**Hartlepool Borough Council**

**Civic Centre**

**Victoria Road**

**Hartlepool**

**TS25 1BH**

**Ref: HBC0004**

**Date: 20th January 2021**

**THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750)[[1]](#footnote-1), REGULATION 4(1)**

**DIRECTION IN RESPECT OF: -**

**Xtreme Fitness, Unit 2, Longhill Industrial Estate, Hartlepool, TS25 1PX**

1. Hartlepool Borough Council (“the Authority”), in exercise of the powers conferred by regulation 4(1) of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020[[2]](#footnote-2) (“the No. 3 Regulations”), gives the following Direction in relation to the above named premises.
2. The Authority considers that the following conditions are met—
	1. that giving this direction responds to a serious and imminent threat to public health;
	2. that this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
	3. that the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose.[[3]](#footnote-3)
3. Before giving this Direction, the Authority has had regard to any advice given to it by its Director of Public Health.
4. The Authority will take reasonable steps to give advance notice of this direction to Mr Edmund Ellwood in relation to closure of the above premises.

**DIRECTION**

**Person and affected premises**

1. This Direction is given to Mr [redacted] who is the owner/occupier of the named premises.
2. This Direction is given in respect of :

**Xtreme Fitness, Unit 2, Longhill Industrial Estate, Hartlepool, TS25 1PX**

**Directed actions**

1. **This Direction requires that the above premises, and all facilities contained therein, close.**
2. **Entry to the premises shall be restricted to paid employees and registered trades persons attending only for the purpose of essential and specific upkeep and maintenance of the premises. No other person shall be allowed entry to the premises for any other purpose.**

**Timing and duration of direction**

1. The Direction is effective immediately. Therefore the premises identified above must close immediately.
2. The Direction to close the above premises to members of the public shall have effect until **midnight on** **17th July 2021** but, in accordance with Regulation 2(2)(b) of the No. 3 Regulations, the Authority will review this Direction at least once every seven days. If the Authority considers one or more criteria in regulation 2(1) no longer apply in relation to the Direction, it will either be revoked without replacement or revoked and replaced with another Direction.

**Grounds for Direction**

1. This Direction is given on the basis that:
* Hartlepool has been experiencing a very high number of new cases of the Coronavirus (COVID-19) and the town is currently under the National Lockdown restrictions. The number of new cases of COVID-19 in Hartlepool is amongst the highest in England. This means that there is a very high risk of transmission amongst the local community.
* Monitoring visits confirmed that these premises remained open despite being required to close as part of the National Lockdown and are encouraging people to mix outside their households and break the current restrictions of only travelling for essential purposes.
* It was considered that the risks cannot be mitigated by carrying out a suitable and sufficient risk assessment or implementing additional control measures.

**Consequences of not meeting the requirements of the Direction**

1. There may be consequences if this Direction is not complied with. For example, the Authority may issue a Prohibition Notice[[4]](#footnote-4) or Fixed Penalty Notice[[5]](#footnote-5) against you or may commence criminal proceedings against you.
2. A person commits an offence if, without reasonable excuse, the person:[[6]](#footnote-6)
* contravenes a Direction under regulation 4(1); or
* obstructs a person carrying out a function under the No. 3 Regulations, including any local authority designated officer under regulation 12 or a constable.

Such an offence is punishable on summary conviction by an unlimited fine.

