbreak in Bolton has been significant, and engagement with local leaders throughout this period has been extensive and productive. I thank the local authority, the local resilience forum, Public Health England, the Joint Biosecurity Centre and the local director of public health, Helen Lowey, for their engagement.

Action had already been taken to protect people in Bolton, including increases in testing and public health capacity. We had hoped that those interventions and the work of local public health teams would get the infection rate down without our having to take more drastic action, but that was not to be. As is required by the regulations, we have reviewed the situation at least once every 14 days and the incidence rates have dropped in the last few days to 205 per 100,000 people for the period of 12 September to 18 September, although I understand that they have risen again.

We always knew that the path out of lockdown would not be entirely smooth. It was always likely that infections would rise in particular areas or workplaces, and that

we would need to be able to respond quickly and flexibly to those outbreaks. These regulations have demonstrated our willingness and ability to take action where we need to. Of course, we will use the experience of these measures in Bolton to inform and help us develop our responses to any future outbreaks. As I said earlier, there have been ongoing reviews of the Bolton regulations; the next review is due today and of course we will make public the outcome of that review shortly.

I am grateful to all Members for their continued engagement in this challenging process and in the scrutiny of the regulations. In particular, I thank all those people in the protected area in Bolton who have responded so well to the measures that have been put in place. None of this is easy.

I commend the regulations to the Committee.

9.32 am

**Alex Norris** (Nottingham North) (Lab/Co-op): The Minister and her colleague, the Minister for Health, the hon. Member for Charnwood (Edward Argar), together with my hon. Friend the Member for Ellesmere Port and Neston (Justin Madders) and I are in a sort of Monday-Tuesday rotation for these statutory instruments. The SIs are broadly similar, but each one is exceptionally important to the local communities that they affect. There may therefore be some repetition in my speech, as I dare say there was in the Minister's. Nevertheless, it is important that we discuss these matters fully, and that is what I will seek to do.

I always start these debates with a homily about the nature of opposition in coronavirus times; we are always a bit in the Goldilocks hot seat. I think it was last Wednesday night that I was on Talk Radio getting beaten up because we were too supportive of the Government and the lockdown regulations. On Sunday, I was then on Sky News being beaten up for playing party politics with our opposition to some elements of the restrictive measures. Such is life.

I say that to show that we genuinely treat these things on their merits. We want the Government to succeed; we want to get out of this coronavirus era, however long it lasts. We want to get back to the football—frankly, it is not a night out if it finishes at 10 pm. We do want the Government to succeed, but there are times when our good will and support are stretched, especially when it seems that the Government are losing control of the virus.

Over the weekend, there was another foreseeable but not particularly well-managed situation around universities in policy terms, but there was also chaotic communication, with successive Ministers unable to say the same thing in succession. Similarly, even this morning Ministers on national media were unable to stand up the messages given out yesterday in the Chamber. That makes things really hard, as do the regulations before us.

I will say a lot of the things that I have said before. Debating regulations 19 days after they came into force is a fool's errand and a waste of all our time, other than the fact that it is really important that we do debate them. We cannot change anything; we will not divide over them. Of course we cannot—the horse is multiple fields down by now.

We appreciate the need for efficient action, particularly at the beginning of a crisis, but it is absurd that this far into the crisis we have still not managed to debate one

of these statutory instruments prior to its coming into force. When we do reach an opportunity to debate them, it is not even days but weeks or months later—19 days in this case. That is a regular pattern that has been raised many times by Members of all parties and many times in the other place.

The rubber will perhaps hit the road on this discussion tomorrow, because Parliament is not here to rubber-stamp Government decisions. Executive decisions are not meant to be rubber-stamped by the legislature many weeks later, but, as I say, we are here and there is not much choice. We have a responsibility to make sure that the Government do the best by the country and that our constituents have maximum confidence in what is done. We must be able to demonstrate that we properly scrutinise the decisions that are being taken, but we cannot say that at the moment.

When I raised the matter last week, the Minister asked whether I would be willing to work seven days a week in order to scrutinise legislation. That made me think of an American revolutionary, Nathan Hale, who, just before he was executed for spying, said,

“I only regret that I have but one life to lose for my country.”

I can probably bastardise that to say, “My only regret is that I have only seven days to give for my community.” Whatever the day, whatever the hour, if it is important enough for us to discuss and it means we can get upstream, I would be willing to meet—even on a Sunday. We are discussing regulations from 19 days ago and new ones were announced yesterday. If meeting on a Sunday is what it takes to discuss yesterday's new regulations in a timely manner, I absolutely would be willing to do that.

Nevertheless, I recognise that last week we were talking about statutory instruments that were nine and a half weeks old, and the instrument we are discussing today is only two and a half weeks old. Perhaps the Minister can give us her thoughts on that, but I hope it demonstrates that we are catching up, in which case I recognise that and am grateful to the Minister and her team for it.

