



Dudley Safeguarding People Partnership

Multi Agency response to persons refusing to self-isolate when diagnosed with Coronavirus (Schedule 21)

Version Control	
Document Title	Multi Agency response to persons refusing to self-isolate when diagnosed with Coronavirus (Schedule 21)
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Version Dates	V4 07/10/20
Date Approved	08/10/2020
Due for Review	March 2021

1. Introduction

To manage the spread of coronavirus, the Coronavirus Act 2020 (“the Act”) provides powers to control the spread of coronavirus in the UK. Some of these powers existed already for England in The Health Protection (Coronavirus) Regulations 2020. However, the Act replaces these regulations with a consistent, UK-wide, approach.

The following guidance should be read in conjunction with the attached flow diagram and applies when someone with care and support needs who continues to go into the community and fails to respond to the government’s guidance about social distancing or self-isolating due to Covid-19 restrictions.

2. Aim of protocol

Schedule 21 of the Coronavirus Act 2020 gives powers to Public Health Officers to direct or remove a potentially infectious person (PIP) to a place suitable for screening and assessment, require a person to undergo testing, enter into isolation or place certain restrictions on the PIP where appropriate. While Public Health England are the lead agency in exercising the provisions under this

Schedule powers are also provided to Police and Immigration Officers to support Public Health England and for the protection of the public.

3. Use of Schedule 21

It is the view of that Schedule 21 should only be engaged when absolutely necessary and on the exhaustion of all reasonable attempts to engage explain and encourage the PIP to self -isolate and/or seek appropriate medical assistance.

4. Action to be taken on identifying infectious persons

The intention of the parties is that wherever possible the consideration of the use of these powers would be at the conclusion of a pre-planned intervention and then only where all other interventions have either failed or been deemed inappropriate.

- **Assess the person’s mental capacity** as best you can, using appropriate social distancing and PPE to establish if they have capacity to make a decision about whether to go out into the community. This will need to include whether the person understands the government’s guidance on social distancing and self-isolating, and the consequences of not following these, i.e. potential police action, the risks to themselves and others.
- **Convene a multi-agency meeting** to discuss the case, involving professionals who are involved with the person. This could include their GP, District Nurse, Social Worker, care provider, housing provider. If existing information suggests the health risks are already high, invite Public Health and the police – Public Health are setting up a case conference process for the most concerning cases where there is a significant public health risk.

During the multi-agency meeting or public health conference, consider the following:

- Is the person showing the symptoms of coronavirus?
- Does the person have mental capacity to understand the social distancing and/or self-isolation guidance? Consider is this a permanent impairment? Do they have fluctuating capacity? Is there potential to change with simple messages e.g. someone with a learning disability.
- What are the risks to the person from their current behaviour? E.g. how frequently are they going out, where are they going, can they explain their purpose in going out? High risk / low

frequency or low risk / high frequency behaviours; adverse reaction from other members of the public; police intervention

- What are the risks to other people from the person's behaviour? E.g. who are they coming in contact with, or likely to come into contact with? Tactile / chatty person or someone who tends to keep quite private anyway? Risks associated with general safety when out, not just coronavirus
- What strengths are there in the person's network or environment which could support them? E.g. 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? Additional support to understand what is happening / key messages, assistive technology, volunteers, support of local community, police checks, additional home support/one to one support, respite care in a residential care provider setting.

Subsequent actions will depend on the outcome of the case conference and risk assessment.

5. Capacity to understand?

If the person **has** capacity to understand the risks to themselves and/or others, they continue to refuse to follow the National Guidance and the **risks to others are high** (e.g. showing symptoms and interacting closely with other people, spitting at others or other behaviours that increase risk, advise the Public Health Officer and the police, for them to consider invoking their powers under the [Coronavirus Act 2020](#)

If the person has capacity to understand the risks to themselves and/or others, and the **risks to others are low**, offer support to help the person to stay safe. E.g. If they would agree to cover their lower face / keep hands very clean before and after going out? Would they need monitoring in case the level of risk changed?

Case Worker to agree with partners how frequently the care plan needs to be reviewed, and to reconvene a case conference to review progress as necessary.

6. Managing risks to the person

If the risks to the person or others cannot be managed via a best interests decision, advise the Public Health Officer and the police, for their consideration of invoking their powers under the [Coronavirus Act 2020](#).

If the person **lacks** capacity to understand the risks to themselves or others, clearly identify what the risks are and if these are high or low. Best interests' decisions will need to be made around any possible measures, in order to minimise or even remove the risk to themselves / others.

