



Shropshire Safeguarding
Community Partnership

Multi-Agency Guidance: When a person/group is not following the Coronavirus Guidelines on social distancing or self-isolating

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Acknowledgements

With thanks to the Norfolk Safeguarding Adults Board who has given us permission to base our guidance on their document.

1. Purpose

The following guidance is for all front-line staff and managers in member organisations of the Community Safety, Children's and Adults Networks of the Shropshire Safeguarding Community Partnership.

This guidance applies when a person or group of people of any age is/are **continually not following** the [Government's Coronavirus Guidance: Protect Yourself and Others](#) (hereafter referred to as Coronavirus Guidance) about social distancing or self-isolating. This may be because they do not understand what they should do due to their age, lack of parental control, confusion, alcohol or drug misuse, a mental health condition or learning disability.

This document is one of a suite of documents that will support the [Shropshire Local Outbreak Plan](#).

This guidance must be read in conjunction with any relevant enforcement policies that respective partners already have in place, e.g. Shropshire Council's "Better Regulation and Enforcement Policy" (<https://shropshire.gov.uk/shropshire-council/policies/better-regulation-and-enforcement-policy/>).

2. Introduction

[The Public Health \(Control of Disease\) Act 1984](#) gives health protection powers to local authorities, which can be used without approval from a court. Before the powers can be invoked, local authorities and magistrates must be satisfied that there is evidence of an infection or contamination and that it represents a significant risk to health along with the risk of the infection spreading to others and the action required to remove or reduce the risk.

[The Health Protection \(Part 2A Orders\) Regulations 2010](#) (made under the Public Health (Control of Disease) Act 1984) allow local authorities to apply to a magistrate for a Part 2A order when they need additional powers to manage a person or item that may cause significant harm to human health from infection or contamination. This is as a last resort when other interventions have either failed or aren't suitable.

To make a direction imposing a prohibition, requirement or restriction in respect of individual premises, events or public outdoor places, under [The Health Protection \(Coronavirus, Restrictions\) \(England\) \(No.3\) Regulations 2020](#) (made under the Public Health (Control of Disease) Act 1984), a local authority needs to be satisfied that the following three conditions are met:

1. the direction responds to a serious and imminent threat to public health in the local authority's area
2. the direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the local authority's area of coronavirus

3. the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose

The [Health Protection \(Local Authority Powers\) Regulations 2010](#) (made under the Public Health (Control of Disease) Act 1984) allow local authorities to:

- Require that a child is kept away from school
- Require a head teacher to provide contact details of pupils attending their school
- Request individuals or groups to cooperate for health protection purposes
- Request the disinfection or decontamination of premises or articles
- Restrict contact with or relocate a dead body for health protection purposes

The [Coronavirus Act 2020](#) became law on 25th March 2020¹. The purpose of the Act is to enable a national response to the coronavirus pandemic in the United Kingdom.

Schedule 21 of the Act specifically confers powers on public health officers, constables and immigration officers to detain and direct potentially infectious person/groups.

Neither pieces of legislation change the multi-agency statutory principles, duties and responsibilities relating to:

- Mental Capacity and Deprivation of Liberty Safeguards: as outlined in the [Mental Capacity Act Code of Practice](#) (Office of the Public Guardian).

Specific national and practice guidance has been issued to support practice during this time:

- [The Mental Capacity Act \(2005\) and Deprivations of Liberty Safeguards during the Coronavirus \(COVID-19\) pandemic](#) (Department for Health and Social Care).
- [Rapid Response Guidance Note: Covid-19, Social Distancing and Mental Capacity](#). (39 Essex Street Chambers)

- Adult Safeguarding; as outlined in [Chapter 14 Care and Support Statutory Guidance](#) (Department for Health and Social Care).

Specific national guidance is being issued to support practice during this time:

- [Care Act Easements Guidance](#) (Department for Health and Social Care)

- Child Safeguarding; as outlined in [Working Together to Safeguarding Children 2018](#) (Department for Education).
- [The Adoption and Children \(Coronavirus\) \(Amendment\) Regulations 2020](#) make temporary changes to provide additional flexibility for local authorities, fostering providers and services in England to meet statutory duties, particularly relating to children who are looked after while maintaining a clear focus on safeguards and promoting the welfare of children. Shropshire Children's Social Care have a local response to these amendments which is subject to ongoing review.