Similarly last week, the Minister mentioned that the statutory instruments were in accordance with the Coronavirus Act 2020. I do not dispute that that is the case with today's instrument, but I gently say that that is not a particularly high bar. When the instruments are so badly out of date, the Act is weakened. Ahead of tomorrow's discussions we will all have received emails. There is a lot of bad information out there about coronavirus. Some of the emails we get are perhaps less based in fact, but the emails we are getting at the moment about the Act are very well meant. They are evidence based, with serious discussions about civil liberties in the UK. Concern is growing because there is a sense that Parliament has not got a grip, which is very much the point that I am making this morning. Again, we will support the renewal of the Act tomorrow—what else could we do?—but we will seek to amend it to give a greater sense of transparency.

I know that there are other high profile suggestions centred on giving Parliament an automatic proactive say. I am attracted to that, but I have no confidence that it will be delivered, even if the Government are bounced into it. Yesterday the Secretary of State said,

“I strongly agree with the need for us in this House to have the appropriate level of scrutiny... The aim is to provide the House with the opportunity to scrutinise in advance through regular statements and debates, questioning the Government's scientific

[Alex Norris]

advisers more regularly—that has already started—gaining access to local data”.—[*Official Report*, 28 September 2020; Vol. 681, c. 22.]

Even for the Secretary of State, that is a classic of the genre: suggesting agreement, but not actually agreeing; suggesting something new, but offering the status quo. I do not know if that will wash with Government Back Benchers—I would be amazed if it did—because that is what we have at the moment.

What we are talking about is significant restrictions on people’s liberties that are discussed in the past tense. I recognise that the Government have frequently made themselves available through statements, and Mr Speaker has facilitated urgent questions or general debates such as the one we had yesterday. However, it is not the chance to talk about coronavirus that has colleagues concerned, but the chance to discuss significant and important restrictions on people’s liberties, which we do not have at the moment.

**Matt Western** (Warwick and Leamington) (Lab): It is a pleasure to serve under your chairmanship, Ms Nokes. As my hon. Friend said, we have debated the points in hindsight over many weeks now.

What is frustrating for the public and those of us representing the public is the fact that this legislation is being debated retrospectively. There is so much inconsistency and incoherence in so much of the Government policy, and that is the frustrating thing. That is why we need to get on the front foot and lay such legislation in advance.

**Alex Norris:** I agree with that. It is good for all of us—good for parliamentary democracy, but good for the Government too—to have the regulations and inconsistencies aired. We would hope that that is the way in which things will be improved. My hon. Friend’s point also reflects on the consistent and regular use of the negative procedure for these statutory instruments. Obviously, that is now very pertinent in the light of what we will discuss tomorrow—renewing the Act or not—but it is hard not to notice that the whole suite of Brexit-related legislation is wired in exactly the same way. The Government rely on these powers, and on secondary legislation approved via the negative procedure. Many of those who are opposing this method today and tomorrow have championed it for four years, so it is a little late to take it slowly. That is not Nathan Hale; it is *Girls Aloud*. We should have real concern that this is the nature of government in Britain for at least the next 12 to 18 months; decisions by the Executive are subsequently looked at by Parliament when it is a bit late. That should discomfort all of us.

Again, I would be interested in the Minister’s reflections on this situation. As I say, it would be hard to get in front of every single decision, but we should be trying to get in front of as many as possible. We would not want to bog down the process so that effective interventions happened in a less timely manner, but we could at least get away from introducing them 15 minutes before they are implemented. Again, that reflects a sense of chaos rather than order and organisation. I would be interested to hear the Minister’s views on that.

It goes without saying that the situation is now becoming more challenging. The regulations work, and our approach to tackling the virus works, for as long as people are

willing to comply with them. In the beginning phases, people did incredible work and made personal sacrifices during lockdown. I fundamentally believe that that is a mark of the character of British people. That is the way in which people will continue to attack these challenging circumstances for as long as they have confidence in the measures that are being taken and they have a sense that other people—both their neighbours and at a national level—are complying too. Things like grouse shooting or Barnard Castle chip away at public opinion and make people think, “You know what? Forget about this. I’m just going to do it and see what happens.” That we cannot have, because our approach will fall apart.

Like the Government, the Opposition have said before that when infection rates rise, restrictions should increase. That is particularly pertinent in this case. We have all seen the significant and rapid rise in infection rates in Bolton, which is a concern for everybody, so of course these restrictions were necessary. There is an interesting nugget at regulation 3.1 that might be helpful for us: the closure of bars and restaurants at 10 o’clock. Of course, that is now our national reality. Again, we did not dispute this last week. We know that this is not something that has been built on SAGE advice or guidance; it is something that is not really based on evidence. I know the Government have relied on evidence from Antwerp in Belgium—that was certainly the line last Wednesday—which stretches credulity a bit, but Bolton might actually be a better example. I would be keen to know, because regulation 2.2 says that the reviews must be fortnightly and start on 24 September, which was last week. The Minister said that a review had already taken place, so it would be interesting to know what the impact of the closure at 10 o’clock was. Again, the picture that was painted by the Minister was one of younger people from diverse geographical parts of the borough, so it is probably fair to say that it is linked to the night-time economy. What has been the impact of the 10 o’clock closure? It might actually be the best evidence that we have for the national curfew.