The measures required to ensure someone who lacks capacity self isolates / social distances / limits their contact with others will vary depending on the individual, and in accordance with the Mental Capacity Act must be the **least restrictive** measures to keep them safe.

Occasionally, the measures that will need to be taken to protect the person or others could be extremely restrictive, for example the use of medication where none was used before, increased dosages in existing medication, actual restraint, locking someone in their room/house, moving the

person temporarily to a residential care setting, and in these circumstances an application for a **Deprivation of Liberty Safeguard (DoLS)** should be made if the person is in a care home or hospital.

If the person is at home, an application would need to be made to the Court of Protection for a **Deprivation of Liberty Order**. If you think this may be applicable, consult with NPLaw; the Court of Protection helpline can also be contacted on: 020 7421 8824 or out of hours 020 7947 6000. Any changes to a person's care plan **MUST** be made on the basis of a **Best Interests** assessment, and the reasons for the decision carefully explained.

- Where it is necessary to transport a PIP West Midlands Ambulance Service will assist. The IMT will identify a suitable place for testing.
- Post screening and assessment, it may be necessary to identify suitable accommodation for the individual during the 14-day periods of isolation. Options for accommodation will be discussed and agreed with local partners including the Local Authority and NHS CCGs depending on individual requirements. Police may be required to support PHO's in the exercise of their powers this may include attending locations to prevent a breach of the peace while health officers perform their duties.

7. Dynamic/Call for Service issues

Where there is a call for service by a member of the public or an individual (PIP) is identified by officers and it appears the individual is infectious and is not self-isolating the matter should be appropriately risk assessed. The call handler/officer should obtain details of the PIP and their occupation or other factor that would increase the risk of infection to vulnerable persons.

- Where the risk based on the information available is assessed as low the call will be logged until further detail is available. In circumstances where an officer identifies a PIP he should Engage, Encourage and Explain that the individual should self-isolate or seek medical assistance. The officer should consider what if any other policing powers could be appropriately engaged to assist in managing the risk the individual is presenting to themselves or others. This may include consideration of the provisions under Mental Health Act 1983 if appropriate.
- Where it appears the PIP is operating in environment where there is a clear enhanced risk of infection to others details should be made available to the local authority public health team who should assess and consider an appropriate contact or intervention with the PIP.
- If the PIP is coming into contact or there is a clear risk of contact with vulnerable persons details of the call/contact should be provided to PHE through the contact details at Appendix A. Where that referral is considered to be appropriate the matter should be escalated through Mission Support (WMP see Appendix A or Warwickshire Police equivalent) PHE will call an IMT and lead on any intervention.

8. Information Sharing

PHE are required to report their use of Schedule 21 to Government. The details appropriately anonymised of any case where Schedule 21 has been subject to consideration by PHE will be shared with relevant stakeholders to ensure learning of lessons and improvement of processes.

9. Additional:

The following document is published by the Department of Health and Social Care:
[The Mental Capacity Act \(2005\) \(MCA\) and Deprivation of Liberty Safeguards \(DoLS\) During the Coronavirus \(COVID-19\) Pandemic Guidance for Hospitals, Care Homes and Supervisory Bodies \[v0.1\] \(Published 09 April\)](#)

It provides the following guidance at paragraphs 30 and 31:

If it is suspected or confirmed that a person who lacks the relevant mental capacity has become infected with COVID-19, it may be necessary to restrict their movements. In the first instance, those caring for the person should explore the use of the MCA as far as possible if they suspect a person has contracted COVID-19. The following principles provide a guide for which legislation is likely to be most appropriate:

- i) The person's past and present wishes and feelings, and the views of family and those involved in the person's care should always be considered.
- ii) If the measures are in the person's best interests then a best interest decision should be made under the MCA.
- iii) If the person has a DoLS 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.
- iv) If the reasons for the isolation are purely to prevent harm to others or the maintenance of public health, then Public Health Officer powers should be used.
- v) If the person's relevant capacity fluctuates, the public health officer powers may be more appropriate.

If the public health powers are more appropriate, then decision makers should contact their local health protection teams.

Contact details for referring to the public health officers for the black country are at the following link
<https://www.gov.uk/guidance/contacts-phe-health-protection-teams#west-midlands-west-hpt>

Process for staff / professionals when a person is not following guidance on social distancing or self-isolating

To use in situations where standard discussions with the person (and/or family/carers) have already taken place and the person (who has, or appears to have, care and support needs) continues to present an apparent risk