Specific national guidance is being issued to support practice during this time:

- [Supporting vulnerable children and young people during the coronavirus outbreak](#)

¹ A [Coronavirus Act 2020 Status Table](#) sets out the status of the different provisions of the Act.

(Department for Education)

This guidance should be applied alongside relevant multi-agency [adults](#) and [children's](#) safeguarding procedures and guidance particularly:

- Keeping Adults Safe in Shropshire Working with Risk Guidance
- West Midlands Adult Safeguarding Multi-Agency Policies and Procedures
- Adult Safeguarding Process in Shropshire
- Shropshire Multi-Agency Mental Capacity Act Guidance
- West Midlands Regional Child Protection Procedures
- Threshold Document to help support children, young people and their families in Shropshire
- Escalation/Resolution Policies relating to adults and/or children

In applying the principles of this guidance and the policy below, agencies must ensure that they adhere to their public sector equality duties as outlined in [s149 Equality Act 2010](#) in order to ensure any action taken is not motivated by discrimination against a person, community or group with protected characteristics.

3. Prevention: The 4 E's Multi-Agency Approach

It is imperative that **all** agencies work together with a person/group who is/are not adhering to [Coronavirus Guidance](#) to try and prevent the person/group from getting to a point where it is deemed that restrictive or enforcement action is deemed **necessary and proportionate** to protect them or others from coronavirus transmission.

The aim of any multi-agency approach, whether preventing or protecting the person/group or others from coronavirus transmission; should be to support and enable the person/group to achieve and maintain their health, safety and wellbeing and ensure the protection and health of others in the **least restrictive** way possible.

The Shropshire Safeguarding Community Partnership supports West Mercia Police in the application of the National Police Chief Council's "4 E's" approach to managing any non-adherence to the Coronavirus Guidance.



All agencies (including commissioned providers of care and support for children and adults) working in Shropshire are expected to apply the first 3 stages of this approach with those they support. Those with powers to enforce should only be contacted and deployed where engaging, explaining and encouraging the person/group to adhere to the Coronavirus Guidance has not been successful.

Considering context

It is important that agencies attempt to explore and understand the reasons for and/or context to a person/group's non-adherence to the Coronavirus Guidance.

It may be that the person/group does not understand what they should do or the risks of not adhering; or that they are not able to adhere without the support or supervision of others (such as parents or carers) or because they require medical assessment and treatment.

The application of professional curiosity is important to this approach in order to explore and understand what is happening with the person/group or their family. Please see guidance on [Professional Curiosity Management and Practice](#)

If possible and where appropriate, other existing statutory or legislative processes should be used in order to ensure the most **proportionate, least restrictive** response is taken to support the [4 E's multi-agency approach](#).

Management of groups in places, locations and communities

In circumstances when there is a local increase of cases of Coronavirus within a group, location or community and there are concerns that individuals within the group, location or community are not adhering to the Coronavirus Guidance; agencies involved with specific individuals should be involved and link in with the multi-agency response led by the Local Resilience Forum and NHS Gold and Silver structures (please see *Priority 9: Regulation including local lockdown plans* in [Shropshire Local Outbreak Plan](#)). The principles of the [multi-agency process](#) below should still be followed in such circumstances, and agencies involved with individuals should [Raise Public Health Concerns](#) and be included in the multi-agency response at the earliest opportunity.

Children

It remains the responsibility of parents (or anyone who has custody or charge of a child) to ensure that children adhere to the Coronavirus Guidance and any "direction, instruction, requirement or restriction given to or imposed on a child" as part of Schedule 21 Coronavirus Act 2020².

Agencies should therefore work with children and those responsible for them based on their level of development and needs, to help them adhere to the Coronavirus Guidance applying the [4'Es approach](#) and in accordance with the [Threshold Document to help support children, young people and their families in Shropshire](#).

Safeguarding concerns must be [reported to Children's Social Care](#) when children are suffering or at risk of suffering significant harm.