Finally, I am really pleased hear that the local consultation was good in the case of Bolton, particularly given how rapidly things changed there. In relation to the new regulations announced for the north-east from the Dispatch Box last night—that is the right way to do it—given that we seem to have this conversation every time, it is hard not to be struck that the leader of Newcastle City Council, Councillor Nick Forbes, said, “We have been having conversations, but this is the first we have heard of it.” I know him well and he is a very sensible, practical and not particularly dogmatic or partisan individual. I am glad to hear it is not the case in Bolton, but such a lack of consultation will not do for public confidence. Perhaps the Minister could reiterate that there is a genuine commitment to working in partnership and that local authorities will not find out about new regulations in the news rather than through conversations, even if the Government, of course, need the final say. Again, the Opposition do not intend to divide the Committee, but there are many elements that could be done better.

9.45 am

**Jo Churchill:** I understand and recognise how, as the hon. Member for Nottingham North said and the hon. Members for Ellesmere Port and Neston (Justin Madders)

and for Warwick and Leamington have said on many occasions, there is a willingness to work together. They want us to get ahead of the curve, as it were. I understand why that is, but we introduce such regulations under section 45R of the Public Health (Control of Disease) Act 1984 because we need to move at speed. These are public health emergencies rather than anything to do with the broader setting.

We recognise the impact of localised restrictions on local businesses. That is why we provided Bolton Metropolitan Borough Council with £57,980,000 of business support grant funding. Businesses have access to a large number of support schemes including discretionary grants and tax breaks because there is a need to protect both people and the economy. The measures we are taking in Bolton seek to find balance on that difficult tightrope. No one wants to put restrictions on people's lives.

The hon. Member for Nottingham North alluded to yesterday's debate. One thing I took from it is how the power of many of the speeches came from the impact on people's lives from a human capital point of view and how that spins out. As I said on the Floor of the House yesterday, we are working hard to move things forward and have more dialogue. I appreciate the articulation of his willingness to work with us.

**Mrs Maria Miller** (Basingstoke) (Con): It is a great pleasure to see you in the Chair, Ms Nokes. I am sure hon. Members do not need their attention drawn to the fact that the Minister was on her feet in the Chamber 12 hours ago. It is astonishing to see her here doing a great job of presenting the regulations to the Committee.

I want to press the Minister on working together. The hon. Member for Nottingham North raised an important point about the timeliness of consideration of legislation. There is obviously a huge amount of secondary legislation at the moment. Could the House of Commons and Parliament be doing more to support the Government to that end? Should we press the authorities to do more?

**Jo Churchill:** I thank my right hon. Friend for her intervention, which I am sure the Whip, my hon. Friend the Member for Erewash, will take away through the usual channels. Everyone wants to see these things succeed so that we get out of this covid-tinged world and into something more akin to what we are used to.

The hon. Member for Nottingham North asked me about the restrictions. It is too early to know whether they have bedded through. One of the challenges is that if we leave things as they are when we see the spike rising, the argument is that we are too late, but if we go too early, the argument is that we are impinging on people's lives. One of the big problems with the disease is that, when we see the prevalence rise, there is a 10-day lag before we see the number of people entering hospital rise and then a further 10-day lag before we see the number of deaths rise.

I can report that, unfortunately, from this week, the positivity rate is 241.8 per 100,000. The next review is on 9 October.

These are challenging times. The information I read out was based on local intelligence from the University of Bolton, which knows its own community. In many debates I have been challenged about getting granular and getting local. This is a fine example of where the director of public health and other local bodies are helping us drive the right solutions locally. For my money, that is the right way to proceed.

We recognise that, for many, self-isolating for 10 to 14 days to avoid passing on the virus is a challenge. The Prime Minister announced that, from 28 September, we will be supporting those on low incomes by paying them £500 if they cannot work from home or have lost income as a result of the requirement to self-isolate. That needs to be fed through to see if it also has an effect. The requirement to self-isolate became law yesterday and there are penalties for those who breach the rules. There will also be penalties for employers who fail to support the requirement, for example, by threatening self-isolating staff with redundancy if they do not come to work. We hope that will send a clear message about the importance of self-isolating.

We take Public Health England's report on BAME communities extremely seriously. However, there is still work to do in understanding how the disease affects different groups, including BAME communities, as well as the broader communities we are working with. Expecting a reliable result within a week or 10 days is difficult in this situation. Other factors, such as comorbidities and occupational risk, mean that every situation is more complex than it might seem at face value. We are investing a large amount in medical and clinical research to get a better understanding. In the meantime, we are making it a priority to safeguard BAME workers in the NHS who might be at risk and in need of specific treatment, while making sure that all workplaces have been risk-assessed.

The decision to impose even more stringent restrictions in Bolton is based on a number of factors and local intelligence. They include not just the positivity and incidence rates but the extent of high-risk behaviours. The next review will take place on 9 October.

I conclude by thanking the people of Bolton and particularly its NHS and care workers and all the city's key workers for their ongoing hard work to keep our vital services running and save lives through this difficult time. I urge everyone to get behind hands, face and space, so we can eradicate the virus from our country as soon as possible.

*Question put and agreed to.*

9.53 am

*Committee rose.*

