

Flintshire County Council

The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 as amended

CLOSURE NOTICE

Part A

To: Shamsuedin Ahmed

At: The Bombay Sizzler

Of: Hawarden Road, Hope, Flintshire, LL12 9NW

Trading as: The Bombay Sizzler

This Closure Notice is served under paragraph 2 of Schedule 5 Regulation 17A of The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 (the Regulations).

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, Gemma Potter, Team Leader – Licensing, designated as a relevant person for the purposes of the Regulations by Flintshire County Council, have reasonable grounds to believe that you, as the person responsible for the premises stated above which is:

an open premises as defined by regulation 12

have failed to take the reasonable measures, which are set out in Part B below, to minimise risk of exposure to coronavirus. In order to secure compliance it is necessary and proportionate to issue this Closure Notice to prevent continued contravention of the requirements.

Part B. Contravention of the requirements imposed by Regulation 12(2)

You have failed to take the following reasonable measure(s) to ensure

(a)(i) that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer)

and / or

You have failed to take the following *other* reasonable measures which limits close face to face interaction and maintain hygiene

(b)(i) changing the layout of premises including the location of furniture and workstations to allow an un-regulated buffet

(b)(ii) controlling use of entrances, passageways, stairs and lifts by allowing attendees to congregate in the entrance to the premises, with no social distancing measures in place

(b)(iii) controlling use of shared facilities such as toilets and kitchens, by not being able to show that measures were in place to restrict access to the toilet facilities

(b)(iv) otherwise controlling the use of, or access to, any other part of the premises, by allowing a wedding party including a DJ consisting of more than 30 people to congregate at the premises with no social distancing measures in place, no effective track and trace in place, insufficient sanitisers available, no separation of household groups, no table service, attendees being allowed to congregate at the bar for service, and music played at a level which could not be considered 'background level'.

(b)(vi) providing or requiring use of personal protective equipment, by not requiring attendees to use face coverings when not seated to consume food or drink

and / or

(c) provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

Part C. Action required by you

When this notice is served you must close the entire premises.

Effect of premises Closure Notice

(1) As soon as is reasonably practicable after a premises closure notice takes effect, the person to whom it is issued must ensure that— (a) the premises to which the notice relates are closed, and (b) no business is carried on or service is provided on, or from, the premises.

(2) No person may enter, or be on, premises closed under sub-paragraph (1) without a reasonable excuse.

(3) For the purposes of sub-paragraph (2), the circumstances in which a person has a reasonable excuse include where— (a) the person lives on the premises; (b) the person is carrying out essential maintenance or repairs; (c) the person is doing things necessary to ensure that regulation 12(2) can be complied with when the premises are allowed to be open; (d) the person is an enforcement officer or a person assisting an enforcement officer; (e) it is necessary for the person to be on the premises to avoid injury or illness or escape a risk of harm.

When you have taken steps to put in place the reasonable measures set out under Part B you should contact the issuing officer and they will arrange to carry out a visit to assess compliance. When the officer is satisfied that you have complied they will issue you with a written termination notice.

PART D. Publicising premises improvement and closure notices

When a premises improvement notice or a premises closure notice is issued the regulations require, as soon as reasonably practicable after issuing the notice, the enforcement officer to

- (a) display a copy of the notice, and a sign in the form set out in Schedule 6 of the regulations, in a prominent place near every entrance to the premises **and**
- (b) arrange for the notice to be published on the website of the local authority for the area in which the premises are located.

A copy/copies of the notice and sign required to be displayed on the premises and published on the local authority website must continue to be displayed and published for as long as the notice has effect.

Please note that without a reasonable excuse it is a criminal offence to remove, obscure or damage a notice or sign required to be displayed at each entrance to the premises by the regulations.

Part E. Consequences of non-compliance

Failure to comply with this Closure Notice, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Part F. Your rights to challenge this notice

(1) A person to whom a premises improvement notice or premises closure notice is issued may appeal to a magistrates' court against the notice.

(2) An appeal must be made— (a) by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980(37), and (b) within 7 days after the day the notice is issued.

(3) But a magistrates' court may allow an appeal to be made after the expiry of the period mentioned in sub-paragraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).

(4) A magistrates' court may suspend the effect of a premises improvement notice or premises closure notice pending the determination of an appeal.

(5) On an appeal against a premises improvement notice or premises closure notice, a magistrates' court may— (a) confirm the decision to issue the notice; (b) direct that the notice is to cease to have effect; (c) modify the notice; (d) make such other order as the court considers appropriate.

(6) If the magistrates' court directs that a notice is to cease to have effect or modifies a notice, it may order the local authority for the area in which the premises in question are situated to compensate the person responsible for the premises for loss suffered as the result of the issue of the notice.

(7) An appeal by either party against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.

(8) On an appeal to the Crown Court, the Court may— (a) confirm, vary or reverse the decision of the magistrates' court; (b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Crown Court.

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| Signed: | Date and time notice served: 23 rd October 2020 |
| Name in Capitals: | This notice is time limited and will cease to have effect 336 hours (14 days) after the date and time of issue as stated above. This notice will remain in force during the time limited period until either a notice of termination |

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| | <p>is issued or any appeal you lodge is heard by the Magistrates' Court (whichever is sooner).</p> <p>If the time limited period ends and a notice of termination has not been issued or your Court appeal has not yet been heard further closure notices may be issued if you re-open and contraventions are found to still exist which risk exposure to coronavirus.</p> |
| Name and Address of Local Authority: | <p>Flintshire County Council County Hall Mold Flintshire CH7 6NR</p> |
| Telephone: 01352 703030 | Email: licensing@flintshire.gov.uk |

If you are not sure of your rights or the implications of this Notice, you may want to seek independent legal advice



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Cymru
Public Health
Wales



Llywodraeth Cymru
Welsh Government

IECHYD Y CYHOEDD Y CORONAFEIRWS

Gofyniad i leihau'r risg
o ddod i gysylltiad â'r
coronafeirws mewn mangre:

PUBLIC HEALTH CORONAVIRUS

Requirement to minimise
risk of exposure to
coronavirus on premises:

**CAEWYD Y
FANGRE HON**

**PREMISES
CLOSED**

**Diogelu Cymru
gyda'n gilydd**

**Together we'll
keep Wales safe**