² Schedule 21(18) [Coronavirus Act 2020](#)

Where it is known that a child has a Social Worker from Shropshire Council or who is placed in Shropshire by another Local Authority and there are concerns about the child's adherence to the Coronavirus Guidance, it is important that agencies notify and work with the allocated Social Worker for the child. For Shropshire Children [report concerns to Children's Social Care](#).

Mental Capacity

The Mental Capacity Act applies to **all people over the age of 16**; and so relevant legislation, code of practice, local policy and practice guidance during COVID-19 as outlined in the [Introduction](#) above should also be applied.

Adults with care and support needs

Adults with care and support needs are people over the age of 18 years old who need care and support, because of physical and/or mental impairment or illness; to help them live their everyday life.

If you are working with a person who would benefit from additional care and support to help them (or their Carer) to follow the Coronavirus Guidance they (or you on their behalf with their consent) can [contact Adult Social Care](#) for further advice and assessment. If the person does not consent but it has been assessed that the person lacks [mental capacity](#); contact can still be made with Adult Social Care as long as there may be an overriding public interest to refer to ASC.

The [adult safeguarding process](#) must be followed when adults with care and support needs (regardless of who is meeting their needs) are at risk of or experiencing abuse or neglect.

Mental Illness

If the person appears to be suffering from a [mental disorder](#), and is presenting as a serious risk to themselves or others, they may require admission to hospital for assessment or treatment for a mental disorder. Before making a referral for a Mental Health Act assessment, every opportunity should be taken to work with the person to address their mental health needs where possible. The assessment and/or treatment for a mental illness should be the priority in this situation.

The Mental Health Act 1983 cannot be used to compel people to undergo testing for COVID-19, receive treatment or isolate themselves if these measures are unconnected to the person's mental disorder. Even if a person is detained under the Mental Health Act, Schedule 21 Coronavirus Act 2020 powers can still be applied concurrently.

Enforcing existing conditions associated with offending behaviour

Non-adherence with the Coronavirus Guidance can be considered as contributing to evidence of a breach of criminal justice system-imposed conditions associated with offending behaviour (such as licence conditions for the community aspect of a custodial sentence). Criminal justice agencies must ensure that any such evidence used for enforcement is **necessary and proportionate** and relates to the purposes for which the individual is subject to the existing conditions.

4. Multi-agency process when a person/group is not following Coronavirus Guidance

For an overview of this process, please refer to [Appendix 1: Process flowchart](#).

- a) **Engage, Explain and Encourage the person/group to comply with the guidance.** If the person/group is struggling to understand, make every attempt to find alternative ways to help them understand the information (for example, using pictures, interpreters or easy read guides). Always use plain language and find ways of testing that they have understood the information you have given them.
- b) **Involve family, friends, guardians, carers or advocates;** where appropriate to the [context](#); to support the person/group's decision making and seek to resolve the issues in the least restrictive way. In the case of a child, make sure you confirm the legal status of and involve anyone who has parental responsibility for them.

If the person/group:

- Is still not adhering to the [Coronavirus Guidance](#)
- and
- It is [suspected or confirmed that they have coronavirus](#):

- c) **Consider assessing mental capacity** (only for people aged 16 and over): If there is evidence that a person has an impairment or disturbance in the functioning of mind or brain, assess the person's mental capacity in line with the Code of Practice and taking account of the specific [Coronavirus: looking after people who lack mental capacity guidance](#) as best you can, using appropriate social distancing and taking account of [Guidance on Infection Prevention and Control](#).
 - i. Assessing capacity is **time and decision** specific so the assessment should be about whether the person understands the salient points of the [Coronavirus Guidance](#), and the consequences of not following these, (i.e. potential police action, the risks to themselves and others).
 - ii. If the person lacks capacity an appropriate assessment should be undertaken to identify how they will be supported to adhere to the Coronavirus Guidance.
 - iii. If the person has a **Deprivation of Liberty Safeguards** authorisation in place, then the authorisation may provide the legal basis for any restrictive arrangements in place around the measures taken. Testing and treatment should then be delivered following a best interest decision.

If the person lacks capacity and lives at home, consideration should be given to making an application to the Court of Protection for a **Deprivation of Liberty Order**. If you think this may be applicable, you must seek legal advice. The

Court of Protection helpline can also be contacted on: 020 7421 8824 or out of hours 020 7947 6000.