**Appeals/representations**

1. If you believe that this Direction should not have been issued, and/or it contains incorrect information, please inform the specified point of contact set out below, setting out your reason(s).
2. You have a right to appeal against this Direction to a magistrates’ court by way of complaint for an order.[[7]](#footnote-7) There is a time limit of 28 days for appealing against this Direction, starting from the date on which the direction was issued (see ‘Date of issue’ at the top of this direction).
3. Please note this Direction will be reviewed by the Authority at least once every seven days. The Authority will decide whether regulation 2(1) continues to be met, or whether to revoke this Direction (or revoke and replace it with another direction).[[8]](#footnote-8)
4. If the Authority reviews the direction and decides to uphold it (makes a ‘review determination’), then the 28-day time period for appealing this Direction will start from the date of that review determination.
5. You also have the right to make representations to the Secretary of State about this Direction.[[9]](#footnote-9) The same 28-day time limit applies to making representations: you have 28 days from the date this Direction was issued to make representations or, where there has been a review and the Authority decides to uphold the direction, 28 days from the date of that review determination. The Secretary of State must consider any such representations as soon as is reasonably practicable, and decide whether it would be appropriate to exercise the Secretary of State’s powers set out in regulation 3 of the No. 3 Regulations. The Secretary of State may direct the Authority to revoke this Direction, or revoke and replace this Direction. The Secretary of State must provide written reasons for the decision to the person who made the representations and to the Authority.
6. In making any representations to the Secretary of State about this Direction, the recipient of the Direction should do this via NHS Test and Trace, with representations emailed to directionnotification@dhsc.gov.uk. This should include:
7. The name of the Authority;
8. The reference **HBC0004** listed at the top of this Direction;
9. An explanation as to how you have been impacted by the Direction and your relationship to the premises, such as whether you are the owner or occupier of premises;
10. An explanation of the basis upon which the Direction should not have been made and was or is not appropriate, with reference to the conditions set out in Regulation 2(1);
11. Any evidence which supports this contention; and
12. What action you would like to be taken.
13. **You are still required to comply with this Direction pending the outcome of any appeal to the magistrates’ court or representations to the Secretary of State.**
14. You may wish to obtain independent legal advice should you seek to pursue an appeal.

**Additional powers and requirements that accompany this Direction**

Publication

1. This Direction (and notice of revocation of this direction) is published on the Authority’s website as required by the No. 3 Regulations.[[10]](#footnote-10)
2. This Direction may also be published in such manner as the Authority considers appropriate to bring it to the attention of other persons who may be affected by it.

Notification

1. The Authority is required to notify any local authority whose area is adjacent to the initiating authority’s area of this Direction (and any revocation of the Direction) by the No. 3 Regulations[[11]](#footnote-11). As such, Durham County Council and Stockton Borough Council have been duly notified.
2. The Authority is required to notify the Secretary of State as soon as reasonably practicable after the Direction is given.

**As authorised by**

**Denise McGuckin,**

**Managing Director**

**20th January 2021**

**Specified Point of contact**

**Name: Mrs Sylvia Pinkney, Assistant Director (Regulatory Services)**

**Contact details: Tel: 01429 523315**

 **Email:** **sylvia.pinkney@hartlepool.gov.uk**

1. SI 2020/750 accessed at https://www.legislation.gov.uk/uksi/2020/750/regulation/4; guidance on local authority powers at: <https://www.gov.uk/government/publications/local-authority-powers-to-impose-restrictions-under-coronavirus-regulations/local-authority-powers-to-impose-restrictions-health-protection-coronavirus-restrictions-england-no3-regulations-2020> [↑](#footnote-ref-1)
2. In this Direction, any reference to a regulation is a reference to a regulation of the Health Protection (Coronavirus Restriction) (No. 3) (England) 2020 (S.I. 2020/750). [↑](#footnote-ref-2)
3. See regulation 2(1). [↑](#footnote-ref-3)
4. See regulation 12(2) of the No. 3 Regulations. [↑](#footnote-ref-4)
5. See regulation 14(1) of the No. 3 Regulations. [↑](#footnote-ref-5)
6. See regulation 13(1) of the No. 3 Regulations. [↑](#footnote-ref-6)
7. See regulation 4(9)(a) of the No. 3 Regulations. [↑](#footnote-ref-7)
8. If this direction was made pursuant to a direction of the Secretary of State under regulation 3 of the No 3 Regulations, a summons is to be issued to both the Secretary of State and the local authority. [↑](#footnote-ref-8)
9. See regulation 4(9)(b) of the No. 3 Regulations. [↑](#footnote-ref-9)
10. See Regulation 10(2)(a) of the No. 3 Regulations. [↑](#footnote-ref-10)
11. See Regulation 11(1)(a) – (d) of the No. 3 Regulations [↑](#footnote-ref-11)