- iv. If the reasons for the isolation are purely to prevent harm to others or the maintenance of public health, then advice needs to be sought from the [Public Health England Local Health Protection Team](#) on whether any restriction of the person/group's movement (such as a requirement to self-isolate) is appropriate.

[Adapted from [DoHSC:2020:Emergency public health powers](#)]

- d) **If the person/group is a child(ren)**; consider their level of development and needs as outlined in the [context](#) section above. Consider too who has parental responsibility for the child(ren) and the [child's capacity to consent to medical treatment](#).

Where the child is in the care of their parents or informal carers, it is important that you also ensure that you also consider their capacity (as in the assessing capacity section above) and/or willingness to support the child to adhere to the [Coronavirus Guidance](#).

- e) **Convene a multi-agency meeting** if the person/group is known to Children or Adult Social Care, Housing, any health, independent or voluntary provider and there is more than one agency involved with them.

Any organisation involved with the person/group can arrange such a meeting, however it may be useful make use of any existing multi-agency meeting arrangements already in place for the person/group. Any professionals involved should be invited to attend. Any professional difficulties should be resolved using the multi-agency [Resolution/Escalation Policy \(Adults\)](#), [Escalation Policy \(Children\)](#).

The person/group (and their representative or responsible person/group where applicable) should be made aware that a meeting is taking place and what information is likely to be shared. They should be given the opportunity to attend, give their views in advance of the meeting or for someone to attend with or on behalf of them (children must be accompanied by a suitable, responsible adult). If the person/group states they do not want a meeting to take place or information to be shared between agencies, but there is a common view that a multi-agency meeting should still take place, this does not mean that a meeting cannot take place. Meetings can still be held about the person/group without their consent or presence if it's **proportionate and necessary** to manage the risk of coronavirus transmission to themselves and others. The person/group's involvement, consent and lawful basis of the meeting should be clearly recorded in organisational case records.

If existing information suggests the health risks are already high, invite Public Health and the Police to the meeting (see [Raising Public Health Concerns](#) below). Representatives from the Trading Standard & Licensing Service and Regulatory Services should also be invited to attend to ensure that consideration is given to the 'other' control tools we have and that we understand which officers would be best placed to act.

During the multi-agency meeting, consider the following:

- Is the person/group showing the symptoms of coronavirus?
- Does the person/group (or their responsible adult if they are a child) have mental

capacity to understand the social distancing and/or self-isolation guidance?
Consider is this a permanent impairment? Do they have fluctuating capacity (including people with alcohol or substance misuse issues)?

- What are the risks to the person/group from their current behaviour? For example, how frequently are they going out, where are they going, can they explain their purpose for going out?
- What are the risks to other people from the person/group's behaviour? For example, who are they coming into contact with, or likely to come into contact with? Are they a tactile/chatty person/group or someone who tends to keep quite private anyway? Consider discussing risks associated with general safety when out, not just coronavirus.
- What strengths are there in the person/group and their network or environment which could support them? For example, family who could help them to self-isolate or accompany them into the community, care provision that could support them to remain at home or accompany them into the community, any interests they could be encouraged to pursue at home.
- What mitigating actions could be taken to reduce the risks using the strengths identified above or other options? What additional support is required to understand what is happening and help manage the situation for example assistive technology, volunteers, support of local community, police checks, additional home support/one to one support, respite care in a residential care provider setting.
- Developing a clear action plan so everyone is clear about who is doing what including the person/group themselves.
- Setting a review date.

Subsequent actions will depend on the outcome of the multi-agency meeting's view of risk and actions required.

f) **Only raise a Public Health Concern**, to ask for the application of relevant powers:

- Where it is **suspected or confirmed that the person/group has coronavirus**.
- Where there are **no other existing statutory or legislative processes** that can be reasonably applied to enable the person/group's adherence to the Coronavirus Guidance;
- The person/group **continues to refuse** despite attempts made as above to follow the Coronavirus Guidance;

AND

- the **risk of coronavirus transmission to others is high** (e.g. showing symptoms and interacting closely with other people, spitting at others or other behaviour(s) that increase risk, because there is a local outbreak of Coronavirus in a place, location or community).

5. Local application of Schedule 21 Coronavirus Act 2020 or powers granted by regulations made under the Public Health (Control of Disease) Act 1984

[Schedule 21 of the Coronavirus Act 2020](#) specifically confers and provides a detailed outline of powers on public health officers, constables and immigration officers to detain and direct potentially infectious persons in quarantined areas.

These powers can only be applied when the Secretary of State publicly declares that there is a serious and imminent threat of coronavirus to public health; and that the powers will be effective in preventing or delaying further significant transmission of coronavirus. Such a declaration was made on 10th February 2020.³ It may be revoked at any time by the Secretary of State, by publishing a notice on gov.uk

In Shropshire, Schedule 21 powers are held by West Mercia Police and designated Public Health Officers from [Public Health England West Midlands North Health Protection Team](#).

If/when concerns are raised to West Mercia Police and/or they and Public Health Teams are applying Schedule 21 powers; the **ongoing work and involvement of other agencies is vital** to help to understand and manage the risk to the person/group, other people and public health.

Enforcement action under Schedule 21 can only be taken by West Mercia Police and designated Public Health Officers.

Enforcement action under the regulations referred to above and made under the Public Health (Control of Disease) Act 1984 can only be taken by Shropshire Council and, in certain circumstances, West Mercia Police. Officers currently designated to act for Shropshire Council are based in the Trading Standard & Licensing Service and Regulatory Services, although the Council may designate any officers as deemed appropriate for the purposes of the legislation. Any action must only be undertaken where it is considered **necessary and proportionate** to do so in the interests of the person/group, the protection of other people or the maintenance of public health. This means that the aim of any enforcement action will be to reduce the risks in the **least restrictive way** and so that enforcement measures (where they are applied) are no longer required at the earliest possible opportunity.

Raising Public Health Concerns

If somebody is already in hospital or has been detained for other purposes, then where possible the person should be tested where they are; making use of existing security where they are detained. In such circumstances, it is important that agencies seek advice from [Public Health England West Midlands North Health Protection Team](#).

If the person is not already in hospital or detained for other purposes, and once you have followed the [Multi-Agency Process](#) above; you can raise your concerns and ask for the person/group to be directed or removed to a place suitable for screening and assessment for Coronavirus by contacting:

- West Mercia Police (999 in an emergency, 101 or [online](#) if non-urgent)

³ See <https://www.gov.uk/government/news/secretary-of-state-makes-new-regulations-on-coronavirus>

West Mercia Police will consider your concerns and respond according to their determined level of risk; in liaison with regional and local Public Health Officers and West Midlands Ambulance Service.

If you wish to discuss your concerns or invite agencies with the above powers to a multi-agency meeting, please contact:

- West Mercia Police: Chief Inspector Mark Riley. mark.reilly@westmercia.pnn.police.uk.
- Shropshire Public Health Team (Health Protection):
shropshirepublichealth@shropshire.gov.uk. 01743 251234 (9am-5pm 7 days per week)
- Public Health England Regional Health Protection Team (West Midlands North):
Telephone: 0344 225 3560 (option 2). Out of hours advice: 01384 679 031
- Shropshire Council Trading Standard & Licensing Service and Regulatory Services:
Email: frances.darling@shropshire.gov.uk, Tel: 01743 251715, Mobile: 07458 124419
or Email: karen.collier@shropshire.gov.uk, 01743 251711 Mobile: 07458 120888.

Local Application of Powers (requirements and restrictions)

Those with Schedule 21 powers can direct or remove a person for screening and assessment; and then, if it is confirmed by a health care professional or reasonably suspected that they have coronavirus; impose requirements and restrictions upon them.

A person who is made the subject of these powers must be informed by Public Health Officers of reasons for direction, removal, requirements or restrictions. The person has a right to appeal to a magistrate's court. Failing to comply or attempting to abscond is a criminal offence.

If a Public Health Officer deems it necessary and proportionate to require a person to remain at a specified place for a specified period; the following should be considered:

- a) The person should be required to remain in their home/current environment where possible.
- b) Only if this is not possible should Housing Services be approached to request the use of an alternative suitable address.

Appendix 1: Process flowchart



